

THE OCCUPATIONAL SAFETY AND HEALTH BILL, 2003

EXPLANATORY NOTE

(These notes form no part of the Bill, but are intended only to indicate its general purport)

This Bill, which would repeal the Factories Ordinance, 1948 and the Employment of Women (Night Work) Act, Chap. 88:12, provides for the revision and extension of the present law regarding the safety, health and welfare of persons at work in order to keep pace with the country's rapid industrialization. Indicated in this Note are some of the areas in which the proposed legislation would depart significantly from the law which now obtains.

The Ordinance applies only to persons employed in factories, but the jurisdiction of this Bill would be wide enough to embrace all persons at work.

The Bill distinguishes employers from occupiers and seeks to impose appropriate duties on an employer in relation to his employees and on an occupier in relation to persons in the industrial establishment, whether or not such persons are employed by the occupier. Part II of the Bill, therefore, provides for the general duties of employers to their employees, of employers and self-employed persons to persons other than their employees, of occupiers to persons in, and in the vicinity of their industrial establishments, of employees at work and of manufacturers and suppliers.

Special provision is made in clause 6 of the Bill with respect to the duty of employers to give employees any hazard information as defined in clause 4(1) pertaining to any dangerous or toxic substance with or in proximity to which the employees work and with respect to the working conditions of pregnant employees.

Part III of the Bill provides for the right of an employee, with certain exceptions, to refuse to work or to do particular work where he has reason to believe that in so doing he is likely to endanger himself or another employee and sets out a procedure for the reporting, investigation resolution of the matter.

Part IV of the Bill provides for additional safety requirements in respect of the employment of young persons on dangerous machines, protective clothing and devices and dangerous fumes and lack of oxygen.

Part V of the Bill makes provision in relation to means for fire-fighting and escape in case of fire.

Health requirements under Part VI of the Bill include provisions for the cleanliness of industrial establishments, respiratory protection where necessary, proper lighting, the control of noise and vibration, the prevention of overcrowding, adequate ventilation and more rigorous medical examinations, including pre-employment medical examinations.

By Part VII of the Bill, new and improved measures are added to the law relating to welfare facilities for employed persons. These include the provisions, at no expenses to such persons, of adequate and easily accessible supplies of drinking water, washing up facilities, sanitary conveniences, accommodation for clothing, first aid appliances, canteens, restrooms and lunchrooms. In the larger industrial establishments, occupiers would be required to provide an ambulance and a first aid room with medical and nursing staff.

Part VIII of the Bill provides for the notification of the Chief Inspector, and the investigation of accidents which may be prejudicial to the safety or health of the public or which cause or have the potential of causing death or critical injury. When death or critical injury as defined in clause 4 occurs, the scene of the incident must be preserved.

This Part also provides for the reporting by medical practitioners of cases of industrial disease and investigation of such reports. The list of industrial diseases is set out in Schedule 1.

By Part IX of the Bill, no young person is to be employed to work in an industrial establishment unless a medical practitioner, on the application of the young person or his parent, has examined the young person and has ascertained his fitness for employment in that industrial establishment. A young person is defined in clause 4(1) as a person between the ages of fourteen and eighteen years. Clause 54 also restricts the hours of employment of young persons.

Part X places certain obligations on owners or occupiers of premises who intend to lease the premises for use as industrial establishments.

Part XI of the Bill introduces another important innovation – the requirement that the construction plans of all proposed factories and warehouses be submitted to the Chief Inspector for his approval.

Part XII of the Bill establishes the Occupational Safety and Health Authority (hereinafter referred to as “the Authority”). The Authority would consist of a Chairman and Deputy Chairman appointed by the Minister, an Executive Director who would be a public officer, representatives of the Minister responsible for occupational safety and health, health and energy industries and representatives of employers’ organisations, employees’ organisations and such other organisations as the Minister considers appropriate. The functions of the Authority, which are generally of an advisory nature, are set out in clause 66 of the Bill.

Clause 67 of the Bill provides for the approval of codes of practice by the Authority for the purpose of providing practical guidance with respect to the requirements of the proposed legislation and clause 68 provides for the use of such codes of practice as evidence in criminal proceedings.

Part XIII of the Bill establishes the Occupational Safety and Health Agency (hereinafter referred to as “The Agency”). The Agency shall be headed by an Executive Director and shall also consist of a Deputy Director, a Secretary and two other persons with necessary expertise who shall assist in its management. The Agency shall direct the operations of several technical units and shall give effect to the policy of the Authority.

This part of the Bill also provides for the powers of inspectors who assume thereunder a new status and with it, additional authority. Clause 74 in particular empowers inspectors to issue prohibition or improvement notices to occupiers where safety is endangered so as to prohibit or restrict, as the case may be, the use of premises, plant or machinery, until satisfactory arrangements are made to effectively control the source of danger.

Severe penalties would be imposed on an inspector who divulges certain information obtained by him in the course of his duties, but correspondingly he would also be assured of legal protection for acts done in the proper discharge of those duties.

Part XIV of the Bill makes provision with respect to offences, penalties and legal proceedings. A person who contravenes a provision of the proposed legislation or fails to comply with any prohibition, restriction, instruction or directive issued thereunder commits an offence and is liable to be dealt with in accordance with the Summary Courts Act, Chap. 4:20.

Additionally, a person who is aggrieved by a contravention of a provision of the proposed legislation or the failure to comply with any prohibition, restriction, instruction or directive issued thereunder may apply to the Industrial Court for redress and the Industrial Court may impose any penalty, other than a term of imprisonment, that a summary court may impose in respect of the contravention or failure to comply and may make an award in favour of the aggrieved person.

The Act for which this is the Bill would be inconsistent with sections 4 and 5 of the Constitution and therefore is required to be passed by a special majority of three-fifths of the members of each House.

THE OCCUPATIONAL SAFETY AND HEALTH BILL, 2002

Arrangement of Clauses

PART I

PRELIMINARY

Clause

1. Short title
2. Commencement
3. Act inconsistent with the Constitution
4. Interpretation
5. General application of Act

PART II

GENERAL DUTIES

6. General duties of employers to their employees
- 6A. No removal of identification of hazardous chemicals
7. General duties of employers and self-employed persons to persons other than their employees
8. General duties of occupiers
9. General duty of occupier to protect safety and health of public
10. General duties of employees at work
11. Duty not to interfere with or misuse things provided pursuant to Act
12. Certain charges prohibited
13. General duties of manufacturers and suppliers

PART III

**RIGHTS OF EMPLOYEES TO REFUSE WORK WHERE SAFETY OR
HEALTH IN DANGER**

14. Application of Part
15. Refusal to work
16. Report of refusal
17. Refusal to work following investigation
18. Investigation by inspector
19. Employee to be available
20. Duty to advise other employees
21. Entitlement to be paid

PART IV

SAFETY

- 21A. Effective safeguard of machinery
22. Employment of young persons on dangerous machines
23. Protective clothing and devices
24. Removal of dust and fumes
25. Dangerous fumes and lack of oxygen in confined spaces

PART V

FIRE

26. Means of escape in case of fire
27. Safety provisions in case of fire
28. Instructions as to use of means of escape in case of fire
29. Provision for adequate fire fighting equipment
30. Power of Chief Inspector to conduct court proceedings

PART VI

HEALTH

31. Cleanliness
32. Respiratory protection
33. Lighting
34. Noise and vibration
35. Overcrowding
36. Ventilation
37. Medical examination of persons employed in industrial establishments
38. Power to require medical supervision

PART VII
WELFARE

- 39. Drinking water
- 40. Washing facilities
- 41. Sanitary
- 42. Accommodation for clothing
- 43. First aid appliances
- 44. Canteens
- 45. Restrooms and lunchrooms

PART VIII

**NOTIFICATION AND INVESTIGATION OF ACCIDENTS AND
INDUSTRIAL DISEASES**

- 46. Notification of accidents
- 47. Preservation of scene
- 48. Notification of occupational diseases
- 49. Autopsy in cases of death by accident or occupational disease
- 50. Inquest in the case of death by accident or occupational disease
- 51. Enquiry into accidents and cases of occupational disease
- 52. Medical inspector to investigate and report

PART IX

EMPLOYMENT OF YOUNG PERSONS

- 53. Young persons to have certificate of fitness
- 54. Hours of employment for young persons
- 55. Duty to maintain register
- 56. Power to require medical examination

PART X

SPECIAL APPLICATION AND EXTENSION

- 57. Provision re: lease of part of premises as a separate industrial establishment
- 58. Application of Act to institutions

PART XI

**SPECIAL PROVISIONS IN RESPECT OF FACTORIES, BUILDING
OPERATIONS AND WORKS OF ENGINEERING CONSTRUCTION**

- 59. Construction and alteration of factories
- 60. Notice of occupation of factory and use of mechanical power
- 61. Postings
- 62. Periodical returns of factory employees
- 63. Building operations and works of engineering constructions

PART XII

THE OCCUPATIONAL SAFETY AND HEALTH AUTHORITY

- 64. Establishment of the Authority
- 65. Composition of the Authority
- 66. Functions of the Authority
- 67. Approval of codes of practice
- 68. Use of approved codes of practice in criminal proceedings

PART XIII

ADMINISTRATION

- 69. Establishment of the Agency
- 69A. Transfers
- 70. Duties of Chief Inspector
- 71. Inspector and medical inspector
- 72. Powers of inspectors
- 73. Power to take samples
- 74. Power of inspectors re: dangerous conditions and practices
- 75. Preservation of registers and records
- 76. Protection against victimization of employees
- 77. Source of complaints not to be divulged
- 78. Penalty for unlawful disclosures
- 79. Inspector to produce certificate of appointment
- 80. Power of inspectors to conduct court proceedings
- 81. Inspector not liable
- 82. "Inspector" defined

PART XIV

OFFENCES, PENALTIES AND LEGAL PROCEEDINGS

- 83. Criminal and other remedies
- 84. Power of Court to order remedy
- 85. Penalty where none is expressly provided
- 86. Fines in case of death or injury
- 87. Fine for offences by parent
- 88. Forgery of certificates, false entries and false declarations
- 89. Provision for employer, occupier or owner to exempt himself from liability
- 90. Proceedings against persons other than employers, occupiers or owners
- 91. Procedure for prosecution
- 92. Appeal from orders of court
- 93. Limitation of time for prosecution
- 94. Special provisions as to evidence
- 95. Serving and sending of documents
- 96. Power of Court to modify agreements
- 97. Power of Court to apportion expenses
- 97A. Determination of safety and health offences
- 97B. Time limit

PART XV
MISCELLANEOUS

- 98. Ordinance and Acts repealed
- 99. Power to make regulations
- 100. Power of Minister to make certain Orders

SCHEDULE 1
LIST OF OCCUPATIONAL DISEASES

SCHEDULE 2
THE OCCUPATIONAL SAFETY AND HEALTH AUTHORITY RULES

BILL

AN ACT respecting the safety, health and welfare of persons at work

Preamble WHEREAS it is enacted *inter alia*, by subsection (1) of section 13 of the Constitution that an Act to which that section applies may expressly declare that it shall have effect even though inconsistent with sections 4 and 5 of the Constitution and, if any such Act does so declare, it shall have effect accordingly:

And whereas it is provided by subsection (2) of the said section 13 of the Constitution that an Act to which this section applies is one the Bill for which has been passed by both Houses of Parliament and at the final vote thereon in each House has been supported by the votes of not less than three-fifths of all the members of that House:

And whereas it is necessary and expedient that the provisions of this Act shall have effect even though inconsistent with sections 4 and 5 of the Constitution:

Enactment ENACTED by the Parliament of Trinidad and Tobago as follows:

PART I

PRELIMINARY

Short title 1. This Act may be cited as the Occupational Safety and Health Act, 2003.

Commencement 2. This Act shall come into operation on such date as the President may appoint by Proclamation.

Act inconsistent with the Constitution 3. This Act shall have effect even though inconsistent with sections 4 and 5 of the Constitution.

Interpretation 4. (1) In this Act, except where otherwise expressly provided –

“agency” means the Occupational Safety and Health Agency established under section 69;

“air contaminant” means airborne solid, liquid, fume or gaseous matter, radioactive fallout, odour, micro-organism or any combination of them, in such concentration or quantities as to impair the quality of the working environment or to expose persons to risks to their health;

“approved standard” as the context may admit, means a national or international standard so declared or adopted by the Trinidad and Tobago Bureau of Standards under the Standards Act, 1997;

“Authority” means the Occupational Safety and Health Authority established under section 64;

“bodily injury” includes injury to physical and mental health;

“building operation” means the construction, structural alteration, repair or maintenance of a building (including re-painting, re-decoration and external cleaning of the structure), the demolition of a building, and the preparation for, and laying the foundation of, an intended building, but does not include any operation which is a work of engineering construction within the meaning of this Act;

“calendar year” means the period of twelve months beginning with 1st January in any year;

“Chief Inspector”, means the person appointed as such under section 70(1);

“Chief Medical Officer” means the public officer holding, or acting in, the office of Chief Medical Officer;

“child” means a person under the age of eighteen years;

“clerical work” includes writing, book-keeping, filing, duplicating, machine calculating, drawing, electronic data and word processing, the editorial preparation of matter for publication, computer data, word processing and secretarial work;

“confined space” means a space in which, because of its construction, location or contents, or of work activity therein, the accumulation of a dangerous dust or fume or the creation of oxygen deficient atmosphere may occur;

“Court” –

- (a) in relation to criminal proceedings, means a court of summary jurisdiction; or
- (b) in relation to proceedings under section 83(A), means the Industrial Court;

“critical injury” means an injury of a serious nature that –

- (a) places life in jeopardy;
- (b) produces unconsciousness;
- (c) results in substantial loss of blood;
- (d) involves the fracture of a leg or arm, but not a finger or toe;
- (e) involves the amputation of a leg, arm, hand or foot, but not a finger or toe;
- (f) consists of burns to a major portion of the body; or
- (g) causes the loss of sight in an eye;

“dangerous” means likely to create risk to safety or health or cause bodily injury;

“employee” means any person who has entered into or works under a contract with an employer to do any skilled, unskilled, manual, clerical or other work for hire or reward, whether the contract is expressed or implied, oral or in writing or partly oral and partly in writing, and includes public officers, the protective services and teachers;

“employer” means a person who employs persons for the purpose of carrying out any trade, business, profession, office, vocation or apprenticeship;

“factory” means premises in which, or within the curtilage or precincts of which, persons are employed, by way of trade, or intended trade, or for purposes of gain, in or incidental to any process, including –

- (a) the making, demolishing, altering, repairing, warehousing, ornamenting, furnishing, distributing, cleaning, washing, breaking up or adapting for sale, of any article or product, or the filling of containers;
- (b) the slaughtering of animals or poultry;
- (c) the production of cinematograph films or other audiovisual material;

- (d) the storing of gas;
- (e) the transforming or converting of materials or chemicals;
- (f) the supplying and maintaining of services in connection with water and sewerage; and
- (g) the testing or analyzing of any substance,

and premises shall not be excluded from this definition by reason only that they are open air premises;

“fire authority” means the public officer holding, or acting in, the office of Chief Fire Officer;

“fugitive emissions” means any gas, vapour or liquid which escapes unintentionally from any part of a plant or machinery;

“hazard information” means information on the proper and safe use, storage, transport and handling of a dangerous substance and includes information relating to the toxicological properties of the substance and its chemical structure and formula;

“Industrial Court” means the court established under the Industrial Relations Act;

Chap.88:01

“industrial establishment” means a factory, shop, office, place of work or other premises but does not include –

- (a) premises occupied for residential purposes only; or
- (b) other categories of establishment exempted by the Minister in accordance with this Act;

“inspector” means a person designated as such under section 71(1)(a);

“machinery” means a part or an assemblage of parts, fixed or movable, by which motion or force is transmitted;

“maintained” means kept in an efficient state, in efficient working order, and in good repair;

“medical inspector” means a person designated or appointed in accordance with section 71(1)(b);

- Chap. 29:50 “medical practitioner” means a person registered under the Medical Board Act;
- “Minister” means the Minister to whom responsibility for the administration of occupational safety and health is assigned;
- Act No.21 of 1990 “municipal corporation” means a municipal corporation continued or established under sections 3 and 4 of the Municipal Corporations Act, 1990;
- Schedule 1 “occupational disease” means a disease listed in Schedule 1;
- “occupier” means the person who has the ultimate control over the affairs of an industrial establishment;
- “owner” means the person for the time being receiving the rackrent of the premises in connection with which the word is used, whether on his own account or as agent or trustee for any other person, or who would so receive the rackrent if the premises were let as a rackrent;
- “parent” includes a guardian or person having the legal custody of, or the control over, a child or young person;
- “period of employment” means the working hours of an employee, inclusive of the time allowed for meal and rest;
- “plant” includes equipment or appliance;
- “premises” includes any place, and, in particular –
- (a) any vehicle, vessel, aircraft, or hovercraft;
 - (b) any subterranean installation or installation on land, including the foreshore and other land intermittently covered by water;
 - (c) any offshore installation and any other installation, whether floating or resting on the seabed or the subsoil thereof or resting on other land covered with water or the subsoil thereof; and
 - (d) any tent or movable structure;

“prime mover” means an engine, motor or other appliance which provides mechanical energy derived from steam, water, wind, electricity, the combustion of fuel or other source;

“process” means a treatment applied to a substance or material to produce the desired result;

“public emergency” means the public emergency declared by Proclamation by the President under section 8 of the Constitution;

“safety and health committee” means a committee to be established pursuant to section 25E;

sanitary conveniences” includes urinals, water-closets, latrines and other lavatories and such other conveniences necessary for the personal hygiene of an employee;

“self-employed person” means an individual who works for gain or reward otherwise than under a contract of employment, whether or not he himself employs others;

“ship” includes any description of vessel used in aquatic navigation but not propelled by oars;

“shop” means a building, booth, stall or place where goods are handled or exposed for sale, or where services are offered for sale, and includes a hotel, restaurant, pub, amusement parks and other recreational facility;

“toxic substance” means any disinfectant, and any other substance known to be poisonous, corrosive, irritating, sensitizing or harmful to man or animal that is used in agriculture, the arts, commerce or industry, or for any domestic or other purpose but does not include an antiseptic, drug or preservative;

“transmission machinery” means a shaft, wheel, drum, pulley, system of fast and loose pulleys, coupling, clutch, driving-belt or other device by which the motion of a prime mover is transmitted or received by any machine or appliance;

“woman” means a female person who has attained the age of eighteen years;

“work of engineering construction” means the construction, structural alteration or repair (including re-pointing and re-painting) or the demolition of any dock, harbour, inland navigation, tunnel, bridge,

viaduct, waterworks, reservoir, pipe-line, aqueduct, sewer, sewerage works, gasholder, oil tank or road and includes any other works prescribed by the Minister;

“workroom” means a room in which an employee is required to work;

“young person” means a child over the age of fourteen years and under the age of eighteen years.

(2) A railway line or siding which is used in connection with and for the purpose of a factory shall be deemed to be part of the factory, but if such line or siding is used in connection with more than one factory belonging to different occupiers, the line or siding shall be deemed to be a separate factory.

(3) A workplace in which, with the permission of or under agreement with the owner or occupier, two or more persons carry on work, which would constitute the workplace a factory if the persons working therein were in the employment of the owner or occupier, shall be deemed to be a factory for the purposes of this Act, and the provisions of this Act shall apply as if the owner or occupier of the workplace were the occupier of the factory and the persons working therein were persons employed in the factory.

(4) Premises shall not be excluded from the definition of an industrial establishment by reason only that they are open-air premises.

(5) Where the Minister by Order so directs, as respects all or any of the purposes of this Act, two or more industrial establishments shall be deemed to be a single industrial establishment.

(6) Where the Minister on the advice of the Chief Inspector on the basis of prescribed criteria so directs, as respects all or any of the purposes of this Act, different branches or departments of work carried on in the same industrial establishment shall be deemed to be separate industrial establishments.

(7) Premises belonging to or in the occupation of the State shall not be excluded from the definition of an industrial establishment.

(8) For the purposes of this Act, machinery or plant shall be deemed to have been constructed or reconstructed before the commencement of this Act and an industrial establishment or building shall be deemed to have been constructed, reconstructed, extended, added to or converted for use as an industrial establishment, before the commencement of this Act or the coming into operation of any of the provisions of this Act, if the construction, reconstruction, extension, addition, or conversion was begun before the passing of this Act or the coming into operation of any of the provisions of this Act, as the case may be.

(9) A person who works in an industrial establishment, whether employed by the occupier or not, either in a process or in cleaning a part of the industrial establishment used for a process, or in cleaning or oiling the machinery or plant, or in any other kind of work whatsoever incidental to or connected with the process, or connected with the article made or otherwise the subject of the process therein, shall except as is otherwise provided by this Act, be deemed to be employed therein for the purposes of this Act.

(10) A young person who works in an industrial establishment, whether for remuneration or not, in collecting, carrying or delivering goods, carrying messages or running errands, shall be deemed to be employed in the industrial establishment for the purposes of this Act.

(11) Except where otherwise expressly provided, the provisions of this Act shall be in addition to and not in substitution for or in diminution of the provisions of any other written law.

General applica-
tion of Act

5. (1) Except as in this Act otherwise expressly provided, this Act shall apply only to industrial establishments.

(2) This Act shall apply to industrial establishments belonging to or occupied by the State but in case of any public emergency the Minister may, by Order, for the duration of the period specified in the Order, exempt from this Act any industrial establishment -

- (a) belonging to or occupied by the State;
- (b) in which work is being carried out on behalf of the State;
or
- (c) whose activities are vital to the national welfare.

(3) Where any of the rights of an employee established by any other Act, collective agreement, contract of employment, custom or practice are more favourable than this Act requires, the provisions so established prevail over this Act.

(4) This Act binds the State.

PART II

GENERAL DUTIES

General duties
of employers
to their
employees

6. (1) It shall be the duty of every employer to ensure, so far as is reasonably practicable, the safety, health and welfare at work of all his employees.

(2) Without prejudice to the generality of an employer's duty under subsection (1), the matters to which that duty extends include in particular –

- (a) the provision and maintenance of plant and systems of work that are, so far as is reasonably practicable, safe and without risks to health;
- (b) arrangements for ensuring, so far as is reasonably practicable, safety and absence of risks to health in connection with the use, handling, storage and transport of equipment, machinery, articles and substances;
- (c) the provision of adequate and suitable protective clothing or devices of an approved standard to employees who in the course of employment are likely to be exposed to the risk of head, eye, ear, hand or foot injury, injury from air contaminant or any other bodily injury and the provision of adequate instructions in the use and maintenance of such protective clothing or devices;
- (d) the provision of such information, instruction, training and supervision as is necessary to ensure, so far as is reasonably practicable, the safety and health at work of his employees;
- (e) so far as is reasonably practicable as regards any place of work under the employer's control, the maintenance of it in a condition that is safe and without risks to health and the provision and maintenance of means of access to and egress from it that are safe and without such risks;
- (f) the provision and maintenance of a working environment for his employees that is, so far as is reasonably practicable, safe, without risks to health, and adequate as regards amenities and arrangements for their welfare at work; and

- (g) compliance with sections 7, 12, 37, 46, 75 and 76, Parts III and IX and such other duties as may be imposed on him by regulations made under this Act.

(3) An employer shall -

- (a) ensure that all hazardous chemicals present in the industrial establishment are labelled in a way easily understandable to the employees, or are identified in the prescribed manner;
- (b) obtain or prepare, as may be prescribed, an unexpired chemical safety data sheet for all hazardous chemicals present in the workplace;
- (c) ensure that the identification required by paragraph (a) and chemical safety data sheets required by paragraph (b) are available in English and such other languages as may be prescribed;
- (d) ensure that when hazardous chemicals are transferred into other containers or equipment, the contents are indicated in a manner which will make known to employees, their identity, any hazards associated with their use, and any safety precautions to be observed; and
- (e) ensure that information is provided on the handling and disposal of hazardous chemicals which are no longer required and containers which have been emptied but which may contain residues of hazardous chemicals, so that the risk to safety and health and to the environment is eliminated or minimized.

(4) An employer shall ensure that a hazardous chemical is not used, handled or stored in the industrial establishment unless the prescribed requirements concerning identification, chemical safety data sheets and worker instruction and training are met.

(5) An employer shall advise the Chief Inspector in writing if the employer, after making reasonable efforts, is unable to obtain a label or chemical safety data sheet required by subsection (3).

(6) A copy of the most recent version of the inventory and of every unexpired chemical safety data sheet required by this Part in respect of hazardous chemicals in a workplace shall be -

- (a) made available by the employer in such a manner as to allow examination by the employees;
- (b) furnished by the employer to a representative of health and safety committee, if any, or to an employee selected by the employees to represent them, if there is no such committee or if there is no trade union, an employee selected by the employees to represent them;
- (c) filed by the employer with the Chief Inspector on request or if so prescribed.

(6A) No person shall remove or deface the identification referred to subsection (3)(a), for a hazardous chemical.

(7) An employer of an industrial establishment of twenty-five or more employees, shall prepare or revise, in consultation with the representatives of his employees, a written statement of his general policy with respect to the safety and health of persons employed in the industrial establishment, specifying the organisation and arrangements for the time being in force for carrying out that policy and the requirements of subsections (1) to (6A), and the employer shall submit the statement and any revision thereof to the Chief Inspector and bring them to the notice of all persons employed in the industrial establishment.

(7A) The Chief Inspector may, having regard to the statement submitted under subsection (7) direct the employer to appoint at his own expense, a safety practitioner who shall assist in ensuring that the policy and the provisions specified in section 6 are complied with.

(8) The Chief Inspector may direct an employer of fewer than twenty-five persons to effect under his supervision, a preparation or revision of the type referred to in subsection (7).

(9) An employer shall, after being notified by a female employee that she is pregnant and upon production of a medical certificate to that effect, adapt the working conditions of the female employee to ensure that she is not -

- (a) involved in the use of, or exposed to, chemicals, substances or anything dangerous to the health of the unborn child; or
- (b) subjected to working conditions dangerous to the health of the unborn child,

and where appropriate, the employer may assign alteration work, where available, to her without prejudice to her right to return to her previous job.

(10) Where a female employee who has notified her employer of her pregnancy under section 6(6) is no longer pregnant she shall immediately upon discovery of this fact notify her employer and shall produce a medical certificate to that effect.

(11) No employer shall require or permit a pregnant employee or an employee who is nursing her child to perform work that is hazardous to her health or the health of the child.

(12) Notwithstanding any other law, during an employee's pregnancy, and for a period of six months after birth of her child, her employer shall offer her suitable, alternative employment on terms and conditions that are no less favourable than her ordinary terms and conditions of work, where the employee is required to perform work that poses a danger to her health or safety or that of her child, unless there is no other available suitable alternative employment or that in doing so the employer will incur costs greater than ordinary administrative costs.

(13) An employee may challenge a decision of the employer in accordance with section 83(A).

General duties of employers and self-employed persons to persons other than their employees

7. (1) It shall be the duty of every employer to conduct his undertaking in such a way as to ensure, so far as is reasonably practicable, that persons not in his employment, who may be affected thereby are not thereby exposed to risks to their safety or health.

(2) It shall be the duty of every self-employed persons to conduct his undertaking in such a way as to ensure, so far as is reasonably practicable, that he and other persons, not being his employees, who may be affected by his actions are not thereby exposed to risks to their safety or health.

(3) In such cases as may be prescribed, it shall be the duty of every employer and every self-employed person, in the prescribed circumstances and in the prescribed manner, to give to persons, not being his employees, who may be affected by the way in which he conducts his undertaking, the prescribed information about such aspects of the way in which he conducts his undertaking as might affect their safety or health

General duties of occupiers

8. (1) Subject to Part X and except as otherwise expressly provided, it shall be the duty of every occupier of an industrial establishment to ensure that the following provisions are complied with:

- (a) Parts IV to VII;
- (b) section 62;
- (c) Part XI; and
- (d) such other provisions of this Act or such regulations as imposed duties on him.

(2) An occupier of an industrial establishment employing twenty-five or more persons shall prepare or revise, in consultation with worker representatives in the industrial establishment -

- (a) a written statement of his general policy with respect to the safety and health of persons employed in the industrial establishment, specifying the organisation and arrangements for the time being in force for carrying out that policy and the provisions specified in subsection (1); and
- (b) an emergency plan in writing based on a risk assessment made in accordance with section 25H which shall include –
 - (i) suitable and rapid means of obtaining first aid help and transportation from the industrial establishment to a hospital for injured workers; and
 - (ii) measures and procedures to be used to control a major fire, to react to serious damage to the industrial establishment, to evacuate the industrial establishment and to notify rescue personnel,

and the occupier shall submit the statement or the emergency plan, as the case may be, and any revision thereof to the Chief Inspector and bring them to the notice of all persons employed in the industrial establishment.

(3) The Chief Inspector may, having regard to the statement or the emergency plan submitted under subsection (2), direct the occupier to appoint at his own expense, a safety practitioner who shall assist in ensuring that the policy and the provisions specified in subsection (1) or the requirements of the emergency plan, as the case may be, are complied with.

(4) An occupier shall ensure, as far as reasonably practicable, that no unsafe structure exists in the industrial establishment that is likely to expose persons to risks to bodily injury.

General duty of occupier to protect safety and health of public

9. (1) The occupier of every industrial establishment shall –

- (a) be under a duty to take steps within the standards established by the Environmental Management Authority, to protect the safety and health of the public in the vicinity of his industrial establishment from dangers created by the operation or processes carried on therein; and
- (b) take special care to ensure that plant and equipment used therein are of such integrity and that such adequate safety systems exist as to prevent the occurrence of fugitive emissions not conforming with an approved standard.

(2) Where the Chief Inspector is of the view that the steps taken under subsection (1) are inadequate, he may -

- (a) issue directions in writing to the occupier specifying the measures to be taken in an industrial establishment or in its vicinity to prevent injury to the public and the period within which those measures are to be taken; and
- (b)

(3) Directions under subsection (2) may include a requirement - advise the Environmental Management Authority, in writing, of the instructions referred to in paragraph (a).

- (a) to obtain and implement advice from competent specialists or expert consultants;
- (b) to implement measures to abate nuisances arising from the operations carried on in industrial establishments; or
- (c) to implement measures to prevent the occurrence of fugitive emissions.

(4) An occupier who fails to comply with directions issued under subsection (2) commits an offence.

General duties
of employees
at work

10. (1) It shall be the duty of every employee while at work –

- (a) to take reasonable care for the safety and health of himself and of other persons who may be affected by his acts or omissions at work;
- (b) as regards any duty or requirement imposed on his employer to co-operate with him so far as necessary to ensure that that duty or requirement is performed or complied with;
- (c) to report to his employer, any contravention under this Act or any regulations made thereunder, the existence of which he knows; and
- (d) to use correctly the personal protection clothing or devices provided for his use.

(1A) A person who refuses to comply with subsection (1) commits a safety and health offence and is subject to the jurisdiction of the Industrial Court.

(2) An employee who willfully and without reasonable cause does anything which results in the death or critical injury to another person at work, commits an offence and is liable to a fine of ten thousand dollars.

(3) An employer may discipline, in the customary manner, an employee who breaks the safety provisions of this Act.

Duty not to
interfere with
or misuse things
provided
pursuant to Act

11. (1) No person shall willfully or recklessly interfere with or misuse any means, appliance, convenience or other thing provided in the interests of safety, health or welfare in pursuance of this Act.

(2) A person who contravenes subsection (1) commits an offence and is liable, on summary conviction to a fine of one thousand dollars and imprisonment for three months.

Certain charges
prohibited

12. (1) No employer shall levy or permit to be levied on any employee of his in respect of anything done or provided in pursuance of any specific requirement of this Act, except in respect of –

- (a) foodstuffs and other items served in a canteen;
- (b) things lost or damaged wilfully or through the negligence of the employee; and

- (c) protective clothing and devices where the employee is employed for one month or less.

(2) Amount levied under subsection (1)(c), shall not be in excess of one-half of the value of the protective clothing or devices.

General duties
of manufac-
turers and
suppliers

13. (1) A person who designs, manufactures, imports or supplies any technology, machinery, plant, equipment or material for use in any industrial establishment shall -

- (a) ensure, so far as is reasonably practicable, that the technology, machinery, plant, equipment or material is safe and without risks to health when properly used;
- (b) take such steps as are necessary to ensure that there will be available in connection with the use of technology, machinery, plant, equipment or material, adequate information about the use for which it was designed and tested and about any conditions necessary to ensure that it will be safe and without risks to health or the environment when properly used.

(2) A person who undertakes the design or manufacture of any technology, machinery, plant, equipment or material shall carry out or arrange for the carrying out of any necessary research with a view to the discovery and, so far as is reasonably practicable, the elimination or minimisation of any risks to health or safety to which the machinery, plant, equipment or material may give rise.

(3) It shall be the duty of any person who erects or installs any machinery, plant, equipment or component thereof, in any premises when that article is to be used by persons at work to ensure, as far as reasonably practicable, that nothing about the way in which it is erected or installed makes it unsafe or exposes persons to risks to their safety or health when properly used.

(4) Nothing in the preceding provisions of this section shall be taken to require a person to repeat any testing, examination or research which has been carried out otherwise than by him or at his instance, in so far as it is reasonable for him to rely on the results thereof for the purpose of those provisions.

(5) Any duty imposed on any person by any of the preceding provisions of this section shall extend only to things done in the course of a trade, business or other undertakings carried out by him (whether for profit or not) and to matters within his control.

(6) Where a person designs, manufactures, imports or supplies any technology, machinery, plant, equipment or material for, from or to another on the basis of a written undertaking by that other to take specified steps sufficient to ensure, so far as is reasonably practicable, that the article will be safe and without risks to health when properly used, the undertaking shall have the effect of relieving the first-mentioned person from the duty imposed by subsection (1) to such extent as is reasonable having regard to the terms of the undertaking.

(7) Where a person (“the ostensible supplier”) supplies any technology, machinery, plant, equipment or material to another (“the customer”) under a hire-purchase agreement, conditional sale agreement or credit-sale agreement, and the ostensible supplier -

- (a) carries on the business of financing the acquisition of goods by others by means of such agreement; and
- (b) in the course of that business acquired his interest in the machinery supplied to the customer as a means of financing its acquisition by the customer from a third person (“the effective supplier”),

the effective supplier and not the ostensible supplier shall be treated for the purpose of this section as supplying the technology, machinery, plant, equipment or material to the customer, and any duty imposed by the preceding provisions of this section on suppliers shall accordingly fall on the effective supplier and not on the ostensible supplier.

(8) For the purpose of this section, technology, machinery, plant or material is not to be regarded as properly used where it is used without regard to any relevant information or advice relating to its use which has been made available by a person by whom it was designed, manufactured, imported or supplied.

(9) A person who sells or lets or hire, or as agent of the seller or hirer causes or procures to be sold or let or hire, for use in an industrial establishment, any technology, machinery, plant or material which does not comply with the requirements of this section, commits an offence and is liable on summary conviction to a fine of ten thousand dollars.

PART III

RIGHTS OF EMPLOYEES TO REFUSE WORK WHERE SAFETY OR HEALTH IN DANGER

Application
of Part

14. (1) This Part does not apply with respect to an employee described in subsection (2) –

- (a) when a circumstance described in section 15(a), (b), (c) or (d), is inherent in the employee's work or is a normal condition of the worker's employment; or
- (b) when the employee's refusal to work would directly endanger the life, safety or health of another person.

(2) The employee referred to in subsection (1) is -

- (a) a member of the Defence Force, Police Service, Fire Service or Prison Service;
- (b) a person employed in the operation of -
 - (i) a hospital, clinic, health center, nursing home, psychiatric institution, home for the aged, rehabilitation center or other establishment;
 - (ii) a laboratory;
 - (iii) a power plant or technical service or facility used in conjunction with an institution, facility or service described in subparagraph (i) or (ii).

(3) Nothing in this Part shall be construed as relieving an employee referred to in section 14(2) from his duty referred to in section 10(1)(c).

(4) An employer who receives a report pursuant to section 10(1)(c), shall forthwith take steps to comply with section 6(1) and report to the Chief Inspector the existence of the danger and any steps that he has taken or intends to take to remove the danger.

Refusal to
work

15. An employee may refuse to work or do particular work where he has reason to believe that –

- (a) there is serious and imminent danger to himself or others or unusual circumstances have arisen which are hazardous or injurious to health or life;
- (b) any machine, plant, device or thing he is to use or operate is likely to endanger himself or another employee;
- (c) the physical condition of the workplace or the part thereof in which he works or is to work is likely to endanger himself;
- (d) any machine, plant, device or thing he is to use or operate or the physical condition of the workplace or part thereof in which he works or is to work is in contravention of this Act or the Regulations made under it and such contravention is likely to endanger himself or another employee.

Report of
refusal

16. (1) Upon refusing to work or do particular work the employee shall promptly report the circumstances of the intended refusal to the employer or his representative and a representative of the health and safety committee.

(2) The employer shall cause the Safety and Health Committee to forthwith investigate the report in the presence of the employee and in the presence of -

- (a) a person who because of knowledge, experience and training is selected by the trade union that represents the employee;
- (b) an employee selected by the employees to represent them, where there is no trade union; or
- (c) the employer or his representative,

who shall be made available by his employer and shall attend without delay.

(3) Where there is no safety and health committee the employee, upon refusing to work or do particular work, shall report the circumstance of the intended refusal to the employer or his representative and the Chief Inspector who shall deal with it in accordance with section 18.

Refusal to work
following
investigation

17. Where, following the investigation or any steps taken to deal with the circumstances that caused the employee to refuse to work or do particular work it is, pursuant to section 16, found that the employee has reasonable grounds to believe anything mentioned in section 15, the employee may refuse to work or to do the particular work and the employer or the employee or a person on behalf of the employer or employee shall cause an inspector to be notified thereof.

Investigation
by inspector

18. (1) An inspector shall, within twenty-four hours from the time of the refusal to work, investigate the refusal in the presence of the employer or his representative, the employee and the person mentioned in section 16(1)(a), (b) or (c).

(2) The inspector shall, following the investigation, decide whether the machine, plant, equipment, device or thing or the workplace or part thereof is likely to endanger the employee or another person and shall give his decision in writing within seventy-two hours to the employer, the employee and the person mentioned in section 16(a) or (b) and the decision of the inspector shall be complied with unless the Chief Inspector decides otherwise.

(3) A person who is aggrieved by the decision of the inspector may apply to the Chief Inspector to review the decision of the inspector.

(4) A person who is aggrieved by a decision of the Chief Inspector may seek redress under section 83A.

(5) A person who fails to comply with the decision of an inspector in accordance with subsection (2) or the decision of the Chief Inspector pursuant to subsection (2) commits an offence.

Employee to be
available

19. (1) Pending and during an investigation, or pending the making of a decision, under this Part, the employee shall, during normal working hours, be in a safe place in the industrial establishment and make himself or, as the case may require, be made available to assist, if necessary, in the carrying out of the investigation.

(2) Subject to subsection (1) and section 16 and the provisions of any collective agreement, the employer may -

- (a) assign the employee reasonable alternative work during his normal hours; or
- (b) subject to section 76, where assignment of reasonable alternative work is not practicable, give other directions to the worker.

Employee deemed
to be at work

20. (1) Pending the investigation and decision of the Chief Inspector, no employee shall be assigned to use or operate the equipment, machine, device or article or to work in the industrial establishment or in the part of the industrial establishment being investigated as long as there is continuing imminent and serious danger to the life or health of any employee or person and until after the employer or his representative has taken remedial action, if necessary, to deal with the circumstances that caused the employee to refuse to do particular work.

(2) The employee who refuses to work under section 15, shall be deemed to be at work and his employer shall pay him at the regular or premium rate, as may be proper for the time extending from the time when the worker started to refuse to work under section 15 to the time when the Inspector or the Chief Inspector has decided under section 18 that the equipment, machine, device, article or the industrial establishment or part thereof presents an imminent and serious danger to the life or health of the employee or any person.

No discipline
dismissal
reprisal by
employer

20A. No employer or person acting on behalf of an employer shall,

- (a) dismiss or threaten to dismiss a worker;
- (b) discipline or suspend or threaten to discipline or suspend a worker;
- (c) impose any penalty upon a worker: or intimidate or coerce a worker.

because the worker has acted in compliance with this Act or the Regulations or an order made thereunder, has sought the enforcement of this Act or the regulations, has observed the procedures established by the employer or has given evidence in a proceeding in respect of the enforcement of this Act or the Regulations.

Entitlement to be
paid

21. Pending and during an investigation under this Part, the employee and the person mentioned in section 16(a) or (b) shall be deemed to be at work and his employer shall pay him at the usual rate.

PART IV

SAFETY

Employment of
young persons
on dangerous
machines

22. (1) In every industrial establishment, no young person shall work at a machine to which this section applies, unless he has been fully instructed as to the dangers arising in connection with its operation, and the precautions to be observed, and –

- (a) has received sufficient training in work at the machine; or
- (b) is under adequate supervision by a person who has special knowledge and experience in the operation of the machine.

(2) This section applies to such machines as may be prescribed, being machines which are of such a dangerous character that a young person ought not to work at them unless the requirements of subsection (1) are complied with.

Protective clothing and devices

23. (1) All persons entering an area in an industrial establishment where they are likely to be exposed to the risk of head, eye, ear, hand or foot injury, injury from air contaminant or any other bodily injury, shall be provided with suitable protective clothing or devices of an approved standard and adequate instructions in the use of such protective clothing or devices, and no person shall be permitted to be in any such area unless he is wearing such protective clothing or device.

(2) In every area where protective clothing or devices are required to be worn under subsection (1), a notice to that effect shall be conspicuously displayed.

Removal of dust and fumes

24. (1) Where, in connection with the carrying on of a process, there is given off dust or fumes or other impurity of such a character and to such an extent as to be likely to be injurious or offensive to employees in an industrial establishment, all practicable measures shall be taken by the occupier to protect the employees against inhalation of the dust or fumes or other impurity and to prevent its accumulation in any workroom, and where the nature or the process makes it practicable, exhaust appliances shall be provided and maintained as near as possible to the point of origin of the dust or fumes or other impurity, so as to prevent contamination of the air of the workroom.

(2) Where steam is discharged into a room where persons are normally required to work, effective steps shall be taken to dissipate the steam from that room.

Dangerous fumes and lack of oxygen in confined spaces

25.(1) The requirements of sections 25(2) to 25(8) apply, with all necessary modifications, to any confined space while an employee is in that space.

(2) Subject to section 25(4), a confined space shall be entered only where -

- (a) there is an easy egress from all accessible parts of the confined space;
- (b) mechanical equipment in the confined space is -
 - (i) disconnected from its power source; and
 - (ii) locked out;
- (c) all pipes and other supply lines whose contents are likely to create a hazard are blanked off; and

- (d) the confined space is tested and evaluated by a competent person who -
 - (i) records the results of each test in a permanent record; and
 - (ii) certifies in writing in the permanent record that the confined space -
 - (A) is free from hazard; and
 - (B) will remain free from hazard while any worker is in the confined space having regard to the nature and duration of the work to be performed.

(3) Subject to section 25(4) a confined space in which there exists or is likely to exist hazardous gas, vapour, dust or fume or an oxygen content of less than eighteen percent or more than twenty-three percent at atmospheric pressure, shall be entered only when –

- (a) the requirements of section 25(2) are complied with;
- (b) the space is purged and ventilated to provide a safe atmosphere;
- (c) the measures necessary to maintain a safe atmosphere have been taken;
- (d) another worker with appropriate rescue equipment is stationed outside the confined space;
- (e) suitable arrangements have been made to remove the worker from the confined space should the worker require assistance; and
- (f) a person adequately trained in artificial respiration is conveniently available.

(4) A confined space in which there exists or is likely to exist, a hazardous gas, vapour, dust or fume or an oxygen content of less than eighteen percent or more than twenty-three percent at atmospheric pressure, and cannot be purged and ventilated to provide and maintain a safe atmosphere shall be entered only when -

- (a) all the requirements of section 25(2) except subparagraph (d)(ii) are complied with;

- (b) the employee entering is using a suitable breathing apparatus and a safety harness or other similar equipment to which is securely attached a rope, the free end of which is attached to rescue equipment operated by an employee equipped with an alarm, who is keeping watch outside the confined space;
- (c) the employee entering is using such other equipment as is necessary to ensure the employee's safety;
- (a) the safety harness, rope and other equipment referred to in paragraph (b) have been inspected by a competent person and are in good working order; and
- (b) a person adequately trained in artificial respiration is conveniently available.

(5) Subject to paragraph (b) where the gas or vapour in a confined space is or is likely to be explosive or flammable, the confined space shall be entered only where -

- (a) the concentration of the gas or vapour does not or is not likely to exceed fifty percent of the lower explosive limit of the gas or vapour; and
- (b) the only work to be performed is that of cleaning or inspecting and of such a nature that it does not create any source of ignition.

(6) Cold work may be performed in a confined space that contains or is likely to contain an explosive or flammable gas or vapour where the concentration does not, and is not likely to exceed ten percent of the lower explosive limit of the gas or vapour.

(7) For the purposes of this section -

- (a) "competent person" means a person, whether employed by the occupier or not, who has adequate knowledge of and experience in dealing with dangerous fumes, and who is certified by the Chief Inspector, to perform examinations and issue certificates under this section; and
- (b) "fumes" includes gas or vapour.

(8) The Minister may make Regulations to provide for the process of certification of competent persons by the Chief Inspector.

(9) It shall be the duty of the occupier and in the case of employment, the employer to ensure as far as is reasonably possible that the requirements of this section are complied with to the satisfaction of the Chief Inspector.

Effective
safeguarding
of machinery

25A. In an industrial establishment every –

- (a) prime mover;
- (b) part of the transmission machinery;
- (c) dangerous part of a machine.

shall be effectively safeguarded in accordance with sections 25B, 25C and 25D.

Prime movers

25B. (1) Every flywheel directly connected to any prime mover and every moving part of any prime mover, except such prime movers as are mentioned in subsection (3) of this section, shall be securely fenced, whether the flywheel or prime mover is situated in an engine house or other enclosure or not.

(2) The head and tail race of every water wheel and of every water turbine shall be securely fenced.

(3) Every part of electric generators, motors and rotary converters, and every flywheel directly connected thereto, shall be securely fenced unless it is in such a position or of such construction as to be as safe to every person employed or working on the premises as it would be if securely fenced.

Transmission
machinery

25C. (1) Every part of the transmission machinery shall be securely fenced unless it is in such a position or of such construction as to be as safe to every person employed or working on the premises as it would be if securely fenced.

(2) Efficient devices or appliances shall be provided and maintained in every room or place where work is carried on by which the power can promptly be cut off from the transmission machinery in that room or place.

(3) No driving belt when not in use shall be allowed to rest or ride upon a revolving shaft which forms part of the transmission machinery.

(4) Suitable striking gear or other efficient mechanical appliances shall be provided and maintained and used to move driving belts to and from fast and loose pulleys which form part of the transmission machinery, and any such gear or appliances shall be so constructed, placed and maintained as to prevent the driving belt from creeping back on to the fast pulley.

- Other machinery 25D. (1) Every dangerous part of any machinery, other than prime movers and transmission machinery, shall be securely fenced unless it is in such a position or of such construction as to be as safe to every person employed or working on the premises as it would be if securely fenced, save that, in so far as the safety of a dangerous part of any machinery cannot by reason of the nature of the operation be secured by means of a fixed guard, the requirements of this section shall be deemed to have been complied with if a device is provided which automatically prevents the operator from coming into contact with that part.
- (2) Any part of a stock-bar which projects beyond the head-stock of a lathe shall be securely fenced unless it is in such a position as to be as safe to every person employed or working on the premises as it would be if securely fenced.
- Establishment of safety and health 25E. Every employer in consultation with the representatives of his employees shall establish a safety and health committee at an industrial establishment in accordance with this section where –
- (a) there are twenty-five or more persons employed at that establishment; or
 - (b) the Chief Inspector on the basis of prescribed criteria, directs the establishment of such a committee at the industrial establishment where fewer than twenty-five persons are employed.
- Functions of safety and health committee 25F. Every safety and health committee established at a place of work in accordance with this Act shall –
- (a) keep under review the measures taken to ensure the safety and health of persons at the place of work;
 - (b) investigate any matter at an industrial establishment –
 - (i) which a member of the committee or a person employed thereat considers is not safe or is a risk to health; and
 - (ii) which has been brought to the attention of the employer;
 - (c) attempt to resolve any matter referred to in paragraph (b) and, if it is unable to do so, shall request the Chief Inspector to undertake an

inspection of the place of work for that purpose.

- (d) have such other functions as may be prescribed.

Risk
assessment

25G. (1) Every employer shall make a suitable and sufficient assessment of –

- (a) the risks to the health and safety of his employees to which they are exposed whilst they are at work; and
- (b) the risks to the health and safety of persons not in his employment arising out of or in connection with the conduct by him of his undertaking,

for the purpose of identifying the measures he needs to take to comply with the requirements and prohibitions imposed upon him by or under the relevant statutory provisions.

(2) Any assessment such as is referred to in paragraph (1) or (2) shall be reviewed by the employer who made it if –

- (a) there is reason to suspect that it is no longer valid; or
- (b) there has been a significant change in the matters to which it relates,

and where as a result of any such review changes to an assessment are required, the employer or self-employed person concerned shall make them.

(3) Where the employer employs twenty-five or more employees, he shall record –

- (a) the significant findings of the assessment; and
- (b) any group of his employees identified by it as being especially at risk.

Construction
and maintenance
of fencing

25H. All fencing or other safeguards provided in pursuance of the foregoing provisions of this Part of this Act or any Regulations or Orders made in pursuance thereof shall be of substantial construction, and constantly maintained and kept in position while the parts required to be fenced or safeguarded are in motion or in use, except when any such parts are exposed for examination, lubrication or adjustment which it is necessary to carry out while they are in motion.

Construction and
sale of new
machinery

25I. (1) In the case of any machine in a factory being machine intended to be driven by mechanical power –

- (a) every set-screw, bolt, nut, key or keyway, on any revolving shaft, spindle, wheel or pinion shall be so sunk, encased or otherwise effectively guarded as to prevent danger; and
- (b) all spur and other toothed or friction gearing, which does not require frequent adjustment while in motion, shall be completely encased unless it is so situated as to be as safe as it would be if completely encased.

(2) Any person who sells or lets on hire, or as agent of the seller or hirer causes or procures to be sold or let on hire, for use in a factory in Trinidad and Tobago any machine intended to be driven by mechanical power which does not comply with the requirements of this section shall be guilty of an offence and liable to a fine of ten thousand dollars.

(3) Nothing in this section shall apply to any machine constructed before the passing of this Act.

Cleaning of
machinery in
motion

25J. No person shall clean any part of a prime mover or of any transmission machinery while the prime mover or transmission machinery is in motion by mechanical power, and no person shall clean any part of any machine if the cleaning thereof would expose him to risk of injury from any moving part either of that machine or of any adjacent machinery.

Health
surveillance

25K. (1) Every employer shall ensure that his employees are provided with such health surveillance as is appropriate having regard to the risks to their health and safety which are identified by the assessment.

(2) Every employer shall keep a record of the health surveillance referred to in subsection (1) in accordance with section 75.

PART V

FIRE

Means of escape
in case of fire

26.(1) This section applies only to industrial establishments -

- (a) in which the aggregate number of persons employed in a building exceeds twenty;

- (b) in which more than ten persons are employed in the same building, above the ground floor of the building; or
- (c) in which explosive or highly flammable substances are stored or used.

(2) Every occupier shall ensure that his industrial establishment is certified every twenty-four months by the fire authority as being provided with such means of escape in the case of fire for the persons employed therein as may reasonably be required in the circumstances of each case and, if premises with respect to which no such certificate is in force are used as an industrial establishment, the occupier commits an offence and is liable, on summary conviction, to a fine of ten thousand dollars and to imprisonment for six months and to a further fine of one thousand dollars for each day on which the offence continues.

(3) It shall be the duty of the fire authority to examine the industrial establishment and on being satisfied that subsection (2) is complied with, give a certificate to that effect, and where that subsection is not complied with, the fire authority may by notice in writing require the occupier to make such alterations, within such period as may be specified in the notice.

(4) The certificate, which shall be kept on the premises by the occupier and made available for inspection by the fire authority or an inspector, shall specify precisely and in detail the means of escape provided and shall contain particulars as to -

- (a) the maximum number of persons employed or proposed to be employed in the industrial establishment as a whole and, if the fire authority thinks fit, the maximum number in any specified part thereof;
- (b) explosive or highly flammable material stored or used;
- (c) the nature and frequency of the periodic fire fighting drills;
- (d) the purposes for which the premises are used;
- (e) the means for giving warning in the event of a fire;
- (f) the means available to persons on the premises in fighting fire;
- (g) the measures for securing the means of escape; and

- (h) any other matters taken into account in granting the certificate,

and the fire authority shall send a copy of the certificate to both the Chief Inspector and the appropriate municipal corporation.

(5) The means of escape specified in the certificate shall be properly maintained and kept free from obstruction at all times.

(6) Where, after the grant of a certificate, it is proposed to make any extension or structural alteration of the premises or to increase the number of persons employed in the industrial establishment, or to store or use explosive or highly flammable material in the industrial establishment or to increase the extent of such storage or use, the occupier shall give notice in writing of the proposal to the fire authority and also to the appropriate municipal corporation.

(7) Where the fire authority on receipt of the notice referred to in subsection (6) is of the opinion that the means of escape will be adversely affected by the proposed changes, or that such means have by reason of changed conditions become insufficient, it may by notice in writing require the occupier to comply with such directives, within such period of time, as it may specify.

(8) The fire authority may, by notice in writing, prohibit or restrict the use of an industrial establishment or require the occupier to make, within the period specified in the notice, alterations for the purposes of providing a safe means of escape in case of fire".

- (a) it appears to the fire authority that dangerous conditions with regard to escape in case of fire exist in the industrial establishment; or

- (b) it appears to an inspector that conditions referred to in paragraph (a) exist and the inspector requests the fire authority in writing to examine the industrial establishment for the purposes of exercising his powers under this section.

(9) The occupier shall, within the period specified in the notice issued by the fire authority under this section, carry out, the alterations required by the notice, and upon their being carried out, the occupier shall notify the fire authority in writing and the fire authority shall amend the certificate or issue a new certificate, and shall send a copy of the amended or new certificate to the Chief Inspector, and if the alterations are not so carried out, the fire authority shall, without prejudice to the taking of other proceedings, cancel the certificate.

(10) Where the occupier fails to notify the fire authority in respect of the matters referred to in subsection (6), or where he fails to comply with such directives as the fire authority may give under subsection (7) or (8), he commits an offence and is liable, on summary conviction, to a fine of ten thousand dollars and to a further fine of one thousand dollars for each day on which the offence continues.

(11) Where a request is made by an inspector under subsection (8), the fire authority shall inform the Chief Inspector and the appropriate municipal corporation of his findings and of any action taken for remedying the dangerous conditions, if any.

(12) Where the occupier is aggrieved by a decision of the fire authority under this section, he may object by way of complaint within seven days of the decision to the Court and, pending the final determination of the complaint, the court may, on an *ex parte* application by the occupier, make such interim orders as it thinks fit.

(13) An examination by the fire authority under this section shall be carried out only by officers authorised in writing by that authority (hereinafter referred to as "authorised officers") to carry out that examination or generally to carry out examinations under this section.

(14) An authorised officer may, in the exercise of his powers under subsection (13), be accompanied by any person approved by the fire authority.

(15) An authorised officer may, for the purposes of exercising his powers under subsection (13), enter an industrial establishment at any time, on the condition that he produces documentary evidence of his authority if required to do so.

(16) A person who wilfully obstructs an authorised officer in the exercise of his duty under this Act is liable, on summary conviction, to a fine of two thousand dollars and to imprisonment for six months.

Safety provisions
in case of fire

27.(1) In every industrial establishment, the doors that are provided for use as fire exists shall, while work is in progress at that industrial establishment, be either left unlocked, or secured in such a way as to be capable of being readily and quickly opened from the inside.

(2) Every door opening onto a staircase or corridor from a room in which more than ten persons are employed, and all other doors affording a means of exit from the industrial establishment for persons employed therein, shall be constructed to open outwards and a sliding door shall not be the final exit of an industrial establishment unless the occupier obtains the written permission of the fire authority to use such a door.

(3) Every liftway inside a building shall be completely enclosed with fire resisting material, and all means of access to the lift shall be fitted with doors of fire resisting materials, except that the top of such liftway shall be enclosed by some material easily broken in case of fire, or shall be provided with a vent.

(4) Every door to other exit or exit route affording means of escape in case of fire or giving access thereto, other than the means of exit in ordinary use, shall be distinctly and conspicuously marked by a notice printed in green letters on a white background and the letters shall be of such size as the fire authority may specify.

(5) The doors, exit or exit routes mentioned in subsection (4) shall be fitted with emergency lighting and well maintained luminous or illuminated exit signs if the industrial establishment is used at night or where insufficient lighting is likely to occur during an electrical power failure.

(6) Subject to subsection (7), where in an industrial establishment more than twenty persons are employed in the same building, or where explosives or highly flammable materials are stored or used in a building in which persons are employed, the fire authority shall direct the occupier to make effective provisions for giving warning in case of fire, and such warning shall be clearly audible throughout the building and distinct from any other signal in use on the premises.

(7) Where part of a building is let as an industrial establishment and the aggregate number of persons employed in the building at any one time exceeds twenty, the fire authority shall direct the owner of the building to make effective provisions for giving warning in case of fire, and such warning shall be clearly audible throughout the building and distinct from any other signal in use on the premises.

(8) Such warning signs as the fire authority may specify shall be prominently displayed in an industrial establishment in which explosives or highly flammable materials are stored or used.

(9) The contents of every room in which employees work shall be so arranged that there is for all employees in the room a free passageway leading to a means of escape in case of fire.

Instructions as to use of means of escape in case of fire

28. Where in an industrial establishment more than twenty persons are employed in the same building above the ground floor, or where explosive or highly flammable materials are stocked or used in a building where persons are employed, effective steps shall be taken to ensure that all employed persons are familiar with the means of escape, their use and the routine to be followed in case of fire and a record of the number and frequency of evacuation drills shall be kept and presented, on demand, for inspection by the fire authority.

Provision for
adequate fire-
fighting equipment

29. In every industrial establishment there shall be provided maintained and kept readily available for use appropriate fire equipment approved by the fire authority for fighting fire and the occupier shall ensure that a sufficient number of persons trained in using such equipment are available during the working hours and a record of the number of persons trained and the frequency of lectures and fire drills shall be kept and presented on demand, for inspection by the fire authority.

Power of Chief
Inspector to
conduct court
proceedings

30. The Chief Inspector on receiving a report in writing by the fire authority may prosecute or conduct before the court any complaint or other proceedings arising under, or in the discharge of his duties under sections 26 to 29.

Compliance
with
provisions

30B. Where it appears to the Chief Inspector that in an industrial establishment or a factory with twenty or less employees any provisions of this Part is by reason of special circumstances appropriate or adequate for the purpose, he may direct that the occupier of that industrial establishment or an employer therein comply with those provisions or that the provisions shall apply as varied by his direction.

PART VI

HEALTH

Cleanliness

31. Every industrial establishment shall be kept clean and free from effluvia arising from any drain, sanitary convenience or other source, and, without prejudice to the generality of the foregoing provision -

- (a) accumulations of dirt and refuse shall be removed daily, where practicable, by suitable methods from the floors, benches, furniture, furnishings and fittings of workrooms, and from the staircases and passages;
- (b) the floors of every workroom shall be kept clean and properly maintained;
- (c) effective means shall be provided, maintained and used to prevent the breeding of insects, rats, mice or other vermin; and
- (d) effective means shall be provided and maintained for the draining of wet floors and yards, where necessary.

Respiratory
protection

32. Respiratory protection of an approved standard shall be provided and maintained, where necessary, for use by all persons in the industrial establishment.

Lighting

33.(1) In every part of an industrial establishment where employees are working or passing, there shall be provided and maintained sufficient and suitable lighting, natural or artificial, or both, in accordance with approved standards.

(2) In every industrial establishment, effective provision shall, so far as is practicable, be made for the prevention of-

(a) glare, either directly from a source of light or by reflection from a smooth or polished surface; and

(b) the formation of shadows to such an extent as to cause eye-strain or the risk of accident to any person.

(3) In every industrial establishment, all glazed windows and sky lights used for the lighting of workrooms shall be kept clean from inside and outside and shall be free from any obstruction.

Noise and
vibration

34.(1) Every owner, occupier or employer, shall take adequate steps to prevent hearing impairment caused by noise, and diseases caused by vibration, from occurring to persons in, or in the vicinity of, an industrial establishment and shall comply with such directives as -

(a) the Chief Inspector may issue, in order to reduce the level of noise or vibration generated by a machine, device or process; and

(b) the Chief Medical Officer may issue, in order to protect persons employed from hearing impairment caused by noise or from diseases caused by vibration.

(2) It shall be the duty of the owner, occupier or employer -

(a) to ensure that all protective equipment necessary for compliance with subsection (1) is worn or used by employees at all appropriate times;

(b) to arrange for the initial and periodic medical examination and assessment of those employees who are exposed to the risk of injury to their hearing or of contracting a disease caused by vibration;

(c) to keep a record of the results of examinations and assessments under paragraph (b) which shall include audiometric tests and the monitoring of the work environment; and

(d) to arrange programmes for hearing conservation.

Overcrowding

35.(1) An industrial establishment shall not be so overcrowded as to cause risk of injury to the health of the persons employed therein.

(2) Without prejudice to the generality of subsection (1), in every workroom or other work space in a factory there shall be allowed for every person employed in the room or space not less than eleven and a half cubic metres of space, except that in any workroom or other work space with not less than one side, or the equivalent area of openings, being not less than twenty-five per cent of the total area of all sides of the room or space, open to the outer air the amount of space allowed for every person employed in the room or space shall not be less than seven and a half cubic metres.

(3) In calculating, for the purposes of this section, the amount of cubic space in any workroom or work space, no space more than three metres from the floor shall be taken into account, and, where a room contains a gallery in which persons are employed, the gallery shall be treated for the purposes of this section as if it were partitioned off from the remainder of the room and form a separate room.

(4) There shall be posted in every workroom a notice specifying the number of persons who may, under the provisions of this section, be employed in that room.

Ventilation

36. Every occupier of an industrial establishment that is not ventilated by a functioning air-conditioning system shall secure and maintain therein adequate and suitable ventilation by the circulation of fresh air.

Medical examination of persons employed in industrial establishment

37.(1) Where, after the commencement of this Act, a person seeks employment in an industrial establishment, he shall be required by the employer to undergo medical examination as a pre-condition of permanent employment, except in such shops or places of work as the Minister may, by Order, exempt.

(2) The cost of medical examination shall be borne by the employer.

(3) Where a medical inspector is of the opinion that the health of a person employed in an industrial establishment has been injured by reason of the nature of work he is called upon to do, the medical inspector may serve on the

employer a written notice requiring him to permit a medical examination of that person, who may or may not submit to that examination.

(4) The notice under subsection (3) shall name the place where the medical examination is to be conducted and the date and time when it will begin and, if the examination is to be conducted at the industrial establishment, the occupier shall provide suitable accommodation for the conduct of the examination.

(5) In this section, "medical examination" may include pathological, biochemical, physiological, radiological and audiometric tests and other relevant investigations.

Power to require
medical supervision

38. Where the Minister is advised by the medical inspector and is of the opinion –

- (a) that in any industrial establishment -
 - (i) a case of illness has occurred which he has reason to believe may be due to the nature of a process or other conditions of work;
 - (ii) by reason of changes in any process or in the substances used, or of the introduction of a new process, there may be risk of injury to the health of employees in that process; or
 - (iii) young persons are or are about to be employed in work which may cause risk of injury to their health or;
- (b) that there may be risk of injury to the health of employees in an industrial establishment -
 - (i) from any substance or material brought to the industrial establishment to be used or handled therein; or
 - (ii) from any change of conditions of work or other conditions in the industrial establishment,

he may make **Regulations** specifying the arrangements to be made for the medical supervision of those employees or young persons, as the case may be, or any class thereof.

PART VII**WELFARE**

Drinking water

39.(1) In every factory, effective arrangements shall be made to provide and maintain at suitable points conveniently situated for all persons employed therein, a sufficient supply of cool, wholesome, drinking water, except that no such point shall be situated within six metres (or twenty feet) of a washing place, water closet, urinal or other sources of contamination unless a shorter distance is approved in writing by the Chief Inspector.

(2) Except as otherwise permitted by the Chief Inspector, in every factory there shall be legibly and conspicuously displayed near any tank, pipe or other source of water or liquid unfit for human consumption, a notice to that effect.

Washing facilities

40. The occupier of every factory shall provide and maintain separately for men and women employed therein, adequate, clean and easily accessible washing facilities which are provided with soap and suitable hand drying materials or devices and such other provisions as are prescribed.

Sanitary conveniences

41. The occupier of every factory shall -

- (a) provide and maintain separately for men and women employed therein adequate, clean and easily accessible sanitary conveniences;
- (b) provide and maintain suitable receptacles or disposal units for use by women;
- (c) provide adequate lighting and ventilation in sanitary conveniences and an open or ventilated space separating workrooms from such conveniences; and
- (d) provide safe and covered access to sanitary conveniences.

Accommodation for clothing

42. In every factory, there shall be provided and maintained, distinct and apart from any sanitary convenience or lunchroom and separately for the use of men and women, adequate and suitable changing rooms with locks on the inside and accommodation for their clothing not worn during working hours.

First aid appliances

43.(1) In every factory, there shall be provided and maintained so as to be readily accessible during all working hours, such number of fully equipped first-aid boxes or cupboards as may be prescribed.

(2) The Chief Inspector, shall, where necessary, direct in writing the occupier of an factory to provide for deluge showers, eye baths and other similar first aid devices.

(3) Each first-aid box or cupboard shall be under the control of responsible persons who are trained in first-aid treatment and retested every three years and who shall always be readily available during the working hours of the factory.

(4) In every factory or industrial estate where more than two hundred and fifty persons are employed, there shall be provided and maintained an ambulance and a first-aid room of a prescribed size, containing the prescribed equipment and being in the charge of such medical and nursing staff as may be prescribed, unless the Chief Inspector, upon application, exempts an occupier from this section, in which case he shall issue a certificate to that effect to the occupier.

(4a) The Chief Inspector may direct the manager of an industrial estate to comply with subsection (4)

(5) Where the factory provides a first-aid room and an ambulance, it may be exempt by the Chief Inspector from subsections (1) and (3).

(6) In this section "industrial estate" means any land with suitable infrastructure such as roads, water or power, divided into plots for sale or rental or entrepreneurs to build factories or to occupy existing buildings thereon for the purpose of storage, processing or manufacture of products of repair or articles.

Canteens

44. Every occupier in whose factory there is ordinarily employed a total of more than two hundred and fifty persons, may provide and maintain for the use of those employees therein a canteen equipped and operated in the manner that may be prescribed by agreement between the employer, employee and union.

Restrooms and lunchrooms

45.(1) In every factory the occupier shall provide and maintain for the persons employed therein, adequate and suitable restrooms or lunchrooms and lunchrooms shall be convenient for the eating of meals and shall be provided with adequate lighting ventilation and drinking water.

(2) An occupier who provides a canteen in accordance with section 44 shall be regarded as having satisfied the requirements of subsection (1).

Application of the Part

45A. (1) This Part applies to factory in which is employed more than five people.

(2) An occupier of a factory in which is employed five persons or less shall ensure that the changing room or sanitary convenience can be locked from the inside.

Compliance
with
provisions

45B. Where it appears to the Chief Inspector that in an industrial establishment or a factory with five or less employees any provisions of this Part is by reason of special circumstances appropriate or adequate for the purpose, he may direct that the occupier of that industrial establishment or an employer therein comply with those provisions or that the provisions shall apply as varied by his direction.

PART VIII

NOTIFICATION AND INVESTIGATION OF ACCIDENTS AND OCCUPATIONAL DISEASES

Notification of
accidents

46.(1) Where an accident which causes death or critical injury occurs -

- (a) in an industrial establishment, the occupier; or
- (b) in the course of employment, the employer,

shall inform the Chief Inspector of the accident forthwith by telephone, facsimile, e-mail or other direct means and shall send a written notice of the accident, in the prescribed form and accompanied by the prescribed particulars, to the Chief Inspector within forty-eight hours of his learning of the accident.

(2) Where an incident which may be prejudicial to the safety or health of the public, or which has the potential of causing critical injury, including fire, explosion or the release of toxic substances, occurs in an industrial establishment, the occupier shall inform the Chief Inspector of the incident forthwith by telephone, facsimile or e-mail and shall send a written notice of the incident to the Chief Inspector within forty-eight hours of his learning of the incident.

(3) Where an accident resulting in critical injury occurs and death follows the notification of the accident, a further notice in writing of the death shall be sent to the Chief Inspector by the employer within forty-eight hours of his learning of the death.

(4) Where the occupier is not the employer of a person who is killed or critically injured in an industrial establishment, it shall be the duty of the employer, as soon as he becomes aware of the accident to report it to the occupier, and if he fails to do so, he commits an offence and is liable, on summary conviction, to a fine of ten thousand dollars and to imprisonment for three months.

(5). Every occupier and every employer shall keep a register of each accident, incident or death reported to the Chief Inspector under subsections (1), (2) and (3) and each entry into the register shall be kept for not less than five years.

Notice of
Injury

46A. Where an accident causes injury to a person at a workplace whereby the person is unable to perform his usual work or requires medical attention, and such occurrence does not cause death or critical injury leading to disability, the employer shall give notice in the prescribed form within four days of the occurrence, to the Chief Inspector, containing information and particulars of the accident.

Preservation
of scene

47.(1) Where a person is killed or sustains a critical injury at an industrial establishment, no person shall, except for the purpose of -

- (a) saving life or relieving human suffering;
- (b) maintain an essential public utility service or a public transportation system; or
- (c) preventing unnecessary damage to equipment or other property,

interfere with, disturb, destroy, alter or carry away any wreckage, article or thing at the scene of or connected with the occurrence until permission so to do has been given by the inspector.

(2) A person who contravenes subsection (1) commits an offence and is liable, on summary conviction, to a fine of five thousand dollars and to imprisonment for three months.

Notification of
occupational
diseases

48.(1) Where a medical practitioner who, having attended to a patient, forms the opinion that the patient is suffering from an occupational disease contracted in any industrial establishment or in the course of his employment, he shall within forty-eight hours of having formed that opinion send to the Chief Medical Officer a notice stating the disease from which the medical practitioner is of the opinion that the patient is suffering and the industrial establishment in which the patient is and was last employed.

(2) The Chief Medical Officer shall send forthwith to the Chief Inspector any notice that he receives under subsection (1).

(3) If an employer is advised by or on behalf of an employee that the employee suffers from a disease referred to in Schedule 1, he shall give notice in writing to the Chief Inspector within four days of being so advised.

(4) Where a notice is sent to the Chief Inspector under this section, he shall arrange, within two weeks of having received the notice, for a medical inspector to investigate and submit to him a report on the case of occupational disease referred to in the notice within two weeks.

(5) The Chief Inspector, upon receiving the report referred to in subsection (3), shall conduct the necessary enquiries.

(6) Every employer who contravenes subsection (3) commits an offence and is liable on summary conviction to a fine of five thousand dollars and to imprisonment for three months.

(7) Every medical practitioner who contravenes subsection (1) commits an offence and is liable on summary conviction, to a fine of five thousand dollars, and to imprisonment for three months if it is proven that he ought reasonably to have formed the opinion that the patient was suffering from an occupational disease contracted in an industrial establishment or in the course of his employment.

Autopsy in cases of death by accident or occupational disease

49. Where a District Medical Officer has reason to believe that a death is caused by an accident in an industrial establishment or in the course of employment or by occupational disease, he shall arrange for an autopsy to be conducted in respect of such death and shall forward, within twenty-one days of the death, a copy of the results of the autopsy to the Chief Medical Officer, who shall forward forthwith to the Chief Inspector a statement as to the cause of death.

Inquest in the case of death by accident or occupational disease

50.(1) Where a coroner holds an inquest on the body of a person whose death may have been caused by accident or disease of which notice is required by this Act to be given, the coroner shall, at least forty-eight hours before holding an inquest, send to the Chief Inspector a notice in writing of the time and place of holding the inquest.

(2) Where an inspector is not present to witness the proceedings of an inquest, the coroner may adjourn the inquest and shall, at least four days before holding the adjourned inquest, send to the Chief Inspector notice in writing of the time and place of holding the adjourned inquest, but the coroner may, before the adjournment, take evidence to identify the body and order the internment thereof.

(3) Subject to the power of the coroner at an inquest referred to in this section to disallow a question, which in his opinion is not relevant, or is otherwise not a proper question, the following persons shall be entitled to examine a witness either in person or through an attorney-at-law or an agent:

- (a) an inspector;
- (b) a relative of the person in respect of whose death the inquest is being held;
- (c) the employer of the person in respect of whose death the inquest is being held;

- (d) the occupier of the industrial establishment in which the accident occurred or the disease is alleged to have been contracted;
- (e) a person appointed in writing by –
 - (i) a trade union, friendly society or other association to which the deceased at the time of his death belonged; and
 - (ii) an association of employers of which the occupier or employer is a member.

(4) Where at an inquest at which an inspector is not present, evidence is given of neglect as having caused or contributed to the accident or disease, or of a defect in or about the industrial establishment appearing to the coroner to require a remedy, the coroner shall send to the Chief Inspector notice in writing of the neglect or defect, as the case may be.

(5) In this section, “inspector” includes a medical inspector.

Enquiry into
accidents and
cases of
disease
Chap. 19:01

51. Where the Minister is of the opinion that any accident occurring or any case of occupational disease contracted or suspected to have been contracted in an industrial establishment is a matter of public interest, he may so advise the President who may cause an enquiry to be held, in accordance with the Commissions of Enquiry Act, into such accident or case of Industrial disease and its causes and circumstances.

Medical inspector
to investigate
and report

52. (1) The Chief Medical Officer shall arrange for a medical inspector to investigate and submit to him a report –

- (a) on such cases of death or critical injury occurring in an industrial establishment or in the course of employment as the Chief Inspector may refer to the Chief Medical Officer; and
- (b) on any other matter that the Minister may direct.

(2) The Chief Medical Officer shall forward a copy of a report made under -

- (a) subsection (1)(a) to the Chief Inspector; or
- (b) subsection (1)(b) to the Minister.

PART IX

EMPLOYMENT OF YOUNG PERSONS

Young persons
to have certificate

53. (1) No young person shall be employed to work in an industrial establishment for a period of three months or more unless –

- (a) a medical practitioner, on the application of the young person or his parent, has examined the young person and ascertained his fitness for work in that industrial establishment; and
- (b) a document signed by the employer to the effect that such young person will be employed in the industrial establishment is submitted to the medical practitioner no later than at the commencement of the medical examination.

(2) The Minister may, by Order, exempt such industrial establishment as he thinks fit from subsection (1).

(3) After an examination under subsection (1), the medical practitioner may grant to such young person, in the prescribed form, or may renew -

- (a) a certificate of fitness to work in an industrial establishment if he is satisfied that the young person has attained the prescribed physical standard and that he is fit for such work; or
- (b) a certificate of fitness to work in an industrial establishment as an adult, if he is satisfied that the young person has attained the age of sixteen years and that he is fit for a full day's work in an industrial establishment.

(4) Unless the examining physician has personal knowledge of the place where the young person proposes to work and of the process in which he will be employed, he shall not grant or renew a certificate under subsection (3).

(5) A certificate of fitness granted under subsection (3) -

- (a) shall be valid for a period of twelve months from the date thereof; and
- (b) may be issued subject to conditions regarding the nature of work in which the young person may be employed, or

conditions requiring a medical re-examination of the young person before the expiry of the period of twelve months.

(6) Where a certificate under this section is granted or renewed subject to such conditions as are referred to in subsection (5)(b), the young person shall not be required to work in any industrial establishment except in accordance with those conditions.

Hours of employ-
ment for young
persons
Chap. 46:01

54 (1) Except as provided for by section 90(2) of the Children Act, no young person shall be employed –

- (a) between the hours of 10:00 p.m. and 7.00 a.m.;
- (b) during the period of twelve consecutive hours immediately following the end of the period during which he last worked; or
- (c) for more than eight hours a day.

(2) The hours of employment under subsection (1) shall include a rest period of at least one hour.

(3) No young person shall be required to work more than forty-eight hours in any week.

(4) The Minister may, in relation to such industrial establish-ment as he thinks fit, by Order, vary or waive the provisions of subsection (1) or (3).

Duty to maintain
register

55 (1) An employer shall maintain a register recording therein the names of young persons, the date of their employment, particulars of the certificate of fitness, the nature of their work and such other particulars in such form as the Minister may prescribe.

(2) An employer who contravenes subsection (1) commits an offence.

Power to
require medical
examination

56. Where an inspector is of the opinion –

- (a) that any person working in an industrial establishment without a certificate of fitness is a young person; or
- (b) that a young person working in an industrial establishment with a certificate of fitness is no longer fit to work in the capacity stated therein,

he may serve on the employer a notice requiring that such young person shall be examined by a medical practitioner and such young person shall not, if the

inspector so directs, be employed in an industrial establishment until he has been so examined and has been granted a certificate of fitness or a renewed certificate of fitness, as the case may be, under section 53.

PART X

SPECIAL APPLICATION AND EXTENSIONS

Provisions re:
lease of part
of premises as
a separate
industrial
establishment

57. (1) The owner or occupier of any premises shall, before letting any premises or part of premises for use as an industrial establishment -

- (a) in which the aggregate number of persons employed exceeds twenty;
- (b) in which more than ten persons are employed in the same building above the ground floor of the building;
or
- (c) in which explosion or highly flammable substances are stored or used,

shall obtain from the Chief Inspector a certificate as to the suitability of the premises or part thereof, as the case may be, for its intended use.

(1B) Where it appears to the Chief Inspector that in an industrial establishment with twenty or less employees any provisions of this Part is by reason of special circumstances appropriate or adequate for the purpose, he may direct that the owner or occupier of that industrial establishment or an employer therein comply with those provisions or that the provisions shall apply as varied by his direction.

(2) Where part of premises is let as an industrial establishment, this Act shall apply to any other part of the premises used for the purposes of the industrial establishment though not itself a part of that industrial establishment.

(3) Subject to subsection (4), where part of premises is let as an industrial establishment, the owner of the premises shall be liable for any contravention of the provision of this Act as they apply under subsection (2), except that the owner shall not be liable for a contravention of those provisions in so far as they relate to matters outside his control, in which case the occupier of an industrial establishment in respect of which that contravention is made, shall be liable.

(4) Except where otherwise provided by the terms of the agreement between the owner and the occupier of premises referred to in this section, the owner shall be responsible for complying with the provisions of this Act relating to any sanitary conveniences, lifts, lifting machines, floors, passages, stairs, walls, means of escape and any other machinery, thing or part of premises used in common by more than one tenant.

Application of institution

58. (1) Where in premises, not being an industrial establishment but forming part of an institution carried on for charitable, educational reformatory or penal purposes, work is performed in or incidental to the making, altering, repairing, ornamenting, finishing, washing, cleaning, breaking or adapting for sale, of articles, this Act shall, subject to subsection (2) apply to those premises.

(2) Where in a charitable, educational, reformatory or penal institution to which this Act applies, the persons having the control of the institution (hereinafter referred to as “the managers”) satisfy the Minister that the only persons working therein are persons who are residents of and supported by the institution, or persons engaged in the supervision of the work or the management of machinery, and that such work is carried on in good faith for the purposes of the support, education or training of persons engaged in it, and that any posting required by section 61 is not necessary, the Minister may, by Order, direct that such provisions of Part XI as to the posting of abstracts and notices as the Minister thinks fit shall not apply.

PART XI

SPECIAL PROVISIONS IN RESPECT OF FACTORIES, BUILDING OPERATIONS AND WORKS OF ENGINEERING CONSTRUCTION

Construction and alteration of factories

59. (1) No person shall undertake, without the prior approval of the Chief Inspector –

- (a) the construction of any new factory or warehouse;
- (b) the reconstruction of any existing factory or warehouse or the extensive installation of any new plant or machinery therein; or
- (c) the alteration, modification or changes in the existing plant or machinery which is likely to change significantly the working environment in a factory or warehouse.

(2) A period of not more than six weeks shall be allowed for the consideration of every application made under this section and where the Chief Inspector's decision is not issued to the applicant during that period, the Chief Inspector shall submit his reasons for the delay, in writing, to the applicant.

(3) Every application under this section shall be made on the prescribed form and shall be accompanied by the prescribed documents.

Notice of
occupation of
factory and use
of mechanical
power

60. (1) Every person shall, within one month after he begins to occupy, or to use any premises, as a factory, serve on the inspector and the local health authority for the district a written notice stating the name of the occupier or the title of the firm, the postal address of the factory, the nature of the work, whether mechanical power is used, and, if so, its nature, the name of the local health authority within whose district the factory is situated and such other particulars as may be prescribed, and if he fails to do so, he shall be guilty of an offence and liable, on summary conviction, to a fine of five thousand dollars and to a further fine of five hundred dollars for each day on which the offence continues.

(2) Within one month of the date upon which mechanical power is, after the commencement of the Act, first used in any factory, the occupier shall serve on the inspector and the local health authority for the district a written notice stating the nature of such mechanical power.

Postings

61. (1) Every occupier shall keep prominently displayed in an appropriate part of the factory –

- (a) the prescribed abstract of this Act; and
- (b) a suitable clock.

(2) In every factory a printed copy of this Act and of the Regulations or Orders for the time being in force together with the rules of that factory shall be provided and maintained in good condition in a location readily accessible to employees.

(3) An inspector may direct that any document required to be posted under this section shall be in the prescribed form and shall be posted in such part of the factory as he may think fit.

(4) A person who removes, damages or defaces any document required by this Act to be posted in a factory commits an offence and is liable, on summary conviction, to a fine of five hundred dollars.

Periodical
returns of
factory
employees

62. The occupier of every factory shall, at intervals of not less than one year, send to the Chief Inspector a correct return specifying with respect to such period as the Minister may direct, the number of persons employed in his factory, and giving such particulars as may be prescribed, as to the hours of employment of each employee, as to the age, sex and occupation of all persons employed, and as to such other matters, if any, as the Minister may direct.

Building
operations and
works of
engineering
construction

63. Any person undertaking any building operations or works of engineering construction shall, not later than seven days after the beginning thereof, serve on the Chief Inspector a written notice stating the name and postal address of the person so undertaking the operations or works, the place and nature of the operations or works, the name of the regional health authority within whose district the operations or works are situated and such other particulars as may be prescribed, where –

- (a) this section shall not apply to any operations or works which the person undertaking them has reasonable grounds for believing will be completed in a period of less than six weeks, except in such cases as the Chief Inspector may direct; and
- (b) where a person undertakes any building operations or works of engineering construction in a place where such operations or works are in progress, he shall not be required to give notice, if a notice was given in respect of the operations or works in progress.

PART XII

THE OCCUPATIONAL SAFETY AND HEALTH AUTHORITY

Establishment
of the Authority

64. (1) There is hereby established an Authority to be known as The Occupational Safety and Health Authority (hereinafter referred to as “the Authority”).

Schedule 2

- (2) Schedule 2 shall have effect with respect to the Authority.
- (3) The Minister may, by Rules, amend Schedule 2.

Composition of
the Authority

65. (1) The Authority shall consist of –
- (a) a Chairman appointed by the Minister;
 - (b) a Deputy Chairman appointed by the Minister;

- (c) the Executive Director of the Agency created under Part XIII of this Act;
- (d) a representative of the Ministry responsible for occupational safety and health;
- (e) a representative of the Ministry responsible for health;
- (f) a representative of the Ministry responsible for energy industries;
- (g) a representative of the body responsible for standards in Trinidad and Tobago;
- (h) nine other members appointed by the Minister in accordance with subsection (2).

(2) Before appointing the members of the Authority, other than the Chairman and the Deputy Chairman, the Minister shall -

- (a) as to two of them, consult such organisations representing employers as he considers appropriate;
- (b) as to two of them, consult such organisations representing employees as he considers appropriate; and
- (c) as to five of them, consult such other organisations, the activities of which are concerned with matters relating to any of the general purposes of this Act, as he considers appropriate, including the Medical Board of Trinidad and Tobago, the Board of Engineering of Trinidad and Tobago and organisations representing women's affairs.

(3) Subject to this Part, the Authority may -

- (a) appoint such employees as it considers necessary for the performance of its functions;
- (b) fix qualifications and terms and conditions of service for employees, save that salaries in excess of one hundred and fifty thousand dollars per annum shall be subject to the Minister's approval;

- (c) engage persons having suitable qualifications and experience as consultants on such terms and conditions as are approved by the Minister.

Functions of
the Authority

66. (1) The functions of the Authority shall be –

- (a) to assist and encourage persons concerned with matters relevant to any of the general purposes of this Act to further those purposes;
- (b) to make such arrangements as it considers appropriate for the carrying out of research, the publication of the results of research and the provision of training and information in that connection with those purposes, and to encourage research and the provision of training and information in that connection by others;
- (c) to make such arrangements as it considers appropriate for securing that government departments, employers, employees, organisations representing employers and employees respectively, and other persons concerned with matters relevant to any of those purposes are provided with an information and advisory service and are kept informed of, and adequately advised on, such matters;
- (d) to perform such acts and functions in accordance with law to enforce the provisions of this Act;
- (e) to submit from time to time to the Minister such proposals as the Authority considers appropriate for the making of Regulations under this Act;
- (f) to advise the Minister on the organisational structure, staff requirements and operations for the proper and efficient functioning of the Agency.

(2) It shall be the duty of the Authority -

- (a) to give effect to any directions given to it by the Minister;
- (b) to submit to the Minister from time to time particulars of what it proposes to do for the purpose of performing its functions; and
- (c) to ensure that its activities are in accordance with proposals approved by the Minister.

Approval of
codes of
practice

67. (1) For the purpose of providing practical guidance with respect to the requirements of any provision of this Act or Regulations made under it, the Authority may, subject to subsection (2) –

- (a) approve and issue such codes of practice, whether prepared by it or not as in its opinion are suitable for that purpose;
- (b) approve such codes of practice issued or proposed to be issued otherwise than by the Authority as in its opinion are suitable for that purpose.

(2) The Authority shall not approve a code of practice under subsection (1) without the consent of the Minister and shall, before seeking his consent, consult -

- (a) any government department or other body that appears to the Authority to be appropriate; and
- (b) such government departments and other bodies, if any, as in relation to any matter dealt with in the code, the Authority is required to consult under this section by virtue of directions given to it by the Minister.

(3) Where a code of practice is approved by the Authority under subsection (1), the Authority shall cause a notice to be published in the *Gazette* and in a daily newspaper circulating in Trinidad and Tobago –

- (a) identifying the code in question and stating the date on which its approval by the Authority is to take effect; and
- (b) specifying for which of the provisions of this Act or regulations made under it, the code is approved.

(4) The Authority may -

- (a) from time to time revise the whole or any part of any code of practice prepared by it in pursuance of this section;
- (b) approve any revision or any proposed revision of the whole or any part of any code of practice for the time being approved under this section,

and the provisions of subsections (2) and (3) shall, with the necessary modifications, apply in relation to the approval of any revision under this

subsection as they apply in relation to the approval of a code of practice under subsection (1).

(5) The Authority may at any time with the consent of the Minister withdraw its approval from any code of practice approved under this section, but before seeking his consent shall consult the same government departments and other bodies as it would be required to consult under subsection (2) if it were proposing to approve the code.

(6) Where under subsection (5), the Authority withdraws its approval from a code of practice approved under this section, the Authority shall cause a notice to be published in the *Gazette* and in a daily newspaper circulating in Trinidad and Tobago identifying the code in question and stating the date on which its approval of it is to cease to have effect.

(7) References in this section to an approved code of practice are references to that code as it has effect for the time being by virtue of any revision of the whole or any part of it approved under this section.

(8) The power of the Authority under subsection (1)(b) to approve a code of practice issued or proposed to be issued otherwise than by the Authority shall include power to approve a part of such a code of practice; and accordingly in this section "code of practice" may be read as including part of such a code of practice.

Use of approved codes of practice in criminal proceedings

68. (1) A failure on the part of any person to observe any provision of an approved code of practice shall not of itself render him liable to any civil or criminal proceedings; but where in any criminal proceedings a party is alleged to have committed an offence by reason of a contravention of any requirement or prohibition imposed by or under any provision of this Act being a provision for which there was an approved code of practice at the time of the alleged contravention, subsection (2) shall have effect with respect to that code in relation to those proceedings.

(2) Any provision of the code of practice which appears to the Court to be relevant to the requirement or prohibition alleged to have been contravened shall be admissible in evidence in the proceedings; and if it is proved that there was at any material time a failure to observe any provision of the code which appears to the court to be relevant to any matter which it is necessary for the prosecution to prove in order to establish a contravention of that requirement or prohibition, that matter shall be taken as proved unless the Court is satisfied that the requirement or prohibition was in respect of that matter complied with otherwise than by way of observance of that provision of the code.

(3) In any criminal proceedings -

- (a) a document purporting to be notice published by the Authority under section 68 shall be taken to be such a notice unless the contrary is proved; and
- (b) a code of practice which appears to the Court to be the subject of such a notice shall be taken to be the subject of that notice unless the contrary is proved.

PART XIII

ADMINISTRATION

Establishment
of the
Agency

69. (1) There is hereby established the Occupational Safety and Health Agency (hereinafter referred to as “the Agency”).

(2) The Agency shall consist of the following persons who shall be appointed by the Authority:

- (a) an Executive Director who shall be the head of the Agency;
- (b) a Deputy Director;
- (c) a Secretary; and
- (d) such persons who in the opinion of the Authority, have the necessary training, qualifications and expertise to assist in the effective management and delivering of the services of the Agency.

(3) The Executive Director shall be the Accounting Officer on the Exchequer Account for the Authority and shall -

- (a) carry out any directions given to him by the Authority in pursuance of its functions; and
- (b) if requested by the Minister, provide the Minister with information about the activities of the Authority or any other related matter.

(4) The salary, allowances and other terms and conditions of service of the Executive Director shall be reviewed by the Salaries Review Commission in accordance with section 141 of the Constitution.

(5) The Agency shall not later than three months after the commencement of this Act, initiate consultation with governmental entities performing various inspection functions, with the objective of formulating memoranda of understanding or other arrangements between the Agency and such other governmental entities, which shall establish the mechanisms for co-ordination across jurisdictional lines and provide for the implementation of integrated occupational health and safety programmes.

(6A) The Agency, on the advice of the Authority, may-

- (a) create; and
- (b) direct operations of,

other bodies to give effect to the Act.

Transfers

69A. (1) An officer in the public service may, with the approval of the approval of the appropriate Service Commissions consent to be appointed on transfer to the service of the Authority or the Agency upon such terms and conditions as are acceptable to him or his trade union and the Authority.

(2) The officer referred to in subsection (1) shall, upon transfer, have preserved his superannuation and pension rights accruing at the time of transfer.

Duties of Chief Inspector

70.(1) The Authority may appoint a suitably qualified person as as Chief Inspector.

(2) It shall be the duty of a Chief Inspector to report to the Executive Director on such matters concerning the administration, enforcement and furtherance of the purposes of this Act as the Executive Director may request and to carry out any directions given to him by the Executive Director.

(3) The Chief Inspector shall be *ex officio* a member of the Agency.

Inspector and medical inspectors

71. (1) The Minister may –

- (a) on the advice of the Chief Inspector, designate a suitably qualified public officer as an inspector; and
- (b) on the advice of the Chief Medical Officer –
 - (i) designate a suitably qualified medical officer as a medical inspector; or

- (ii) appoint a suitably qualified medical practitioner as a medical inspector on such terms and conditions as he sees fit.

(2) An inspector shall not be eligible to serve on any jury.

Powers of inspectors

72.(1) Every inspector shall, for the purposes of the enforcement of this Act, have power to do all or any of the following:

- (a) to enter, inspect, take photographs of and examine, at all reasonable times, either alone or together with such other person possessing technical or special knowledge as the Chief Inspector may authorise in writing, any premises which he has reasonable cause to believe are premises to which this Act applies;
- (b) to request the presence and assistance of a police officer if he has reasonable cause to apprehend any serious obstruction in the execution of his duty;
- (c) to be accompanied by –
 - (i) a representative of the management of the industrial establishment; or
 - (ii) a person, whether employed in the industrial establishment or not, nominated by the collective bargaining unit for persons employed in the industrial establishment;
- (d) to request the production of any licence, drawing, specifications, permit, register, certificate, notice, report or other relevant document and to inspect, examine and copy them;
- (e) to make such examination and inquiry as may be necessary to ascertain whether this Act is being complied with;
- (f) to require any person whom he finds in an industrial establishment to give information as to the identity of the owner, occupier or employer;
- (g) to require a person –

- (i) in an industrial establishment; or
- (ii) whom he has reasonable cause to believe to be, or to have been within the preceding two months, employed in premises to which this Act applies,

to answer questions with respect to matters under this Act and to sign a declaration of the truth of such answers, except that no one shall be required under this paragraph to give any answers which may tend to incriminate himself;

- (h) to investigate accidents occurring in industrial establishments;
- (i) in the case of a medical inspector, to conduct such medical examinations as may be necessary for the purposes of this Act;
- (j) to take photographs for the purpose of any investigation; and
- (k) to exercise such other powers as may be necessary for the purposes of this Act.

(2) Every inspector, in the discharge of his duties under this Act, is empowered to require of an occupier the means necessary for entry, inspection, examination, inquiry and, subject to section 73, the taking of samples in respect of premises to which this Act applies.

(3) Any person who -

- (a) wilfully delays an inspector in the exercise of any power under this section;
- (b) fails to comply with the requisition of an inspector in pursuance of this section, or to produce a register, certificate, notice or document which he is required by or in pursuance of this Act to produce;
- (c) willfully withholds information as to who is the occupier of an industrial establishment; or

- (d) conceals or prevents, or attempts to conceal or prevent, a person from appearing before or being examined by an inspector,

is deemed to have obstructed an inspector in the execution of his duties under this Act.

(4) Any person who obstructs an inspector in the execution of his powers or duties under this Act, commits an offence and is liable, on summary conviction, to a fine of two thousand dollars and to imprisonment for six months.

Power to take samples

73.(1) Where an inspector suspects that an occupier may be in contravention of a provision of this Act relating to the use of dangerous materials or relating to air contaminants, which materials or contaminants are likely to cause bodily injury to persons employed in an industrial establishment, he may, after giving notice to the occupier, or if the occupier is not readily available, to his agent, take for analysis samples of any materials or air contaminants in the industrial establishments.

(2) The occupier or his agent shall be present when the samples are being taken, and, where practicable, the inspector shall divide each sample into three parts, mark and seal or fasten each part in such manner as its nature permits, and -

- (a) deliver one part to the occupier or his agent;
- (b) retain one part for future comparison; and
- (c) submit one part to the analyst.

(3) Every analysis made under this section shall be conducted by the Chief Chemist or such other suitably qualified analyst as the Chief Chemist may authorise in writing.

(4) The Chief Chemist or the qualified analyst shall in writing, inform the inspector who submitted the sample for analysis and the occupier or his agent of the results of the analysis.

(5) Subject to subsection (4), no persons shall, except in so far as it is necessary for the purposes of the prosecution of an offence under this Act, publish or disclose the results of an analysis made under this section and if any person acts in contravention of this subsection, he commits an offence and is liable on summary conviction, to a fine of five thousand dollars.

Powers of inspector
re: dangerous
conditions and
practices

74.(1) Where an inspector is of the opinion that –

- (a) a part of the ways, works, machinery, plant equipment used in an industrial establishment is in such a condition, or is so constructed or is so placed that it cannot be used without risk of bodily injury or damage to the environment;
- (b) a process or work is carried on or anything is or has been done in an industrial establishment in such a manner as to cause risk of bodily injury or damage to the environment;
- (c) an industrial establishment is in such a condition that a process or work carried on therein cannot be so carried on without risk of bodily injury or damage to the environment;
- (d) there exist in an industrial establishment conditions which expose employees or other persons therein to risk of bodily injury; or
- (e) a person is contravening this Act or has contravened this Act in circumstances that make it likely that the contravention will continue or be repeated,

he shall, without prejudice to his power to initiate legal proceedings, serve on the appropriate person a prohibition or improvement notice stating that he is of that opinion, giving particulars of the reasons why he is of that opinion and may, as the case may be –

- (f) in the case of a prohibition notice, prohibit or restrict the use of any premises or part thereof or thing in the industrial establishment until the existing danger has been removed or this Act has been complied with; or
- (g) in the case of an improvement notice, direct that alterations be carried out or that other steps be taken to remove the existing danger or to comply with this Act within such period as may be specified in the notice.

(2) Where an inspector prohibits or restricts the use of a place or thing under subsection (1)(f), he shall display in the place or affix to the thing, as the case may be, a notice to that effect, which notice shall not be removed without the authority of an inspector.

(3) Where an inspector is satisfied that a notice issued under subsection (1) has been complied with, he shall so certify in writing and shall remove any notice displayed or affixed under subsection (2).

(4) A person on whom a notice is served under subsection (1) may, within seven days of the serving thereof, object by way of complaint to the Industrial Court and the Industrial Court may make such order as it thinks fit.

(5) Pending the final determination of a complaint, the Industrial Court may, on application *ex parte* by the complainant, make such interim orders as it thinks fit.

Preservation of registers and records

75.(1) Every register or record kept in pursuance of this Act shall be preserved and kept available for inspection by an inspector for at least five years after the date of the last entry in the register or record, or for such other period as may be prescribed for any class or description of register or record, except in the case of a health record, the record shall be kept for at least twenty-five years.

(2) Where an employer who holds health records in accordance with subsection (1) ceases to trade, he shall forthwith notify the Agency thereof in writing and offer these records to the Agency.

Protection against victimisation of employees

76.(1) No employer shall dismiss, suspend or otherwise adversely affect the employment of an employee or alter his position to his prejudice, by reason only that an inspector in exercise of his powers under this Act, sought or obtained from the employee information pertaining to the operation of the industrial establishment.

(2) An employer who contravenes subsection (1) is guilty of an offence and is liable, on summary conviction, to a fine of five thousand dollars and to imprisonment for three months.

Source of complaints not to be divulged

77. No inspector shall divulge to the occupier or any person employed in the industrial establishment, the source of any information or complaint which reaches him concerning an alleged contravention of the provisions of this Act, even when such information or complaint is the reason for an inspection, visit or inquiry in respect of that industrial establishment.

Redress

77A. Where an inspector acts outside of the authority given him under this Act a person aggrieved by such action may seek redress in accordance with section 83A.

Penalty for unlawful disclosures	<p>78.(1) No inspector shall, while in the public service or after leaving such service, disclose, otherwise than in execution of or for the purposes of this Act, any information that may come to his knowledge in the course of his official duties, relating to the manufacturing, commercial or other operations of an industrial establishment unless –</p> <p style="margin-left: 40px;">(a) the occupier thereof gives his consent in writing to the disclosure; or</p> <p style="margin-left: 40px;">(b) the disclosure is necessary for the purpose of legal proceedings pursuant to this Act.</p> <p style="margin-left: 40px;">(2) An inspector who contravenes subsection (1) commits an offence and is liable, on summary conviction, to a fine of ten thousand dollars and to imprisonment for twelve months.</p>
Inspector to produce certificate of appointment	<p>79. Every inspector shall, when visiting an industrial establishment, produce upon the request of the occupier or his agent, the prescribed certificate of appointment identifying himself as an inspector.</p>
Power of inspector to conduct court proceedings	<p>80. An inspector may prosecute or conduct before the Court any complaint or other proceedings arising under this Act or in the discharge of his duties as an inspector.</p>
Inspector not liable	<p>81. No suit, prosecution or other legal proceedings shall lie against an inspector for anything done under this Act in good faith.</p>
“Inspector” defined	<p>82. In this Part, the word “inspector” includes a medical inspector, except in section 71(1)(a).</p>

PART XIV

OFFENCES, PENALTIES AND LEGAL PROCEEDINGS

Onus of proving limits of what is practicable etc.	<p>82A. In any proceedings for an offence under any of the relevant statutory provisions consisting of a failure to comply with a duty or requirement to do something so far as is practicable, or so far as is reasonably practicable, or to use the best practicable means to do something, it shall be for the accused to prove, as the case may be, that it was not practicable or not reasonably practicable to do more than was in fact done to satisfy the duty or requirement, or that there was no better practicable means than was in fact used to satisfy the duty or requirement.</p>
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Criminal and other remedies

83.(1) Notwithstanding anything contained in this Act, but subject to subsection (2), where a person contravenes a provision of this Act or any Regulations made thereunder or fails to comply with any prohibition, restriction, instruction or directive issued under this Act or any such Regulations, he commits an offence and is liable to be dealt with in accordance with the provisions of the Summary Courts Act.

(2) A competent person, employer, occupier or owner of premises only commits an offence under this Act or Regulations made thereunder if it is proved that he failed to take reasonable steps to prevent the commission of the offence.

(3) Where an offence under this Act or Regulations made thereunder is proved to have been committed with the consent, connivance or acquiescence of, or to have been facilitated by neglect on the part of a director, manager, secretary or other officer of a company, such director, manager, secretary or other officer, as well as the company, is liable to be proceeded against for the commission of the offence.

Redress

83A. An aggrieved person may apply to the Industrial Court for redress and the Industrial Court may make an award in favour of the aggrieved person and impose any penalty, other than a term of imprisonment, that a summary court may impose in respect of that contravention or failure to comply.

Power of Court to order remedy

84.(1) Where an employer, occupier or owner is convicted of an offence under this Act, the Court may, in addition to or instead of imposing a penalty, order him within the time specified in the order, to take such steps as may be specified for remedying the matters in respect of which the offence occurred, and may, on the application of the employer, occupier or owner, extend the time so specified.

(2) Where an order referred to in subsection (1) is made, the employer, occupier or owner shall not be liable under this Act in respect of the continuation of the contravention during the time allowed by the Court, but if, after the expiration of that time as originally specified or extended, the order is not complied with, the employer, occupier or owner, as the case may be, commits an offence and is liable, on summary conviction, to a fine of ten thousand dollars, for each day on which the non-compliance continued after the said expiration.

Penalty where none is expressly provided

85. Subject to the provisions of this Act, any person who commits an offence under this Act for which no penalty is expressly provided, is liable, on summary conviction to a fine of twenty thousand dollars and to imprisonment for one year, and if the offence in respect of which he was convicted is continued after the conviction, he is liable to a further fine of ten thousand dollars for each day on which the offence continues.

Fines in case of death or injury

86.(1) Subject to subsections (2) and (3), where a person dies, is critically injured or develops an occupational disease in consequence of an employer, occupier or owner having contravened this Act, the employer, occupier or owner shall, without prejudice to any other liability or right of action arising out of the death or critical injury or disease, be liable to a fine of one hundred thousand dollars, or of an amount equivalent to three years pay of that person, whichever is greater, and the whole or part of the fine may be applied for the benefit of the victim or of his estate, or otherwise as the Court may determine.

(2) In the case of an occupational disease, the employer, occupier or owner shall not be liable to a fine under this section unless the disease resulted directly from the contravention.

Fine for offence by parent

87. Where a young person is employed in contravention to this Act, the parent of the young person, as the case may be, commits an offence and is liable, on summary conviction, to a fine of five thousand dollars, unless it appears to the Court that the contravention occurred without the consent, connivance, or willful default of the parent.

Forgery of certificates, false entries and false declarations

88. Where a person -

- (a) forges or counterfeits a certificate required by or for the purposes of this Act;
- (b) gives or signs a certificate knowing it to be false in any material particular (hereinafter referred to as "a false certificate");
- (c) knowingly utters or makes use of a false certificate;
- (d) knowingly makes use of, as applying to a person, a certificate which does not so apply;
- (e) personates a person named in a false certificate;
- (f) willfully connives at forging, counterfeiting, giving, signing, uttering or making use of a false certificate;
- (g) willfully makes a false entry in a register, notice, certificate or document required by, or for the purpose of, this Act to be kept, served or sent;

- (h) willfully makes or signs a declaration required by, or for the purpose of, this Act knowing the contents thereof to be false;
- (i) knowingly makes use of a false entry or false declaration; or
- (j) personates or pretends to be an inspector or medical inspector,

he commits an offence and is, without prejudice to any other liability, liable, on summary conviction, to a fine of twenty-five thousand dollars or to imprisonment for three years.

Provision for employer, occupier or owner to exempt himself from liability

89.(1) Where an employer, occupier or owner is charged with an offence under this Act, he may make a complaint against any person who he alleges to be the actual offender and the proceedings against the employer, occupier or owner and the person alleged to be the actual offender may be heard and determined at the same time.

(2) Where during proceedings instituted in accordance with this section, the employer, occupier or owner is acquitted and the Court finds that the person alleged to be the actual offender committed the offence, that person is in addition to any other penalty, liable to pay any costs incidental to the proceedings.

(3) Where an offence has been committed under this Act and an inspector is satisfied -

- (a) that the employer, occupier or owner has taken reasonable steps to prevent the contravention;
- (b) as to the identity of the person who is alleged to have committed the offence; and
- (c) that it was committed without the consent, connivance or willful default of the employer, occupier or owner, or in disobedience of his orders,

the inspector may proceed against the alleged offender without first proceeding against the employer, owner or occupier.

Proceedings against persons other than employers, occupiers or owners

90. Where under any of the provisions of this Act, a person is substituted for the employer, occupier or owner, any order, summons, notice or proceedings, which for the purpose of those provisions is by this Act required or authorised to be served or taken in relation to the employer, occupier or owner shall be served on or taken in relation to that person.

Procedure for prosecution	91.(1) In proceedings under this Act, a complaint may state the name of the ostensible employer, occupier or owner, as the case may require.
	(2) Where, with respect to or in consequence of any accident in an industrial establishment, a report is made by a commission of enquiry or a coroner's inquest is held, and it appears from the report or from the proceedings at the inquest that this Act was not complied with at or before the time of the accident, summary proceedings against the person liable to be proceeded against in respect of such non-compliance may be commenced at any time within six months after the making of the report or the conclusion of the inquest.
	(3) Subject to section 70 of the Summary Courts Act, all fines imposed under this Act, shall, except as otherwise expressly provided for in this Act be paid into the Consolidated Fund.
Appeal from orders of Court	92. Any person aggrieved by an order made by the Court under this Act may appeal to the Court of Appeal.
Limitation of time for prosecution	93. A complaint for an offence under this Act shall be made within six months of the date on which the alleged commission of the offence came to the knowledge of an inspector.
Special provision as to evidence	94. (1) Where a person is found in an industrial establishment when work is in progress or the machinery is in motion, except during the intervals for meals or rest, he shall, until the contrary is proved, be deemed for the purposes of this Act to be employed in the factory.
	(2) Where in proceedings under this Act involving a young person it appears to the Court that that young person is apparently of or below the age alleged by the complainant, the burden of proof is on the defendant to prove that the young person is not of or below that age.
	(3) Where an entry is required by this Act to be made in a register or record, the entry made by the employer, occupier or owner, as the case may be, or on his behalf shall, as against him, be <i>prima facie</i> evidence of the facts therein stated, and the fact that an entry so required with respect to the observance of a provision of this Act has not been made, shall be <i>prima facie</i> evidence that the provision has not been observed.
Serving and sending of documents	95. A document required or authorised to be served or sent under this Act may be served on or sent to – (a) an individual, by delivering it to him or sending it by registered post to his residence;

- (b) a firm, by delivering it to a partner of the firm or sending it by registered post to the registered office of the firm; and
- (c) a body corporate -
 - (i) by delivering it, to a person in a position of responsibility at its industrial establishment or registered office; or
 - (ii) by sending it by registered post to its industrial establishment or registered office.

Power of Court to modify agreements

96. If by reason of an agreement between the owner and the occupier of premises, the whole or a part of which has been let as an industrial establishment, the owner or occupier is prevented from carrying out structural or other alterations to the premises that are necessary to enable him to comply with this Act, or in order to conform with any standard or requirement imposed by or under this Act, the owner or occupier may apply to the High Court, and the Court, after hearing the parties and any witnesses whom they desire to call, may make an order setting aside or modifying the terms of the agreement as the Court considers just and equitable in the circumstances of the case.

Power of Court to apportion expenses

97. (1) Where in premises, the whole or part of which has been let as an industrial establishment, structural or other alterations are required in order to comply with this Act, or in order to conform with any standard or requirement imposed by or under this Act, and there is disagreement as to who should pay the expenses of such alterations, either party may apply to the High Court for a resolution of the dispute.

(2) On receiving an application under subsection (1), the High Court may, after hearing the parties and any witnesses whom they desire to call and after having regard to the terms of the contract between the parties, make such order concerning the apportionment of expenses as the Court considers just and equitable in the circumstances of the case.

Determination of safety and health offences

97A. All offences referred to as safety and health offences in this Act shall be determined by the Industrial Court.

Time limit

97B. All proceedings under this Act shall be initiated no more than two years after the cause of action has arisen.

PART XV**MISCELLANEOUS**

Ordinance and
Acts repealed
Ch.30.No.2

98.(1) The following Laws are hereby repealed:

Chap. 88:12

(a) The Factories Ordinance;

(b) The Employment of Women (Night Work) Act; and

Chap. 35:52

(c) The Gas Cylinders (Use, Conveyance and Storage) Act.

(2) Notwithstanding subsection (1), any Regulations, Orders or other statutory instruments made under the Factories Ordinance shall continue in force and are deemed to be made under sections 99 and 100.

Power to make
Regulations

99.(1) The Minister may make Regulations for the purposes of promoting the safety, health and welfare of employees and generally for the purpose of carrying out the provisions of this Act.

(2) Without prejudice to the generality of subsection (1) Regulations may -

- (a) impose conditions on the use of, or require anything to be done to or in connection with systems of work, machinery or plant or a class or description of machinery or plant;
- (b) prescribe anything required to be prescribed by this Act;
- (c) prohibit, limit or control the use of any material or process;
- (d) require special supervision, control, training or inspection of all persons or a class of persons in connection with any manufacture, machinery, plant, process or description of work;
- (e) require the provision of protective clothing and devices, welfare facilities, or any other thing necessary to promote the health and welfare of all employees or a class of employee;
- (f) impose duties on occupiers, owners, hirers, employers, employees and other persons;

- (g) provide for the examination and testing of mechanical or other devices required to be examined and tested under this Act;
- (h) declare as dangerous a process in which persons employed are exposed to serious risk of bodily injury, poisoning or disease;
- (i) provide for the medical examination of persons employed or seeking to be employed in a dangerous process, and prohibit the employment in the process of such persons who are not certified as medically fit for such employment;
- (j) provide for the protection of persons employed in a dangerous process and of other persons in the vicinity of the place where that process is carried on;
- (k) provide for the safety, health and welfare of persons employed in the construction and maintenance of buildings, agricultural work, field operations and other outdoor activities;
- (l) provide for the setting up of joint safety and health committees comprising representatives from the management and labour sectors;
- (m) provide for the prevention of the overcrowding of industrial establishments, which Regulations may authorise the Chief Inspector after consultation with the Chief Medical Officer, to issue a certificate exempting an occupier of an industrial establishment from compliance with any of those Regulations;
- (n) provide for the imposition of fines not exceeding two hundred thousand dollars for any contravention thereof; and
- (o) provide for the payment of fees for services rendered in accordance with this Act.
- (p) provide for the qualifications of safety practitioners.

(3) Regulations made under this section shall be subject to negative resolution of Parliament.

Power of Ministers
to make certain
Orders

100. The Minister may, by Order –

- (a) amend Schedule 1, subject to negative resolution of Parliament; or
- (b) vary any fine, term of imprisonment or other penalty provided for under this Act, subject to affirmative resolution of Parliament.

SCHEDULE 1**[Section 4(1)]****LIST OF OCCUPATIONAL DISEASES****1. Diseases caused by agents***1.1 Diseases caused by chemical agents*

- 1.1.1 Diseases caused by beryllium or its toxic compounds
- 1.1.2 Diseases caused by cadmium or its toxic compounds
- 1.1.3 Diseases caused by phosphorus or its toxic compounds
- 1.1.4 Diseases caused by chromium or its toxic compounds
- 1.1.5 Diseases caused by manganese or its toxic compounds
- 1.1.6 Diseases caused by arsenic or its toxic compounds
- 1.1.7 Diseases caused by mercury or its toxic compounds
- 1.1.8 Diseases caused by lead or its toxic compounds
- 1.1.9 Diseases caused by fluorine or its toxic compounds
- 1.1.10 Diseases caused by carbon disulphide
- 1.1.11 Diseases caused by the toxic halogen derivatives of aliphatic or aromatic hydrocarbons
- 1.1.12 Diseases caused by benzene or its toxic homologues
- 1.1.13 Diseases caused by toxic nitro-and amino-derivatives of benzene or its homologues
- 1.1.14 Diseases caused by nitroglycerine or other nitric acid esters
- 1.1.15 Diseases caused by alcohols, glycols or ketones
- 1.1.16 Diseases caused by asphyxiants: carbon monoxide, hydrogen cyanide or its toxic derivatives, hydrogen sulphide
- 1.1.17 Diseases caused by acrylonitrile
- 1.1.18 Diseases caused by oxides of nitrogen
- 1.1.19 Diseases caused by vanadium or its toxic compounds
- 1.1.20 Diseases caused by antimony or its toxic compounds
- 1.1.21 Diseases caused by hexane
- 1.1.22 Diseases of teeth caused by mineral acids
- 1.1.23 Diseases caused by pharmaceutical agents

- 1.1.24 Diseases caused by thallium or its compounds
 - 1.1.25 Diseases caused by osmium or its compounds
 - 1.1.26 Diseases caused by selenium or its compounds
 - 1.1.27 Diseases caused by copper or its compounds
 - 1.1.28 Diseases caused by tin or its compounds
 - 1.1.29 Diseases caused by zinc or its compounds
 - 1.1.30 Diseases caused by ozone, phosgene
 - 1.1.31 Diseases caused by irritants: benzoquinone and other corneal irritants
 - 1.1.32 Diseases caused by any other chemical agents not mentioned in the preceding items 1.1.1 to 1.1.31, where a link between the exposure of a worker to these chemical agents and the diseases suffered is established
- 1.2. Diseases caused by physical agents*
- 1.2.1 Hearing impairment caused by noise
 - 1.2.2 Diseases caused by vibration (disorders of muscles, tendons, bones, joints, peripheral blood vessels or peripheral nerves)
 - 1.2.3 Diseases caused by work in compressed air
 - 1.2.4 Diseases caused by ionizing radiations
 - 1.2.5 Diseases caused by heat radiation
 - 1.2.6 Diseases caused by ultraviolet radiation
 - 1.2.7 Diseases caused by extreme temperature (e.g. sunstroke, frostbite)
 - 1.2.8 Diseases caused by any other physical agents not mentioned in the preceding items 1.2.1 to 1.2.7, where a direct link between the exposure of a worker to these physical agents and the diseases suffered is established
- 1.3 Diseases caused by biological agents*
- 1.3.1 Infectious or parasitic diseases contracted in an occupation where there is a particular risk of contamination

2. Diseases by target organ systems

2.1 Occupational respiratory diseases

- 2.1.1 Pneumoconioses caused by sclerogenic mineral dust (silicosis, anthracosilicosis, asbestosis) and silicotuberculosis, provided that silicosis is an essential factor in causing the resultant incapacity or death
- 2.1.2 Bronchopulmonary diseases caused by hard-metal dust
- 2.1.3 Bronchopulmonary diseases caused by cotton, flax, hemp or sisal dust (byssinosis)
- 2.1.4 Occupational asthma caused by recognized sensitising agents or irritants inherent to the work process
- 2.1.5 Extrinsic allergic alveolitis caused by the inhalation of organic dusts, as prescribed by national legislation
- 2.1.6 Siderosis
- 2.1.7 Chronic obstructive pulmonary diseases
- 2.1.8 Diseases of the lung caused by aluminium
- 2.1.9 Upper airways disorders caused by recognized sensitizing agents or irritants inherent to the work process
- 2.1.10 Any other respiratory disease not mentioned in the preceding items 2.1. to 2.1.9, caused by an agent where a direct link between the exposure of a worker to this agent and the disease suffered is established

2.2 Occupational skin diseases

- 2.2.1 Skin diseases caused by physical, chemical or biological agents not included under other items

2.2.2 Occupational vitiligo

2.3 Occupational musculo-skeletal disorders

- 2.3.1 Musculo-skeletal diseases caused by specific work activities or work environment where particular risk factors are present

Examples of such activities or environment include:

- (a) rapid or repetitive motion
- (b) forceful exertion
- (c) excessive mechanical force concentration
- (d) awkward or non-neutral postures
- (e) vibration

Local or environmental cold may increase risk

3. Occupational cancer

3.1 Cancer caused by the following agents

- 3.1.1 Asbestos
- 3.1.2 Benzidine and its salts
- 3.1.3 Bis chloromethyl ether (BCME)
- 3.1.4 Chromium and chromium compounds
- 3.1.5 Coal tars, coal tar pitches or soots
- 3.1.6 Beta-naphthylamine
- 3.1.7 Vinyl chloride
- 3.1.8 Benzene or its toxic homologues
- 3.1.9 Toxic nitro- and amino-derivatives of benzene or its homologues
- 3.1.10 Ionizing radiations
- 3.1.11 Tar, pitch, bitumen, mineral oil, anthracene, or the compounds, products or residues of these substances
- 3.1.12 Coke oven emissions
- 3.1.13 Compounds of nickel
- 3.1.14 Wood dust
- 3.1.15 Cancer caused by any other agents not mentioned in the preceding items 3.1.1 to 3.1.14, where a direct link between the exposure of a worker to this agent and the cancer suffered is established

4. Other diseases

4.1 Miners' nystagmus

SCHEDULE 2

[Section 65(2)]

THE OCCUPATIONAL SAFETY AND HEALTH AUTHORITY RULES

- | | |
|---------------------------|--|
| Citation | 1. These Rules may be cited as the Occupational Safety and Health Authority Rules. |
| Office of the Authority | 2. The Ministry shall provide the Authority with an office and other facilities, secretarial staff and other support services as the Authority requires to efficiently perform its functions. |
| Tenure of office | 3. The appointment of a person, other than the Executive Director, as a member of the Authority shall be for a term of three years, but outgoing members are eligible for re-appointment. |
| Resignation | 4. (1) The Chairman or Deputy Chairman may resign at any time by instrument in writing addressed to the Minister.

(2) A member, other than the Chairman, Deputy Chairman and the Executive Director, may resign at any time by instrument in writing addressed to the Chairman, who shall cause it to be forwarded to the Minister. |
| Revocation of appointment | 5. The Minister may at any time revoke the appointment of a person, other than the Executive Director, as Chairman or as a member of the Board and declare his office as a member to be vacant if satisfied that the person-

(a) has, without reasonable excuse, failed to attend the meetings of the Authority for a continuous period of three months;

(b) is incapacitated physically or mentally to such an extent as to impair his ability to perform his duties, or is otherwise unable or unfit to perform his duties;

(c) becomes bankrupt or suspends payments to his creditors;

(d) is convicted and sentenced to a term of imprisonment; or

(e) is convicted of an offence involving dishonesty. |

- Gazetting 6. The appointment of members of the Authority as first constituted and every subsequent appointment to the Authority or change of membership shall be published in the *Gazette*.
- Ordinary meetings 7. The Authority shall meet –
- (a) at least once every month; and
 - (b) at any other time as the Chairman may, in his discretion, deem necessary for the performance of the functions of the Authority.
- Special meetings 8. (1) The Chairman –
- (a) may at any time call a special meeting of the Authority;
 - (b) shall call a special meeting within seven days of receiving a request, in writing, to do so signed by any three members of the Authority;
 - (c) shall cause notices to be issued to all members in respect of every special meeting.
- (2) Every request for a special meeting shall include sufficient indication of the purpose of the requested meeting.
- Quorum 9. At any meeting of the Authority, seven members of the Authority shall constitute a quorum.
- Person to preside 10. The Chairman, or in his absence, the Deputy Chairman, shall preside over all meetings, except that where both the Chairman and the Deputy Chairman are absent, the Authority may appoint one of the members present to preside at the meeting.
- Minutes 11.(1) Minutes of each meeting in proper form shall be kept under the direction of the Executive Director.
- (2) All decisions, resolutions and standing orders made by the Authority shall be recorded in the minutes.
- (3) The minutes shall be confirmed at the next meeting of the Authority and a copy of the minutes both when prepared and confirmed shall be forwarded to the Minister.

Passed in the House of Representatives this _____ day of _____, 2003.

Clerk of the House.

IT IS HEREBY CERTIFIED that this Act is one the Bill for which has been passed by the House of Representatives and at the final vote thereon in the House has been supported by the votes of not less than three-fifths of all the members of the House, that is to say by the votes of _____ members of the House.

Clerk of the House.

I confirm the above.

Speaker.

Passed in the Senate this _____ day of _____, 2003.

Clerk of the Senate.

IT IS HEREBY CERTIFIED that this Act is one the Bill for which has been passed by the Senate and at the final vote thereon in the Senate has been supported by the votes of not less than three-fifths of all the members of the Senate, that is to say by the votes of _____ Senators

Clerk of the Senate.

I confirm the above.

President of the Senate.