



MINISTRY OF LABOUR, INDUSTRIAL RELATIONS AND EMPLOYMENT

MAIN PROVISIONS OF THE OCCUPATIONAL SAFETY AND HEALTH ACT 2005



Occupational Safety and Health Inspectorate
2013



...Promoting and sustaining decent work



MAIN PROVISIONS OF THE OCCUPATIONAL SAFETY AND HEALTH ACT 2005

1. DUTIES OF EMPLOYERS

- Every employer should, so far as is reasonably practicable: -
 - ensure the safety, health and welfare at work of all his employees;
 - provide and maintain a working environment that is safe and without risks to health;
 - provide and maintain any plant or system of work that is safe and without risks to health; and
 - maintain any place of work under his control, including the means of access to or egress from it that is safe and without risks to health.

- The employer should also
 - ensure that use, handling, storage or transport of articles or substances is safe and without risks to health;
 - provide and maintain adequate facilities and arrangements for the welfare at work of his employees;
 - provide information, instruction, training and supervision as is necessary to ensure the safety and health at work of his employees; and
 - ensure that any person even not in his employment is not exposed to any risk to his safety or health.

2. SAFETY POLICY

- Every employer of 50 or more employees should make a written statement of his policy with respect to the safety and health of his employees.



3. RISK ASSESSMENT

- Every employer should make a suitable and sufficient assessment of: -
 - any risk to the safety and health to which his employee is exposed whilst at work;
 - any risk to the safety and health of any person not in his employment arising out of or in connection with the conduct of his undertaking, for the purpose of identifying the measures he needs to implement;
- The employer should record in a register the significant findings of the risk assessment carried out and any group of employees identified as being especially at risk;
- The assessment should be reviewed by the employer not later than 2 years after any assessment or earlier where there has been a significant change in the matters to which it relates; and
- An employer of more than 5 employees should record the findings of the risk assessment in a register.

4. SAFETY AND HEALTH COMMITTEE

- Every employer of 50 or more employees should establish a Safety and Health Committee.
- Every Safety and Health Committee meeting should be held during normal working hours at least once every 2 months or at any earlier time at the request of any representative of the employer or the employees on that committee.

5. EMPLOYMENT OF SAFETY AND HEALTH OFFICER

- Every employer of 100 or more, but less than 500 employees, at one or more places of work should employ a Safety and Health Officer on either full-time or part-time employment.
- An employer having 500 or more, but not more than 2000, employees at one or more places of work should employ at least one Safety and Health Officer on full-time employment to perform solely the duties of Safety and Health Officer.



6. PROHIBITION REGARDING YOUNG PERSONS

- No employer should employ a young person between 16 and 18 years in any activity involving: -
 - work with heavy metals, including lead and mercury;
 - work in the forestry and construction sector;
 - work or exposure to any form of asbestos;
 - exposure to benzene or other harmful organic solvents;
 - exposure to aromatic amines;
 - work in compressed air or in confined spaces; and
 - any work which is harmful to the health and safety of that person.

7. DUTIES OF EMPLOYEES

- Every employee should, while at work: -
 - 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;
 - cooperate with his employer in the discharge of any duty or requirement placed upon the employer under this Act;
 - wear or use any protective equipment or clothing provided by the employer at all times when there is a risk of bodily injury against which the equipment or clothing affords protection;
 - report forthwith to his employer the loss or destruction of, or defect in, the protective equipment or clothing entrusted to him;
 - not smoke at the place of work, except in an area demarcated for that purpose;
 - use safety devices correctly;
 - should not wilfully or recklessly make inoperative any guard provided on any machinery;
 - report forthwith to the employer or his representative any situation which, he has reason to believe, could present a risk to his safety and health; and
 - report forthwith to the employer any bodily injury sustained by him, as a result of an accident arising out of, or in connection with, his work.



8. DUTIES OF SAFETY AND HEALTH OFFICERS

- A registered Safety and Health Officer should:
- carry out regular occupational safety and health audits to identify risks to safety and health;
 - assess the need for preventive measures to safeguard the safety and health of employees and any other person not in the employment of the employer;
 - advise the employer in writing on practicable measures and appropriate techniques to be implemented to minimise any risk in any process in the undertaking of his employer;
 - design and implement appropriate training programmes to meet the requirements of the Act and any other enactment dealing with occupational safety and health, and keep proper records thereof;
 - review any measure, method, procedure or technique adopted to ensure occupational safety and health at intervals of not more than 2 years;
 - recommend in writing to the employer appropriate occupational safety and health programmes, where the circumstances so justify;
 - develop effective communication systems on occupational safety and health between the employer and any employee;
 - inspect all places of work under his responsibility at least once every month and record his findings in the register provided by the employer;
 - exercise adequate supervision to ensure the effective implementation of arrangements made, and preventive measures taken, by the employer; and
 - enquire into all complaints made by an employee; and occupational accidents and dangerous occurrences at any place of work and make a report thereon, and recommend in writing any safety and health measures to be implemented by the employer.



9. COMPLAINT TO THE PERMANENT SECRETARY

- An employee may file a complaint against his employer with the Permanent Secretary if he considers that his safety and health can be adversely affected as a result of a breach of, or inadequate measures taken under, this Act.

No civil or criminal action, or any form of disciplinary proceedings, should lie against any employee as a result of a complaint made in good faith against his employer under this Act.

10. FUNCTIONS OF THE SAFETY AND HEALTH COMMITTEE

- The functions of a Safety and Health Committee are to: -
 - promote co-operation between the employer and the employees in achieving and maintaining safe and healthy working conditions;
 - make proposals to the employer on matters regarding the safety, health and welfare of employees;
 - seek specialist advice from any person, whether employed by the employer or not, on any matter related to safety, health and welfare of employees;
 - make recommendations to the employer on training requirements and education programmes for particular employees or group of employees;
 - discuss occupational accidents, dangerous occurrences and occupational diseases and make recommendations to the employer; and
 - do anything incidental or conducive to the performance of the functions of the committee.
- The employer should: -
 - provide the committee with such facilities and assistance, as are reasonably required for the purpose of carrying out its functions; and
 - give representatives of employees on the committee relevant information to enable them examine factors affecting safety and health.



11. FIRE CERTIFICATE

- A fire certificate issued by the Fire Services shall be required in respect of every place of work: -
 - where more than: -
 - ◇ 20 persons are expected to be present at any one time; or
 - ◇ 10 persons are expected to be present at any one time elsewhere than on the ground floor;
 - where explosives are used or stored and which require a licence under the Explosives Act; and
 - where highly flammable liquid or material is used or stored and which require a certificate of registration issued under the Inflammable Liquid and Substances Act.

NOTE:

Full version of the Occupational Safety and Health Act 2005 and Regulations on Occupational Safety & Health are available on the website of the Ministry on www.labour.gov.mu.





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