



**What YOU need to know**



## A GUIDE TO THE OCCUPATIONAL SAFETY AND HEALTH ACT

A Publication of the Occupational Safety and Health Division of the Ministry of Labour, Human Services and Social Security in collaboration with the International Labour Organization.

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## FOREWORD

by the Honourable Dale A. Bisnauth  
Minister of Labour, Human Services  
and Social Security.

I am very pleased that the Ministry of Labour, Human Services and Social Security has produced this guide to the Occupational Safety and Health Act.



*Dr. Dale A. Bisnauth*

The Ministry appreciates the financial assistance given by the International Labour Organisation (I.L.O) to make this project possible.

The ILO tells us that work -related accidents and diseases constitute a serious problem in developed and developing countries.

The Organisation estimates that there are about 335,000 fatal injuries caused by accidents at work and that avoidable suffering is caused by about 160 million cases of occupational disease.

Here, in Guyana, the government has enacted the Occupational Safety and Health Act - probably the most modern in CARICOM - which among other things, provides for safety committees to be established in factories and business enterprises.

This guide helps us to understand what the OSH Act is all about.

I commend it most heartily to your beneficial reading.

Dale A. Bisnauth  
Minister

November, 2001



## Preface

The importance of occupational safety and health is increasingly being recognised by Governments and International Organisations.

It is viewed as a key element in the process of social and economic development since it impacts directly and indirectly on areas such as the labour market, labour productivity, social security systems and the environment.

The implementation and enforcement of appropriate legislation is one of the main factors that can positively impact on the adequacy of Occupational Safety and Health Systems.

Efforts to realise this, materialised in Guyana when the Occupational Safety and Health Act was passed in Parliament in 1997 and was brought into force in 1999.

The Act is based on the principle of the internal responsibility system, where the workplace parties are required to work together to develop solutions to workplace safety and health problems.

Employers and workers are obligated to know and comply with the legislation as it relates to their respective workplaces.

If the internal responsibility system fails to adequately address the Occupational Safety and Health issues in the workplace, then the Minister of Labour has the authority to enforce the law.

This booklet has been prepared to serve as a guide to the Occupational Safety and Health Act for employers and workers generally and more specifically, representatives of the joint safety and health committees.

It is expected, that the information provided herein, will serve not only to improve workplace safety and health practices, but also will strengthen the joint responsibility system.

Special thanks to the International Labour Organisation for its continuous technical support and cooperation.

*Gwenneth King*  
*Chief Occupational Safety and Health Officer*  
*Ministry of Labour, Human Services and Social Security*



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## OCCUPATIONAL SAFETY AND HEALTH

Occupational Safety and Health has to do with safety and health in relation to work and the environment in which work is done. Workers, employers and trade unions are expected to work together to improve workplace safety and health, as they are in the best position to identify safety and health problems and develop solutions.

### WHAT IS THE OCCUPATIONAL SAFETY AND HEALTH ACT ABOUT?

The Occupational Safety and Health Act is a law passed by Parliament to provide protection to workers. It came into force on September 18, 1999 and at the date of publication of this Booklet, new regulations had not yet come into force. A large part of the Factories Act Chapter 95:02 of the Laws of Guyana has been replaced by the Act.

The Act is also based on the premise that hazards can be dealt with in the workplace through positive or meaningful interaction between workers and employers.



It is important for all the parties to be familiar with the provisions of this Act and the Regulations made under to ensure a safer work environment and to promote and maintain workplace safety and health.





## WHAT IS THE STATUS OF THE FACTORIES ACT?

The Factories Act, which has been renamed the 'Factories (Hours and Holidays) Act', is still relevant in cases of occupational safety and health.

While parts of the Factories Act have been repealed by the Occupational Safety and Health Act, some definitions such as 'building operation', 'factory', 'owner', 'occupier', 'woman' and 'young person' have been saved.

The Regulations previously made under the Factories Act have not been repealed and are therefore still in force with the necessary modifications to bring them in line with the new Act.

The Accidents and Occupational Disease (Notification) Act has also been repealed.

## WHAT IS THE APPROACH OF THE NEW ACT?

The Act uses a system of joint responsibility involving Government and other groups in the work environment, such as workers or employees, employers, trade unions, *safety and health committees* and *safety and health representatives*.

The Act sets out the general rights and duties of employers and employees, including workers' rights to be informed about hazards in the workplace, the responsibilities of employers, employees and other persons such as occupiers and suppliers, and what happens if the Act is not complied with.



## WHAT DOES THE ACT COVER?

The Act applies to workers, owners, employers, supervisors and suppliers in a wide range of jobs and workplaces. Examples of these workplaces are:

- *industrial establishments*
- *agricultural establishments*
- construction sites
- mining or logging operations
- shops and offices

Some of these workplaces were not covered under the previous Factories Act because of how a factory was defined.

The new Act now covers domestics or persons who work in private residences, but does not apply to the work that an owner or occupier of premises does for private purposes.

The Minister with responsibility for Labour, can make an order that certain State-owned industrial establishments be exempted from the operation of the Act, in cases of public emergency.

## SELF-EMPLOYED PERSONS

Because a self-employed person is not always in a work situation with other workers, most of the general duties placed on an employer do not apply. Self employed persons should ensure that the workplace is suited to the work done there and that the work is carried out in a safe manner.

For example, a self-employed person who works with hazardous chemicals has to comply with the requirements of the Act, relating to the identification, handling, labelling and record-keeping of such chemicals. If an injury happens or a *work related disease* occurs, the self-employed person should notify the Chief Occupational Safety and Health Officer.

The Authority and inspectors have power to inspect and regulate safety procedures in a workplace where a self-employed person or a person who does *homework* operates.

Regulations relating to first aid, safety and welfare and fire escapes also apply to self-employed persons.



## ON THE JOB SAFETY

Safety and Health at work is everybody's business: Government, Employer, Trade Union, Supervisor and Worker.

How is a company or an employer to monitor the safety of the workplace? With some effort, parties can get a better sense of how important it is to practice safety at work. The primary responsibility rests with the employer, therefore, it is the employer's duty to make sure that the necessary systems are in place to ensure good workplace safety and health practices.



## NON-GOVERNMENTAL BODIES AND PERSONNEL

### *a) Safety and Health Representatives*

#### *Selection of representatives*

In workplaces where there are usually more than five workers, the Act provides that employers shall allow workers to select a safety and health representative from among non-management workers. If there is a trade union at the workplace, the workers may allow the trade union or unions, as the case may be, to select the representative.

#### *Duties of representatives*

Employers should assist the Safety and Health representative in performing their duties under the Act. The employer and Safety and Health representative should agree on a workplace inspection schedule that provides for inspection of the entire workplace at least once a month, or a part of it every month, during the space of a year. An Inspector may examine the records that a Safety and Health representative keeps.

The Safety and Health representative may require employers to provide



information for safety purposes on equipment, materials, *chemical, physical or biological agents* or devices. Employers should share knowledge they have with the safety representative about possible hazards in the use of particular devices, or work practices and standards in similar industries.

The representative should be on the look out for any source of danger or hazard to workers and make recommendations or report what is discovered to the employer, the workers and the trade union.

An employer should respond to the written recommendations of a Safety and Health representative within 21 days. If the employer agrees with these recommendations, a timetable should be set up for putting them into effect. Reasons should be given if any are found to be unacceptable.

An employee who is a Safety and Health representative should not lose pay by performing these duties. The time spent on doing these duties is treated as work time.

This system of information sharing and record keeping can go a long way towards improving workplace safety.

### ***(b) Joint Workplace Safety and Health Committees***

Joint Workplace Safety and Health Committees are joint bodies for employers, workers and trade unions to work together for the improvement of workplace safety and health. Such Committees can work in conjunction with workers to improve workers' safety and welfare by identifying situations of possible danger to workers, and by making recommendations or suggestions on measures or programmes to be set up in the workplace.

*N.B. Where an employer can show that a collective bargaining agreement or other arrangement is able to provide the same or more benefits, a committee need not be established.*



The Committee can act as an advisory body, by identifying hazards and obtaining information about them, recommending solutions, participating in workplace inspections and accident investigations, assisting in resolving workers' refusal to work cases and generally, by making recommendations to management on Occupational Safety and Health matters.

These Committees are required at workplaces where :

- twenty or more workers are regularly employed
- an order relating to *hazardous chemicals, physical or biological agents* is in force
- there are less than twenty workers employed and where a regulation relating to *critical substances* is in force

The Minister of Health and Labour requires an employer to establish such a Committee. In so doing, matters such as the type of work done there, how often accidents or diseases happen at the workplace, whether there are safety and health programmes in effect, or a request by workers, employers, trade unions for the setting up of such a Committee, can be considered. The Committee may not be required, if the work is likely to be completed in less than three months, or, if it is a *prescribed workplace*.

#### *Selection of Committee Members*

A Committee is made up of between four to six persons – four persons for workplaces where less than fifty persons are normally employed, and six persons where the number of regular employees is more than fifty.

At least half of the committee members should be non-managerial workers' from within the workplace. The employer selects the other half from management level workers. Workers may ask their union to select the workers representative on the committee. The committee representative can also be a Safety and Health representative.

#### *Duties of the Committee*

The Committee should meet at least once every three months and should



designate a member to inspect the physical condition of the workplace at least once per month.

When tests are carried out, the Committee should be consulted. One of the workers' representatives on the committee should be present at the beginning of such testing, if necessary.

As in the case of the Safety and Health representative, employers should respond to the written recommendations of the committee representative. A timetable should be given for implementation of measures found to be acceptable and reasons should be given for those that are not acceptable.

The procedure to be followed with identifying a committee representative is similar to that of a Safety and Health representative. The names and work locations of committee members are to be posted in a conspicuous place in the workplace where they are most likely to come to the workers' attention.

### *(c) Workers' Trades Committees*

This Committee is similar to the Joint Safety and Health Committee. A Workers Trades Committee is required for a large construction site with more than fifty workers where the work will take more than three months.

Each type of tradesperson at the site, for example, carpenters or masons, should select a member to be on the committee. If there is a trade union representing the majority of the workers, the members may ask the union to select the committee members.

The Workers Trades Committee shall inform the Joint Safety and Health Committee of the safety and health concerns of the tradespeople at the workplace.



## GOVERNMENT BODIES AND PERSONNEL

### (a) Government

The general responsibility for Occupational Safety and Health of the Government, is carried out through its Occupational Safety and Health Division. These responsibilities include:

- enforcement of the Occupational Safety and Health Division
- workplace inspections
- dissemination of information
- promotion of education and learning
- resolution of Occupational Safety and Health disputes if the internal responsibility system fails.

### (b) The Authority

An Occupational Safety and Health Authority is established for the proper administration of the Act and regulation of its Provisions. *The Authority* can be a person, namely, the Chief Occupational Safety and Health Officer, or a group of officers appointed by the Minister.

The Authority registers industrial establishments. Registration of factories was already required under the Factories Act and this now includes other types of workplaces, except construction sites.

When an establishment is being registered, the following details have to be provided:

- the employer's name and address
- the business address of the industrial establishment
- the type of business carried on
- the number of persons generally employed and the number of employees there at the time of the application
- a list of the hazardous chemicals or hazardous physical agents present in the establishment, as set out in the inventory required to be submitted under the Act



*New industrial establishments* should be registered within 30 days of commencement of operations. Those already operating at the date the Act came into force, should register with the Authority within 30 days of this date. Forms are provided for this purpose and a fee will have to be paid. Plans or specifications may be required if a new establishment is being built.

When registration is complete, a Certificate of Registration will be issued. The Authority should be notified of changes in the information provided. For example, if a chowmein factory begins packaging soap powder, this additional activity must be reported to the Authority.

***(b) The National Advisory Council on Occupational Safety and Health***

The National Advisory Council on Occupational Safety and Health was established in 1993. It is a body of persons appointed by the Minister and its members are drawn from the labour movement, employers' organisations and government representatives.

The Council was continued by the Act and is now a statutory body. Its functions are to:

- advise on occupational safety and health matters relating to the Act
- make recommendations on programmes
- assist in implementing a national policy on occupational safety and health
- engage in the promotion of public awareness on occupational safety and health in general.

The Council makes an annual report on its work and the Minister lays this report before Parliament.

***(c) The Occupational Safety and Health Commissioner***

The Commissioner is appointed by the Minister and has the authority to hear claims, appeals and complaints referred by the Minister or the Authority, in a manner similar to that of an Arbitration Tribunal.





#### **(d) Technical Examiners**

Technical Examiners may be engineers, consultants or persons with particular technical and professional skills. They may be designated by the Minister to examine equipment, plans, drawings or specifications of any workplace. A Technical Examiner can assist the Inspector, as some matters may require specialist knowledge.

#### **(e) Inspectors**

Inspectors are designated by the Minister and have wide powers. The Chief Occupational Safety and Health Officer is also an inspector. An Inspector can enter industrial establishments at any hour of the day or night where there is reasonable cause to believe persons are employed and carry out inspections or examinations there.

An Inspector can also:

- examine ships or vessels
- require the presentation of documents
- conduct examinations and tests at workplaces
- seize documents or articles where it is believed that the Act or a Regulation has been contravened
- remove registers and documents for copies to be made
- have reports on the condition of premises prepared at the employer's expense
- request any person found in a workplace who has been employed there for at least two months, to provide information relating to matters under the Act
- require employers to have tests done by experts and require that the equipment, machinery or device not be used pending the testing of the equipment, machine or device
- require records or information from employers, suppliers, manufacturers, importers, distributors or professional organisations regarding chemicals or processes used or intended to be used in a workplace.



Where an Inspector makes an inspection of a workplace, the employer shall allow a Safety and Health representative, a workplace Safety and Health committee member, trade union representative or where there is no union, a properly qualified worker to accompany the Inspector during such inspection.

Employers, supervisors and workers must assist and cooperate with Inspectors.

### **MEDICAL INSPECTORS**

Medical Inspectors can also be designated by the Minister to inspect the general register of the industrial establishment, investigate and report on any case of death, injury or disease in an industrial establishment.

In conducting an investigation, a Medical Inspector has all the powers of an Inspector under the Act.





## GENERAL SAFETY MEASURES

### Inspector's orders

#### *Stop Work Orders*

An Inspector who finds that the Act or the Regulations are not being observed, can make an order requiring the employer or the person believed to have committed the breach, to comply with the Act or the Regulations.



If danger to the health and safety of workers is brought about by the breach of the Act

or Regulations, the Inspector can order that, until the danger or hazard to the safety or health of the worker is removed:

- any equipment, article, device, place, or process in the workplace not be used and/or that the particular work be halted
- the workplace be isolated, fenced or barricaded.

An employer or owner should have the opportunity to be heard before such order is made.

Once the order is complied with, the employer should notify the Authority. The notice should also contain the comments of a committee member or Safety and Health representative. If a committee or Safety and Health representative advises the Inspector that the order has been complied with, work may resume pending the inspection and decision of the Inspector.

An employer, worker, owner or trade union representative may appeal to the Minister from an order made by an Inspector. The Minister may direct



the appeal to be heard by the Commissioner who can confirm or make an order in place of the Inspector's order.

## **MECHANICAL EQUIPMENT**

In workplaces where there is machinery, there are safety measures that have to be taken by an employer.

Moving parts, such as wheels, that may pose a danger, must be put in casing or arranged in such a way, as to prevent danger. Mechanical parts that do not have to be constantly adjusted while in motion, must be completely encased or designed so as to be safe to persons using, or likely to come into contact with the machine.

It is an offence for sellers or hirers of such machinery imported into or constructed in Guyana after the commencement of the Act, to sell or hire it to be used in an industrial establishment, if it does not meet these requirements.



## WHAT ARE AN EMPLOYER'S DUTIES UNDER THE ACT?

### *Safety Measures*

Safety Regulations may identify the particular protective equipment, materials, devices and clothing to be utilised in a particular work situation.

The employer's duties in these cases are to:

- provide equipment, materials, protective clothing and devices as may be prescribed
- ensure that they are used as prescribed
- ensure that measures prescribed under the Act are carried out in the workplace
- ensure that the stress levels, load capacity and support capacity of all roofs, pillars and parts of the workplace are within the limits prescribed by the Act
- ensure that work is carried out without causing discharge of noxious, hazardous pollutants into the air, water or soil, except as may be allowed by any licence.



Licences granted by an Authority may provide for allowable limits, but generally such work must be carried out without the discharge of any dangerous fumes that may cause harm to the environment.

### *Supervision*

An employer is required to take every reasonable precaution to protect the safety and health of the worker. This duty includes the obligation to:

- provide competent supervision:- An employer should provide information, instruction and supervision to a worker – this includes appointing a competent person (including himself or herself as the case



may be) as supervisor. These persons in authority should be familiar with any hazards in the workplace and in the handling of any article, device, equipment or substance – be it chemical, physical or biological.

- assist workplace safety and health committee members or safety representatives in the carrying out of their duties or functions
- put up copies of the Act, any Regulations made under it and any explanatory material (such as this Booklet) in conspicuous places around the workplace
- in workplaces where more than five persons are employed, prepare and maintain a comprehensive workplace Safety and Health Policy which is to be put up in conspicuous places in the workplace and reviewed at least once a year
- give the Safety and Health Committee or Representative any report or copies of any report, relating to Occupational Safety and Health if these persons request the report
- advise workers of the results of any such report and make copies available to them on request

### *Supervisor's Responsibilities*

A supervisor must ensure that workers use the equipment, protective clothing and devices required by the employer and that they work in the proper manner with such equipment, clothing and devices.

Supervisors must also advise the worker of any known possible, or actual danger to the worker and if necessary, provide the worker with any written instructions regarding steps to be taken for the worker's protection.

### *Training and Instruction*

An employer has to provide information and instruction to every worker, or Safety and Health Representative in a workplace on the safe and healthy way to carry out work. If there is a Trade Union at the workplace, the Union has to be involved in the training.



The employer has to pay the costs of such training, including reasonable travel to the location where such training is taking place. The time spent undergoing such training is treated as work time for which the worker, committee member or safety representative is to be paid.

## WHAT ARE A WORKER'S DUTIES UNDER THE ACT?

While the employer has certain duties and responsibilities, the worker also has to keep safety in mind. Workers have both rights and responsibilities.

### Responsibilities

#### *Do's and Don'ts*

A worker should follow the Safety Provisions of the Act and should only be required to use equipment or machinery that requires a protective device, such as a guard, if that device is in place.

#### *Do*

- use and take care of the equipment, protective clothing or devices provided by the employer
- report to the employer or supervisor where any protective device or clothing is absent, as well as any defect in such clothing or device which may be dangerous to workers
- report to the employer or supervisor any known hazards or any breach of the Act or Regulations





### **Don't**

- take off any protective device provided by the employer or use it in such a way that it is made useless
- remove or take off such protective device unless a suitable temporary device is available while the protective device is being replaced
- use or operate any equipment, machine, device or article, or do work in such a way as to cause personal danger or put another worker in danger
- play any trick or engage in any rough conduct or behaviour.



### **Rights**

- \* the right to know
- \* the right to participate
- \* the right to refuse dangerous work.





## WHAT ARE WORKERS TO DO IN CASES OF REFUSAL TO WORK

If a worker reasonably believes that:

- any equipment, machine, device or article will be a serious or possible danger to life or health, or
- the physical condition of the workplace, or any part of it, will be a serious or possible danger to life or health, a worker may refuse to work in these situations.

This does not apply to particular categories of workers such as firemen, policemen, prison warders, hospital, nursing home or medical personnel, ambulance attendants, power plant operators, laundry or food service employees or other categories defined by the Minister.

A worker cannot refuse to work where such refusal would endanger the life, safety or health of another person.



## **PROCEDURE TO BE FOLLOWED IN CASES OF REFUSAL TO WORK**

1. Workers must report the situation to the employer or supervisor.
2. The supervisor should promptly investigate the report in the presence of the worker, or a committee member, Safety and Health Representative, or a designated Trade Union Representative if any. These persons are to be made available by Management without delay.
3. Workers should remain in a safe place near the workstation until the investigation is complete.
4. Where a worker refuses to work, the worker is to be treated as still being at work. Regular pay or any special pay entitlement should be paid from the time that work is stopped to the time the investigation is finished.
5. A worker who reasonably believes that the equipment, machine, device or article still poses a serious or possible danger to life or health, or that the physical condition of the workplace, or any part of it still remains a serious or possible danger to life or health, can still refuse to do the work while an investigation is taking place, or after an employer or supervisor takes action to correct the situation.
6. Employers or their representatives must notify an Inspector.
7. An Inspector will investigate the refusal to work in the presence of the employer or his or her representative, the worker and either the Safety and Health Representative or the Safety and Health Committee member.
8. The Inspector will then decide whether the equipment, machine, or workplace will be a serious or possible danger to the life or health of the worker.
9. Within two working days of being notified, the Inspector should give a written decision on the matter to the worker, employer and if necessary, to the other safety representatives.
10. The worker should still continue to be treated as being at work and be paid the usual or special pay.
11. Depending on the provisions of any collective bargaining agreement in the workplace, an employer can assign a worker to reasonable alternative work until the Inspector gives a written decision.



### *Note That:*

- Until the investigation is complete, a worker should not be assigned to use or operate the equipment, machine, device or article in question, or be required to work around the part of the workplace as long as the danger is serious and remains very likely to happen. This should happen until any necessary action is taken by the employer or supervisor to deal with the situation.
- A worker, employer or a Trade Union Representative can file a complaint with the Authority if any of them has reasonable cause to believe that the other party has acted unreasonably or in bad faith in relation to the refusal to work.
- The complaint should be filed within 7 days of the action complained of. This complaint will be referred to the Commissioner for decision.
- The Commissioner should make a decision or order regarding the complaint within two working days.
- A worker should not be dismissed, threatened, disciplined, suspended, intimidated or penalised if acting in accordance with the Act or Regulations and observing the procedures set up by the employer. The position is the same if a worker gives evidence in proceedings under the Act or a Coroner's Inquest into a workplace death or injury.

**If a worker feels that an employer has taken a bad faith decision, the matter can be dealt with by arbitration under a collective bargaining agreement, or a complaint may be filed with the Authority to be dealt with by the Commissioner on behalf of the Authority.**

**In such an enquiry the Commissioner can give appropriate orders or directions. The employer will have to show that the Act or Regulations were followed.**

### *Pregnant Women*

Where a woman informs an employer that she is pregnant, the employer has to ensure that the conditions she works under do not expose her to hazards from chemicals, substances or conditions, which may harm her unborn child. If necessary, she can be reassigned temporarily to other work until she returns to work after giving birth.



## **WHAT ABOUT THE SAFETY AND HEALTH OF THE PUBLIC?**

### **DUTIES OF OCCUPIERS**

A business place or workplace that invites the public onto its premises has a duty to ensure that persons are safe while they are there. The same is true for the workers or employees that work there.

Occupiers as the persons who control industrial establishments and the work done there, have the responsibility for seeing that the provisions of the Act and its Regulations are complied with.

### **OCCUPATIONAL SAFETY AND HEALTH POLICY**

As part of their duties under the Act, Occupiers may be required by the Authority to prepare and update a written Policy Statement specifying the arrangements in place regarding the safety and health of persons they employ.

This policy is an important way for the Occupier to communicate the commitment of management, to having a safe work environment and should be displayed in prominent places in the workplace.

If the Authority considers it necessary, it can direct the Occupier to appoint or employ a Safety Officer to carry the policy into effect.

If the Authority considers that the steps taken are not enough, it may direct the Occupier to take steps such as getting advice from specialists to prevent the hazards from happening again. If an Occupier does not comply with the directions given by the Authority, this will amount to an offence.

Where it appears that a building is likely to injure the safety of persons employed there, the Authority may serve written notice on the Occupier



of an industrial establishment requiring that plans or particulars be submitted. The Authority may specify a time frame for measures to remove the danger or risk and may forbid the use of unsafe machinery or buildings until the building or article in question has been repaired, or the danger or risk is removed.

## DUTIES OF OWNERS

While there are special measures in place for construction sites, an owner of an industrial establishment that is not a construction site, should make certain that safety measures are put in place and maintained.

The owner should ensure that the Provisions of the Act and its Regulations are observed and that any construction, alterations, or renovations are done according to current specifications.

The owner should provide the Authority with any drawings, plans or specifications that the Authority may require, and keep copies of such drawings, plans or specifications in case an Inspector requires them.

## CONSTRUCTION SITES

At construction sites, if *critical substances* are to be used, the owner should give a list of such substances to the employer, contractor or any sub-contractor who is to do work there.

If an owner or employer fails to do this and loss or damage is caused as a result, the owner may have to compensate the employer, contractor or sub-contractor.

If work is being tendered for, the list of critical substances present at the site must be included in the tender information by the person inviting tenders.

## DUTIES OF SUPPLIERS

Suppliers of machines, devices, tools or equipment for rent or lease in or around a workplace, must ensure that they are in good condition and comply with the Act or Regulations.

## EMPLOYMENT OF CHILDREN AND YOUNG PERSONS

### *Children*

No child is to be employed in any factory, external business of a factory or any trade or business related to the factory.

The Authority may serve the Occupier with a notice forbidding the presence of children in any factory or part of it, if it appears that their presence may be dangerous or harmful to their health.



### *Young Persons*

An employer is required to:

- ensure that only persons over 14 years or over the age of compulsory schooling are employed in a workplace
- not knowingly permit such underage persons to be about such workplace

The Authority can notify the Occupier of a workplace, that a *young person* should not be employed in a particular workplace, if it considers that the health of a young person will be affected in a negative way.



## REGULATIONS AND PRESCRIBED MEASURES

The Minister has wide powers to make regulations through Parliament for the more effective operation of the Act.

Regulations may be made to:

- prohibit, limit or control the use of any material, or process
- prohibit, limit or regulate the employment or period of employment of persons or particular persons in any process, machinery or equipment certified by the Authority in the Gazette as being dangerous
- regulate the use of any material, equipment or process
- adapt or extend special provisions of the Act to particular industrial establishments
- take measures to ensure the health and safety of workers employed in industrial establishments, and in work certified by the Authority as being dangerous.

Regulations may also go into detail regarding the following:

- fencing and covering of dangerous places or machines
- safe means of approach, exit and access to industrial establishments or machinery
- safety measures relating to the operation of cranes, engines and all types of machinery in general
- precautionary and regulatory measures such as certification, inspection and testing of boilers
- measures relating to proper ventilation, sanitation, first aid kits
- the lifting or moving of loads by young persons or women
- exemption of any workplace, activity, employer, work, or occupation from the operation of any Regulation
- medical surveillance programmes
- the standards or procedures for determining the levels or concentration of any chemical, physical or biological agent in a workplace
- building standards for industrial establishments
- the appointment, duties and fees of Medical Inspectors



- the medical examinations that a worker is required to undergo to protect workers' health in the workplace
- conditions of eligibility, qualifications, selections and terms of Safety and Health Committee members and the operation of the Committee
- the training programmes to be provided by employers
- defining any expression or word used in the Act
- the maintenance of records and registers
- fees to be paid for inspection or examination of industrial establishments
- the registration of employers
- generally for giving effect to the purposes of the Act
- all other matters which the Minister may consider connected with, or necessary for, the discharge of the Provisions of the Act.

Notices summarising such regulations once they come into force, should be displayed in every industrial establishment in a conspicuous place where workers can read them.

**A penalty may be fixed of an amount not exceeding fifty thousand dollars for the breach of a Regulation under the Act.**

Regulations made under the old Factories Act and the Accidents and Occupational Diseases (Notification) Act which remain in force with the necessary changes to bring them in line with the new Occupational Safety and Health Act.

For example, the Factories (Health and Welfare) Regulations made under Section 26 of the Factories Act, that regulate conditions such as cleanliness, ventilation, lighting and sanitary conveniences for workplaces, will continue to be enforceable, with possible changes such as, increases in fines.

Other such regulations include the Factories (Safety) Regulations, the Docks (Safety) Regulations and the Building (Safety) Regulations.

The Minister has the power to repeal Regulations altogether, or to amend them as the case may be.





## MEASURES TO BE PRESCRIBED

An employer must also set up and maintain an Occupational Safety and Health Service for workers. Records of handling, storage and disposal of prescribed chemicals and other biological substances are to be kept. Workers should also have access to these records.

The Authority must also be kept informed of the use or intended use of such substances, which have to be monitored from time to time. Any standards governing the use of such substances have to be complied with.

## MEDICAL EXAMINATIONS

### **Do Workers have to submit to compulsory Medical Examinations?**

An employer has to establish a Medical Surveillance Service for workers if directed to do so by the Regulations. This service will conduct safety-related medical examinations and tests for workers, and if so directed, the employer can only permit workers who have been found to be physically fit after undergoing such tests, to be engaged in such work.

This means that if a particular work or workplace is of such, that medical tests must be done before work is done there, a worker may only be able to work or be in such workplace, if he or she has passed such medical examinations.

**A worker will only be required to take part in a prescribed medical surveillance programme if he or she gives consent**

### **What about the costs of such tests?**

The employer has to pay the worker's costs for such tests and reasonable travelling costs associated with the tests. The time spent undergoing the tests is treated as work time for which the worker is to be paid.



*Are the results of these tests made public?*

The employer has to ensure that worker's privacy is protected and that health surveillance is not used to discriminate against a worker. This is also the case if safety-related tests are done or an Occupational Health Service is established.



## WORKPLACE ACCIDENTS

- If a worker is disabled and prevented from earning full wages on the job for more than one day, an employer should notify the Authority within four days.
- If the worker returns to full health, the employer should notify the committee, Trade Union or Safety and Health Representative within two weeks. If death results after the worker is disabled, these committees should be notified as soon as the employer becomes aware of this fact.
- The Safety and Health Representative can inspect the workplace and file a report with the employer and the Authority.
- The scene of the accident should not be disturbed without an Inspector's permission except in urgent cases. For example, to save life, or if it is necessary to maintain essential services such as public transportation or electricity services.
- Employers should immediately notify the Authority if a worker dies in a workplace accident and an Accident Register of such accidents occurring in the workplace must be kept.
- If an employer does not comply with the Act in such cases, he or she may be liable, if found guilty, to a fine of between \$10,000 and \$50,000, and to imprisonment for 3 months.



In this section of the Act, employers are defined as - a company or corporation, a person appointed to administer the estate of a deceased person, the management committee of a club or a person to whom the worker is temporarily let on hire under a contract of service or apprenticeship.

The Act sets out the forms that are to be used.



## OCCUPATIONAL DISEASES

As the name suggests, *occupational diseases* are *work-related diseases*. Not every disease or sickness that happens to a worker is a work-related disease. A qualified medical practitioner should establish that the worker's illness was caused by the work involved.

The qualified medical practitioner must notify the Authority of the name and address of the patient and employer and the disease suspected to be the cause of the illness. A fine of \$10,000 to \$30,000 can be imposed on a medical practitioner, if it can be established that the practitioner did not give such notice.

Some occupational diseases may be treated separately under specific Regulations.

***What is an employer to do once it is found that an occupational disease may be making workers ill?***

The employer should immediately notify the Authority, the Committee, Safety and Health Representative, the Trade Union, if any, and the Local Sanitary Authority of the district.

An employer of an industrial establishment should also notify the Medical Inspector for the area.

The procedure to be followed is the same as in the case of workplace accidents.

### ***Coroner's Inquest***

A Coroner may hold an inquest into the death of a person by accident or from an occupational disease.

The Coroner has to notify the Authority of the holding of the inquest and if



necessary, adjourn the inquest until a representative of the Authority can be present.

Persons such as inspectors, employers, workers, occupiers, relatives of the deceased person, or any trade union can be examined as a witness at the Inquest, which is also governed by the Provisions of the Coroner's Act. Chapter 4:03 of the Laws of Guyana.

The Minister may also direct that a formal investigation be held in relation to any workplace accident or occupational disease.

An Assessor may be appointed to hold an open investigation, which can be conducted in the same manner as a court proceeding.

This includes the summoning and examination of witnesses, presentation of records and documents and the taking of depositions on oath. A report will be submitted to the Minister at the conclusion of the proceedings.

The Provisions of the Act relating to accidents, occupational diseases or such diseases as may be prescribed, also apply to Government Departments and specified agencies except the Police Force and the Army.

## **HAZARDOUS CHEMICALS, PHYSICAL AND BIOLOGICAL AGENTS**

The Authority may forbid, limit or control the use of a chemical, physical or biological agent or a combination of such agents where it is felt that their use may endanger workers' health.

An order by the Authority in respect of these agents should:

- specify the agent and the manner of its use
- state the Authority's opinion on the likelihood of danger to the health of the worker.

The employer shall provide copies of the order to the committee, Safety and Health Representative and Trade Union, if any. The employer should also put up a copy of the order in a conspicuous place in the workplace where workers who may be affected can see it.

Any of these parties can appeal to the Minister from the order of the Authority. The Minister can refer the matter to the Commissioner for decision.

The Commissioner can take note of:

- the known properties of the chemical, physical or biological agent
- the quantities present or intended to be used
- the extent of exposure
- other available processes
- relevant data





New chemicals or biological agents are not to be made or supplied for commercial or industrial use except for research and development, unless the Authority is given full notification of their properties and ingredients. The Authority may require a technical report to be provided as well.

Employers must keep inventories of all such hazardous chemicals and physical agents prepared in consultation with the Committee, Safety and Health Representative or workers representative, if any.

This information must be available to these persons as well as workers.

Employers must obtain or keep unexpired chemical safety data sheets on hazardous chemicals in the workplace. Workers must be allowed to examine both the Inventory and unexpired chemical data sheets. Copies should also be provided to the nearest Fire Department or Medical Inspector and any person, if they so request.

Floor plans should be kept showing the names and location of these agents which should be properly labelled.

Hazards in handling such agents should be made known to workers and information given on their proper disposal.

Employers should ensure that workers exposed or likely to be exposed to these agents receive and participate in any prescribed information and training developed for the workplace in consultation with the Committee or Safety and Health Representative, if any.

Employers may apply for exemption from disclosing required inventories, labels or chemical safety data sheets, on the basis that they amount to confidential business information.

A worker or Trade Union Representative in the workplace may rebut this claim.

The Minister may determine the matter or refer the matter to the Commissioner for decision.



## **Offences and Penalties**

The Authority can prosecute any person (this includes a corporation) for violating the Act or its Regulations.

If it is proved that an employer, owner or occupier failed to take reasonable steps to prevent a breach of the Act or a Regulation, they will be guilty of an offence.

Supervisors, agents, directors or representatives who do, or fail to do an Act, may also make the employer, owner or occupier liable.

## **Proceedings in Court**

Inspectors may carry out prosecutions for offences under the Act with the permission of the Authority.

These prosecutions are carried out in the Magistrate's Courts in the districts where the offence or breach of the Act is alleged to have taken place, or in the district where the accused resides or carries on business.

Local Sanitary Officers can also enforce provisions of the Act or Regulations relating to sanitation, ventilation washing facilities or cleanliness in the same manner as Inspectors. Where this is done, the Authority can authorise the entry, Inspection and taking of proceedings by these officers.

Proceedings must be instituted within one year of the last act complained of. Some acts or omissions, such as the failure to register a business, can be dealt with after a year has passed.

## **Penalties**

Various penalties are prescribed under the Act and the Regulations.





If an owner, occupier, or manager of an industrial establishment:

- fails to register such establishment within thirty days after the establishment of a new undertaking,
- fails to notify the Authority of the planned erection of a new establishment, or
- obstructs an Inspector in the carrying out of his duties, a fine of \$25,000 may be imposed after prosecution.

The offence of obstruction is created where a person:

- wilfully withholds information as to the identity of an owner or occupier(s)
- fails to produce certificates, registers, notices or other documents where required
- fails to comply with any requirement of the Authority or an Inspector or wilfully delays the Authority or an Inspector in the carrying out of their duties under the Act.

*In cases where the Act or the Regulations do not specifically provide a penalty for not complying with the Act or Regulations, or an order of the Minister, the Authority, the Commissioner or an Inspector, a fine of \$10,000 to \$50,000 and imprisonment for up to 12 months can be imposed.*

*In the case of a body corporate, the maximum penalty is \$500,000.*

### **Confidentiality**

Except for the purposes of the Act or Regulations, or in a medical emergency for the purposes of treatment, an Inspector or a person conducting or accompanying an Inspector during any examination, test or inquiry should not disclose or publish any information, statement, report or result of any such examination, test or inquiry to any person.

Secret process or trade secrets, medical results or any general information obtained, acquired or provided under this Act or the Regulations, are also protected from disclosure.



## APPENDIX 1

### ABC COMPANY SAFETY AND HEALTH POLICY

- \* ABC Company is committed to providing a safe, healthy work environment for its workers and every person who is part of its establishment.

A major part of this commitment involves making sure that accidents and diseases at the workplace are prevented and that management and staff work together to ensure that safety measures and programmes are effective and in accordance with the Occupational Safety and Health Act and its Regulations.

- \* Supervisors and managers must ensure that workers are supervised in the carrying out of their duties and that they receive proper instruction and training in the proper way to carry out their duties.
- \* Workers too, have a responsibility to take care for their own safety while at work. For example, by using required safety gear and equipment, and complying with the provisions of the Act.
- \* It is the firm belief of this Company that with the will to make it succeed, safety and health practices can be an effective and important part of making this work environment a safe and healthy one.

.....  
CEO  
ABC COMPANY



## GLOSSARY

*Here are some useful terms used in the Act that you should know*

*'Advisory Council'* - The National Advisory Council on Occupational Safety and Health

*'Agricultural undertaking'* - cultivation, animal husbandry such as cattle, poultry rearing, forestry or the processing of agricultural products or any other type of agricultural activity

*'Authority'* - The Occupational Safety and Health Authority established under the Act

*'Child'* - a person under 15 years

*'Commissioner'* - The Occupational Safety and Health Commissioner

*'Committee'* - A Joint Workplace Safety and Health Committee

*'Construction'* - this includes building, excavating, renovation, structural alteration, cleaning, painting, and demolition of any type of structure

*'Construction site'* - The place or worksite where construction activities are carried out

*'Critical substance'* - a chemical, physical or biological matter that is designated as a critical substance and exposure to which is regulated, limited or forbidden

*'Employer'* - a person who employs one or more workers

*'Factory'* - any premises within or in the precincts of which employers have access or control and persons are employed in the making, altering, repairing, cleaning, or adapting for sale of articles or in the generating or otherwise regulating electrical energy, and the work is done for profit or gain

*'Fume'* - gas, vapour or smoke

*'Hazardous biological agent'* - an excessive level of biological agent based on existing information



*'Hazardous chemical'* - a chemical classified as hazardous by International Labour Organisation Convention No 170 or classified as such by relevant information

*'Hazardous physical agent'* - an excessive level of physical agent (electromagnetic or ionising radiation, noise, vibration, heat, cold, humidity or pressure) based on existing information

*'Hazardous substances'* - a substance or combination of substances which either by itself or when combined with others is a hazard based on its chemical, physical or toxic properties

*'Homework'* - the doing of any work in the manufacturing, preparation, improvement, repair, alteration, assembly or completing any article done by a worker for wages in his/her home or living quarters

*'Industrial establishment'* - a factory, shop, office or workplace including any building or structure forming part of it that is not occupied only for residential purposes

*'Inspector'* - a person so designated under the Act

*'Logging operation'* - the cutting down or trimming of trees for industrial purposes including measuring, storing, floating of logs, maintaining haul roads, scarification or the carrying out of planned burns

*'Major hazard operation'* - a place where the handling, usage, production, storage, processing or disposal of substances that exceed the permitted quantities or levels is done either on a temporary or permanent basis

*'Machinery'* - (in an industrial establishment: - boilers, steam or other engines, generating and all other power apparatus, furnaces, fuel or storage tanks in or attached to the establishment), railway or road locomotives, tractors, marine boilers, steam or air receivers in any local vessel, vats, cooling or drying devices used in any mechanical process in or attached to the premises where the mechanical work is done, any apparatus or plant used to generate, purify, mix, heat, or cool any gas, fume or vapour and any driving belt

*'Medical inspector'* - a registered medical practitioner designated as a medical inspector under the Act

*'New industrial establishment'* - any industrial establishment which begins operation



tion after a date specified in the Act

*'Occupational disease'* - a work-related disease or one designated as an occupational disease under the Act

*'Occupier'* - the person who controls the industrial establishment and the work done there

*'Owner'* - the person who receives the rack-rent of the industrial establishment either in his or her own right or as attorney, agent, trustee receiver, mortgagee for another person, or the person who would receive the rent if the premises were let as a rack-rent

*'Safety and health representative'* - a person selected by workers for that position at a construction site or workplace with fewer than 20 regular employees

*'Shop'* - a building, booth, stall or parts of it where goods are displayed handled or offered for sale or where services are offered for sale

*'Supervisor'* - a person in authority over a worker or who has charge of a workplace

*'Threshold quantity'* - a prescribed quantity of a particular hazardous substance which if surpassed would indicate that the establishment is a major hazardous installation

*'Woman'* - a female of 18 years or over

*'Worker'* - an apprentice or employed person

*'Workplace'* - any industrial establishment or place where a worker goes by reason of his or her work and which is under the direct or indirect control of the employer

*'Work-related disease'* - a condition resulting from exposure of a worker in a workplace to chemical, physical or biological agents to the extent that his or her health is affected

*'Young person'* - a person between the ages of 15 and 18 years

# Elements for a good Safety and Health Programme

Employees are also required to establish a programme for the implementation of the Policy. The programme may vary from workplace to workplace depending on the hazards.

The following are some basic elements, which may be included in the Programme

1. Workers' training for new employees on new job procedures
2. Workplace inspection and accident investigation
3. Safety and Health Budget
4. Analysis of workplace accidents
5. Housekeeping
6. Protective wear
7. First-Aid
8. Fire prevention
9. Machine guarding
10. Lock-out & tag-out procedures
11. Confined space entry
12. Ambience factors
13. Safety and Health Committees

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