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ACT NO. 4 OF 2024

Occupational Safety and Health Act, 2024

An Act to establish an occupational, safety and health management system; promote the development of a national preventative safety and health culture; ensure a progressive improvement of safety and health of persons at work; protect persons, other than persons at work; provide for effective and appropriate compliance and enforcement measures; effect changes required under the relevant international legal instruments; and for related matters.

Enacted by the Parliament of Lesotho.

PART I - PRELIMINARY

Short title and commencement

1. This Act may be cited as the Occupational, Safety and Health Act, 2024 and shall come into operation on the date of publication, except that a later date or dates may be appointed for sections 24, 46, 47, 48 and 49 as the Minister may, by notice published in the Gazette, determine.

Purpose

2. The purpose of this Act is to ensure safe and healthy -
- (a) workplace environment;
 - (b) working conditions; and
 - (c) structures, plant and substances designed for use at work.

Scope of Application

3. (1) This Act shall apply to any employment relationship in the private and public service including the agricultural sector, informal sector and the self-employed.

(2) Notwithstanding subsection (1), this Act shall not apply to a person who is a member of the -

- (a) Lesotho Defence Force;
- (b) Lesotho Mounted Police Service;
- (c) National Security Service; and
- (d) Lesotho Correctional Services.

Interpretation

4. In this Act, unless the context otherwise requires -

“administrative fines” means a monetary amount that may be imposed by an inspector on an employer for acts or omissions done, by the employer in exercise of powers, functions or duties imposed on the employer under this Act and as provided for under section 76;

“authorised person” means a person other than an inspector, who is authorised by the Director to perform inspection duties or functions;

“committee” means a committee appointed under section 30;

“competent person”, means a person who has adequate training, relevant qualifications and experience in relation to any duty or function provided for under this Act, who is accredited to, registered and approved as such, by the Director;

“collective agreement” means a written agreement entered into between a registered bargaining council, trade union and an employer or employers’ organization in respect of any matter of mutual interest in terms of section 132 of the Labour Act, 1992¹ and includes an agreement on recognition, agency shops and grievance, discipline and procedures for lodging disputes;

“Director” means the Director, Occupational Safety and Health within the Ministry responsible for labour and employment;

“employer” means a person who employs or provides work to a worker and remunerates or undertakes to remunerate that worker for services rendered by that worker;

“employer’s organisation” means an association of employers established for the purpose of representing and promoting the interests of the employers and registered as such under the Labour Act;

“handling” includes to produce, transport, install, use, store or dispose;

“hazard” means a potential source of harm or adverse health effect on a person;

“incident” means an unsafe or unhealthy occurrence or situation arising out of or in the course of work;

“inspector” means a person who is an occupational safety and health inspector in terms of section 50;

“local council” means a local council as established under the Local Government Act, 1997²;

“medical surveillance” means a programme of medical examinations and tests, to detect and monitor health defects from hazardous chemicals or physical exposures in the workplace;

“Minister” means the Minister responsible for labour and employment;

“NACOLA” means the National Advisory Committee on Labour established in terms of section 11 of the Labour Act, 1992;

“NACOSH” means the National Advisory Council for Occupational Safety and Health established in terms of section 36;

“occupational health practitioner” means a medical practitioner registered as such, by the Lesotho Medical, Dental and Pharmacy Council, who holds a prescribed qualification in occupational health or an equivalent qualification;

“occupational hygiene” means anticipating, recognizing, evaluating and controlling health hazards in the working environment with the objective of protecting worker health and well-being and safeguarding the community at large;

“occupational safety and health management system” means a set of interrelated or interacting elements to establish occupational health and safety policy and objectives and how to achieve those goals;

“Occupier” means a person who performs work at a workplace of an employer other than his or her substantive employer;

“person” includes a juristic person;

“personal protective equipment” means equipment and clothing of an approved standard, provided to or used by a person for the purpose of protecting that person from a safety or health hazard, associated with the work which the person performs or is employed to perform;

“plant” includes machinery, equipment or appliance, container, implement or tool, its components and anything fitted or connected to them;

“prescribe” means prescribe by regulations;

“reasonably practicable” means that which is, or was at a particular time, reasonably able to be done in relation to ensuring safety and health, taking into account and weighing up all relevant matters including -

- (a) the likelihood of the hazard or risk concerned occurring;
- (b) the degree of harm that might result from the hazard or the risk;
- (c) what the person concerned knows, or ought reasonably to know, about -
 - (i) the hazard or the risk; and
 - (ii) ways of eliminating or minimising the risk;
- (d) the availability and sustainability of ways to eliminate or minimise the risk; and
- (e) after assessing the extent of the risk and the available ways of eliminating or minimising the risk, the cost as-

sociated with available ways of eliminating or minimising the risk, including whether the cost is grossly disproportionate to the risk;

“record” includes information contained in or on a computer printout, tape or disc or any other computer storage medium;

“risk” means a combination of the likelihood of an occurrence of a hazardous event and the severity of injury or damage to the health of people caused by that event;

“risk assessment” means the process of evaluating the risks at a work place;

“safety and health practitioner” means a person who specialises in the management of occupational safety and health within a workplace, appointed as such by an employer under section 29;

“substance” means any natural or artificial substance, whether in the form of solid, liquid, gas, vapour or aerosol, alone or in any combination;

“technical advisory committee” means a group of experts and stakeholders convened to address specific technical issues depending on the type of services, functions or duties to be provided, exercised or performed;

“trade union” means a combination, either temporary or permanent, of ten or more workers, the purposes of which is, under its constitution, the representation and promotion of worker’s interests;

“worker” means a person who performs work in any capacity for an employer or at the workplace, employer’s business or undertaking;

“workgroup” means a group of workers determined or formed in accordance with the prescribed procedure for the purpose of facilitating the representation of workers in that workgroup by one or more safety and health representatives; and

“workplace” means any place where workers and self-employed persons work, travel for work or are likely to be while at work, including -

- (a) a vehicle, vessel, aircraft or other mobile structure; and
- (b) any waters and installation on land, on the bed of or floating on the waters; and

“worker’s representative” means a person who represents the interests of workers pursuant to this Act, including but not limited to a person engaged in trade union activities.

Principles used in interpretation and administration of this Act

- 5. The following principles shall be used in the interpretation and administration of this Act:
 - (a) the standards laid down in the Act are the minimum legally obligatory standards and are, without prejudice to the rights of a worker, individually and collectively, through their trade unions, to request, bargain and contract for higher standards which in turn then become the minimum standards legally applicable to those workers for the duration of an agreement;
 - (b) a provision of this Act or of rules and regulations made under this Act, shall be interpreted or applied in a way which is not in contradiction to or in conflict with the provisions of an International Labour Convention of which Lesotho is a party; and
 - (c) in case of ambiguity, provisions of the Act and of any rules and regulations made under this Act, shall be interpreted in a way which closely conforms with the provisions of the Conventions and Recommendations adopted by the Conference of the International Labour Organisation.

PART II - OCCUPATIONAL SAFETY AND HEALTH
MANAGEMENT SYSTEM

General Duties of an employer

6. (1) An employer shall, so far as is reasonably practicable, ensure the safety, health and welfare of workers at the place of work of the employer through making appropriate arrangements for the establishment of occupational safety and health management systems, to respond appropriately on the needs of organisations according to size.

(2) Without prejudice to the generality of the employer's duty under subsection (1), the duty of the employer includes -

- (a) the provision and maintenance of -
 - (i) a working environment for workers at the work place of the employer that is, so far as is reasonably practicable, clean, safe, without risks to health and adequate, as regards sanitary facilities and arrangements for their welfare at work;
 - (ii) plant and systems of work 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 articles and substances;
 - (iii) safe and healthy work environment and work place conditions;
 - (iv) the plant, structures, substances and systems of work that are without risks to safety and health; and
 - (v) adequate facilities for the welfare at work of workers, including ensuring access to those facilities;
- (b) the maintenance of any workplace under the employer's

control, including the means of access to and egress from it, is in a condition that is safe and without risks to health, so far as is reasonably practicable;

- (c) to conduct a workplace specific risk assessment and based on that assessment, deal with the risk in the following priority hierarchy order of -
 - (i) eliminating the risk;
 - (ii) substituting the risk;
 - (iii) using engineering controls;
 - (iv) using administration controls;
 - (v) providing personal protective equipment and clothing;
 - (vi) in so far as the risk remains, providing the workers whose safety or health is or could be at risk with maintaining and ensuring the proper use of suitable personal protective equipment and other safety and health facilities as may be prescribed; and
 - (vii) instituting a programme to monitor the remaining risk;
- (d) identify, evaluate systematically and record the hazard and risks to the safety and health of workers that may arise during the course of their work, considering the following factors:
 - (i) sex;
 - (ii) age;
 - (iii) disability; and

-
- (iv) reproductive health.
 - (e) ensuring that the handling of plant, structures and substances at the workplace is without risks to safety and health; and
 - (f) provide -
 - (i) workers with information, training, instruction or supervision that is adequate to ensure the safety and health of any person who may be exposed to hazards arising from work carried out, the plant, structures and substances used or intended to be used, as part of the conduct of an employer's business or undertaking; and
 - (ii) conditions for workers, which comply with the standards provided for in the Schedule I, where such standards are applicable.
- (3) An employer shall, except in such cases as may be prescribed and -
- (a) in consultation with the workers, prepare and revise -
 - (i) a written policy with respect to the safety and health of workers at a workplace of the employer; and
 - (ii) the organisation and arrangements for carrying out the policy; and
 - (b) notify the workers of the policy and any of its revisions.
- (4) The Minister shall prescribe the contents of -
- (a) a general policy of safety and health, and obligations to a person implementing the policy;
 - (b) concerning the components of a management structure

or an occupational safety and health management system.

- (5) An employer who fails to comply with any of the duties imposed on him or her under this section, commits an offence and is liable, on conviction, to a fine or term of imprisonment prescribed in Schedule IV.

Employer to ensure occupational safety and health

7. (1) An employer shall cause a thorough safety and health audit of his or her workplace, to be carried out at least once in every period of twelve months by a competent person.

(2) The competent person shall, after conducting an audit in terms of subsection (1), issue an audit report which contains the prescribed particulars to the employer, on payment of an agreed fee and shall send a copy of the report to the Director.

(3) The audit report referred to in subsection (2) shall be maintained and kept available for inspection by an inspector.

(4) An employer shall -

- (a) consult representatives of workers employed at the employer's workplace, who sit on the safety and health committee as provided by section 30, with a view to make and maintain arrangements which will effectively promote measures which ensures the safety and health of workers at the workplace, and checks the effectiveness of such measures;
- (b) at his or her own expense, furnish and maintain at a workplace -
- (i) equipment and facilities which ensures the provision of first aid to his or her workers according to a scale for employers of the particular class or industry to which the employer belongs, as the Minister may, by regulation determine; and

-
- (ii) an emergency preparedness and response plan;
 - (c) be responsible for ensuring the removal of a worker from a workplace for medical attention, who has suffered an accident or a sudden illness within the workplace;
 - (d) ensure that the workplace is, so far as is reasonably practicable, safe and without risks to health;
 - (e) prepare, keep up to date and implement a suitable written scheme for the systematic inspection, maintenance and testing of all the electrical and mechanical plant and structures at a workplace, to ensure that they are without risks to the safety and health of workers;
 - (f) use occupational hygiene techniques to measure levels of exposure to the health hazards at a workplace if, during risk assessment or after taking steps to control or minimise the risk pursuant to section 6 (2) (c), it is necessary to conduct occupational hygiene measurements;
 - (g) ensure that every worker who is, or is likely to be, exposed to safety or health hazards, is adequately informed about the hazards that may affect his or her safety or health at a workplace, including the risks associated with such hazards;
 - (h) ensure that every worker who is, or is likely to be, significantly exposed to health hazards is placed under surveillance of an occupational health practitioner;
 - (i) investigate all accidents, occupational diseases, notifiable diseases and notifiable incidents at a workplace and take appropriate proactive and remedial actions; and
 - (j) develop guidelines on procedures to be followed, where he or she puts in place control measures which are unsafe and put the life and safety of the worker at high risk, to an extent where the worker believes, after he notifies the employer, that under the circumstances, he or she

should refuse to go to work.

- (5) An employer is prohibited to make -
- (a) a worker pay;
 - (b) deduct from the workers wages, remuneration or levy;
or
 - (c) permit to be levied on any of the workers in his or her workplace,

any charge in respect safety resources or equipment to protect their safety in terms the provisions of this Act or any regulation made under the Act.

(6) An employer who fails to comply with a duty imposed on him under this section, commits an offence and is liable on conviction to a fine or term of imprisonment prescribed in Schedule IV.

Duties of self-employed persons

8. (1) A self-employed person shall -
- (a) take all necessary precautions to ensure his or her own safety and health and that of any other person in his or her workplace or within the environment of his or her workplace;
 - (b) at all times use appropriate safe systems of work, preventive and control measures and where not feasible, use suitable personal protective equipment and clothing required under this Act;
 - (c) comply with any safety and health rules, regulations, instructions and procedures issued under this Act;
 - (d) report -
 - (i) any situation which he or she believes presents imminent danger or hazard which he or she can

not correct; and

- (ii) any incident or injury that arises during or in connection with his or her work, as required under this Act, to the Director.

(2) A self-employed person who contravenes the provisions of this section commits an offence and is liable on conviction to a fine or a term of imprisonment prescribed in Schedule IV.

Duties of a worker

9. (1) A worker shall, while at work -
- (a) take reasonable care for -
 - (i) his or her own safety and health; and
 - (ii) the safety and health of other persons who may be affected by his or her acts or omissions;
 - (b) co-operate with his or her employer in the discharge of any duty or requirement placed upon an employer under this Act;
 - (c) comply with any reasonable instruction, policy or procedure that is given or made by an employer relating to safety and health at the workplace;
 - (d) report to his or her or immediate supervisor or the immediate supervisors' representative, as soon as is reasonably practicable, any situation which the worker has reasonable grounds to believe presents an imminent or serious danger to the safety or health of the worker or of other workers in the same premises, and until an employer has taken remedial action, if necessary, the employer shall not require the worker to return to the workplace where imminent or serious danger to safety or health of the worker or other workers in the same premise continues;

- (e) wear, protective equipment or clothing at all times provided by the employer, where there is a risk of bodily injury against which the equipment or clothing affords protection;
 - (f) refrain from interfering with or misusing any means, appliance, convenience, or other thing provided or done by an employer in the interests of safety, health and welfare in pursuance of this Act;
 - (g) avoid engaging in any improper activity or behaviour at the workplace, which might create or constitute a hazard to that person or any other person;
 - (h) report to his or her employer the loss, destruction or other defect in the protective equipment or clothing; and
 - (i) is prohibited to smoke at the workplace, except at specific areas demarcated for that purpose.
- (2) For the purposes of this section,

“improper activity or behaviour” includes boisterous play, scuffling, fighting, practical jokes, unnecessary running or jumping or similar conduct.

Rights of a worker

10. (1) A worker has a right to cease, or refuse to carry out, work if -
- (a) circumstances arise, which appear, with reasonable justification, to pose a serious and imminent risk to his or her safety or health; or
 - (b) a safety and health representative, responsible for a workgroup in which a worker belongs, directs him to cease, or refuse to carry out, work.
- (2) A worker may, where he believes there is risk of safety and health which may cause harm to the worker, request an employer to conduct an

inspection or investigation, and the employer shall conduct the inspection or investigation.

(3) If a worker, based on reasonable justification, believes that an employer failed to adequately conduct an inspection or investigation in terms of subsection (2), the worker may request an inspector to conduct an inspection or investigation, who shall, upon the request, conduct the inspection or investigation.

Protection of a worker

11. (1) An employer shall not -
- (a) dismiss, harass, use violence against a worker;
 - (b) discriminate against or disadvantage a worker in respect of the workers' employment; or
 - (c) alter the worker's position to the detriment of the worker, by reason only that the worker -
 - (i) makes a complaint about a matter which the worker considers is not safe or is a risk to his or her health;
 - (ii) has left the place of work in terms of section (9)(1)(d);
 - (iii) is a member of a safety and health committee established pursuant to this Act; or
 - (iv) exercises any of his or her functions as a member of the safety and health committee.

(2) An employer who fails to comply with the provisions of this section, commits an offence and is liable, on conviction, to a fine or term of imprisonment prescribed in Schedule IV.

(3) Notwithstanding any written law to the contrary, where a person is convicted of an offence under this section, the court may, in addition to im-

posing a penalty on the employer, make one or both of the following orders-

- (a) an order that the employer pays within a specific period to the person against whom the employer has discriminated such damages as the court deems fit to compensate that person; or
- (b) an order that the worker be reinstated or re-employed in his or her former position or, where that position is not available, in a similar position.

General Duties of care by an employer and a self-employed to persons other than their workers

12. (1) An employer shall conduct his or her undertaking in a manner which ensures, that a person who is not his or her worker who may be affected by the employer's workplace, is not exposed to risks to safety or health.

(2) A self-employed person shall conduct his or her undertaking in such a way which ensures that he or she and any other person who is not his or her worker, who may be affected by the self-employed person's workplace, is not exposed to risks to safety or health.

(3) It is the duty of an employer and a self-employed person to give relevant safety and health information to every person who is not his or her worker who may be affected by the manner in which the employer or the self-employed person conducts his or her undertaking, on aspects which, by the way he conducts his or her undertaking, may affect their safety or health.

(4) An employer or self-employed person who fails to comply with a duty imposed on him or her under this provision, commits an offence and is liable, on conviction, to a fine or term of imprisonment provided for in Schedule IV.

Duties of employer to an occupier of a workplace to persons other than his or her workers

13. (1) Where the employer has, within his or her workplace, persons who are not the employer's workers but who are using -

-
- (a) the premises of the employer as a workplace; or
 - (b) a plant or substance provided for their use there, the employer shall take such measures as are reasonably practicable, to ensure that the premises of the employer's workplace and access to or exit from, are safe and without risks to health and safety of the workers.

(2) A person who has, by virtue of a contract, lease or otherwise, an obligation of any extent in relation to the maintenance or repair of a place of work or any means of access to or exit from the workplace, shall for the purpose of subsection (1), be deemed to have control of the matters to which his or her obligation extends.

(3) A person who fails to comply with a duty imposed on him or her under this provision, commits an offence and is liable, on conviction, to a fine or a term of imprisonment provided for in Schedule IV.

Duties of designers, manufacturers, importers, regarding articles and substances for use at work

14. (1) A person who designs, manufactures, imports or supplies an article for use at work shall -

- (a) ensure, that the article is designed and constructed to be safe and without risks to health when properly used;
- (b) carry out, or arrange for the carrying out of testing and examination, as may be necessary, to ensure that the article is safe and without risk to health when properly used; and
- (c) take necessary steps to ensure that there is available, in connection with the use of the article at a workplace, adequate information regarding the use for which the article is designed and has been tested, and regarding any conditions necessary to ensure that, when used, it will be safe and without risks to health.

(2) A person who designs or manufactures any article for use at

work, shall carry out or arrange for the carrying out of any necessary research, to identify, eliminate or minimise any risks to safety or health to which the design or article may give rise.

(3) A person who erects or installs any article for use at work in any premises where that article is to be used by a worker, shall ensure that, the way in which the article is erected or installed, makes it safe and not a risk to the safety and health of the worker when properly used.

(4) A person who manufactures, imports or supplies a substance for use at work, shall take necessary steps to ensure that the person supplied with the substance, is provided with adequate information regarding -

- (a) risk to health or safety, to which the inherent properties of the substance may give rise;
- (b) the results of relevant tests which have been carried out on or in connected with the substance;
- (c) conditions necessary to ensure that the substances will be safe and without risks to health when it is being used, handled, processed, stored or transported by a person at work.

(5) A person who fails to comply with a duty imposed by this section, commits an offence and is liable, on conviction, to a fine or to imprisonment for a term provide in Schedule IV.

Notice of accidents, diseases and dangerous occurrences

15. (1) An employer or a self-employed person shall notify the Director, regarding any accident, diseases, dangerous occurrence, or occupational poisoning which has occurred at their workplace.

(2) Where an accident in a workplace causes -

- (a) the death of a person, the employer shall -
 - (i) inform an occupational safety and health officer within twenty-four hours of the occurrence of

the accident; and

(ii) within three days of the occurrence of the accident, send a written notice of the accident in the prescribed form to Director; and

(b) non-fatal injuries to a person, an employer or self-employed person, shall within three days of the occurrence of the accident, submit a written notice of the accident in the prescribed form to Director.

(3) An employer shall cause all workplace accidents, including commuting accidents, diseases, dangerous occurrences and injuries, to be entered in the register kept by the employer.

(4) Where a person injured in an accident dies after the accident is notified under this section, an employer or a self-employed person shall, as soon as they are informed of the death, send a notice of the death in writing, to Director.

(5) Where an occupational health practitioner or a general medical practitioner suspect or finds that any person is suffering from any industrial disease specified in the First Schedule to the Workmen's Compensation Act, 1977³, he or she shall notify the employer of that person.

(8) An employer shall, within three days of receipt of a notification made under subsection (1), notify the Director in writing regarding the industrial disease which has or is suspected to have occurred together with the name, address and workplace of the person concerned, and the employer shall keep a record of such notification.

(9) The provisions of this section shall extend and apply to the dangerous occurrences specified in Schedule III.

(10) A person who fails to comply with a duty imposed by this section, commits an offence and is liable, on conviction, to a fine or to imprisonment for a term provide in Schedule IV.

Training and supervision of persons working with dangerous machines

16. A worker shall not operate a machine which may pose a risk of injury, unless the worker -

- (a) is thoroughly instructed regarding the dangers arising or which may arise in connection with the machine and the precautions to be observed;
- (b) has received sufficient training in work of the machine; or
- (c) is under adequate supervision by a person who has a thorough knowledge and experience of the machine.

Fire prevention and firefighting

17. (1) An employer shall provide and maintain in every building in a workplace, means of extinguishing fire, to be readily accessible, which shall be adequate and suitable having regard to the circumstances of the premises and any process or processes in use.

(2) In a workplace, ensure training of a sufficient number of workers in the proper use of the means of extinguishing fire specified in subsection (1).

(3) The safety provisions in case of fire set out in the Schedule I, shall be respected in every place of work.

Prohibited and toxic substances

18. (1) No substance prohibited under regulations made by the Minister shall be handled, stored or used in any place of work.

(2) A worker, who may during the course of his or her work inhale, ingest or otherwise absorb any substance specified in the Schedule I, shall be medically examined free of charge at intervals of not more than six months or at such intervals as the Director may, in writing, direct.

(3) An employer shall keep a register at each place of work which shall contain the -

-
- (a) name;
 - (b) address;
 - (c) date of birth;
 - (d) date of employment; and
 - (e) date and result of examination of every person examined in pursuance of subsection (1) and any action taken.

(4) A worker who may, during the course of his or her work handle or use any toxic substance, shall be fully instructed as to the risks associated with the toxic substance and the necessary precautionary measures to be observed for protection against such risks.

(5) Where in any room, a poisonous substance which may contaminate food or drink is stored, handled or used, a worker is prohibited to bring or consume food or drink in that room, and no food or drink shall be kept in or conveyed through that room at any time.

Removal of dust or fumes

19. (1) An employer shall, in a workplace, where any process carried on -
- (a) there is given off dust, fume or other impurity of such a character and to such extent as to be likely to be injurious or seriously offensive to a worker; or
 - (b) any substantial quantity of dust of any kind, all reasonably practicable measures shall be taken to protect such persons against inhalation or ingestion of the dust, fume or other impurity and to prevent its accumulating in any workroom, and in particular where the nature of the process makes it practicable,

provide and maintain exhaust appliances and other devices , as near as possible to the point of origin of the dust, fume or other impurity, so as to prevent its entering the air of any workroom.

(2) The Minister may by regulations specify the maximum permissible limits of exposure to substance hazardous to health which may be present in the atmosphere of any place of work.

Reduction of noise and vibration

20. Where in a workplace, a worker is employed in a process involving exposure to noise or vibration which may constitute a danger to their health, an employer shall provide effective means, so far as is reasonably practicable, for the reduction of such noise or vibration within the place of work, as prescribed.

Lifting of weights

21. (1) An employer shall require a worker to lift, carry or move a heavy load or of such characteristics as to be likely to cause bodily injury.

(2) An employer shall provide sufficient training in the safe techniques or methods of manual lifting and handling to a worker who is required, in the normal course of his or her work, to regularly lift, carry or move loads exceeding 50 kilograms for a male worker and 25 kilograms for a female worker.

Personal protective equipment and clothing

22. (1) Where any process carried out at a place of work or where the nature of the worker's employment, or any substance used in the workplace is likely to cause bodily injury, or impairment of health to a worker and these occurrences cannot be prevented by other means, an employer shall provide the worker with such suitable and appropriate personal protective equipment, protective clothing and accessories which will protect the worker from risk of harm or injury.

(2) Personal protective equipment, protective clothing, and accessories to be provided for by an employer shall be at no charge to the worker and shall be maintained and renewed by the employer as necessary.

(3) Notwithstanding subsection (2), an employer may, however, require a worker, to wash or clean, but not to dry-clean protective clothing that does not carry a residue of a hazardous substance at the worker's own expense.

(4) The Director may in writing, specify the protective equipment,

protective clothing or accessories which shall be provided for the purposes of subsections (1) and (2).

Water Supply

23. (1) An employer shall ensure that there is adequate supply of drinking water available for workers usage at workplace.

(2) Wherever, in the opinion of a public health officer, the supply of drinking water is inadequate, or not reasonably protected or accessible for use, a safety and health inspector may cause to be served on the employer, an order in writing requiring the employer to remedy the defect within such reasonable time as may be specified in such order.

(3) A person who fails to comply with the provisions of this section or with an order served under subsection (2) commits an offence and is liable, on conviction, to a fine or term of imprisonment provided for in Schedule IV.

Registration of factories

24. (1) No person shall operate a factory unless it is registered pursuant to the provisions of the Act.

(2) The Director shall keep a register of factories in which he or she shall cause to be entered such particulars as the Director may consider necessary.

(3) A person who, at the coming into force of this section, occupies a factory shall, within three months after such coming into force of this Act, apply for the registration of such factory to the Director as in a form may be prescribed.

(4) A person who wishes to renew a certificate of registration of a factory shall apply to the Director for the renewal not later than thirty days before the expiry of the certificate, in a form as may be prescribed.

(5) On receipt of an application under subsection (3), (4) or (5), the Director shall, after making such inquiries as he or she thinks fit -

(a) register the factory and issue a certificate of registration

to the applicant or renew the certificate of registration, as the case may be, on payment of a prescribed fee and subject to such conditions as the Director thinks fit to impose; or

- (b) refuse to register the factory or to renew the certificate of registration and specify in writing the ground of refusal.

(6) Where an application for renewal of a certificate of registration is received outside the time-limit specified in subsection (4), a surcharge of fifty percent of the prescribed fee shall be payable.

(7) A certificate of registration issued or renewed under subsection (5) shall be valid for a period not exceeding twelve months.

(8) An employer shall cause the last-issued certificate of registration to be at all times exhibited in a conspicuous place in the factory in respect of which such certificate is issued.

(9) Any person who occupies or uses any premises as an unregistered factory shall commit an offence and is liable, on conviction, to a fine or term of imprisonment provided for in Schedule IV.

(10) Two or more factories may, with the approval in writing of the Director, be considered a single factory, where the circumstances reasonably justify.

(11) For purposes of this section -

“factory”

- (a) means any premises with machinery, on which, or within the precincts of which persons are employed in the making, altering, repairing, cleaning, breaking up or adapting for sale any article for the purpose of gain and over which the employer has the right of access or control; and
- (b) premises means places where persons are employed,

which qualify to be registered as factory premises and include the following:

- (i) laundry or kitchen carried on as ancillary to another business or as an incidental for purposes of any public institution;
- (ii) premises in which the construction, reconstruction or repair of aircraft, vehicles or other plant for use for transport purposes is carried on as ancillary to a transport or commercial undertaking;
- (iii) remises in which printing by any process or bookbinding is carried on by way of trade or for purpose of gain or incidental to another business so carried on;
- (iv) premises in which articles are made or prepared as an incidental to the carrying of construction works not being premises in which such works are being carried on;
- (v) premises in which persons are employed in or in connection with the generating of electrical energy for supply;
- (vi) cold storage room;
- (vii) premises used in connection with the slaughtering of cattle, sheep, swine, goats, horses, asses or mules;
- (viii) premises where tobacco leaf is cured or otherwise made ready for manufacture in any form;
- (ix) premises where agriculture products are processed;
- (x) limeliln where limestone is burnt to make lime;

- (xi) premises where bread, biscuits or confectionery are baked by way of trade for purposes of gain; and
- (xii) premises used for the storage of petroleum products.

(12) Premises shall not be excluded from the definition of a factory by reason only that they are open air premises.

Cancellation of registration

25. (1) Where the Director is satisfied that a registered factory has ceased to operate or a certificate of registration has been obtained by fraud or misrepresentation, he or she may cancel the registration of the factory.

(2) Where the Director is satisfied that there has been a contravention of any condition subject to which a certificate of registration has been issued in respect of any factory, he or she may, by giving to the employer not less than thirty (30) days' notice in writing to comply with the condition, cancel the certificate where the condition is not complied with.

Appeal from decision

26. (1) Any person aggrieved by the decision of the Director under the provisions of section 25(2) may, within thirty (30) days from the date of such decision, appeal in writing to the Minister stating the grounds of the appeal.

(2) The Minister, on hearing the appeal, may in his or her discretion confirm, vary or reverse the decision of the Director.

(3) The decision of the Minister shall be final, however, the Minister may appoint a Factories Appeal Committee of not less than three persons, one of whom shall be designated as chairman and may delegate his or her powers to such Committee to hear the appeal.

(4) The Minister may make rules for the procedure for appeals under this section and in the absence of any such rules, any Committee which the Minister may appoint under subsection (1) shall regulate its own procedure.

Removal of nuisance in or near a factory

27. (1) If in any factory or upon premises near a factory there exists a nuisance or defect of sanitation which in the opinion of a medical officer is likely to render the factory unsanitary or to affect injuriously the health of persons employed in the workplace, the Director may by notice in writing served on the person responsible for such nuisance or defect, or the owner or occupier of such factory or premises, require the person effectually and within such period as the notice may specify, to abate the nuisance or remedy the defect.

(2) Any person aggrieved by the terms of any notice served on him or her under the provisions of subsection (1) may, within seven (7) days of the service of such notice, appeal in writing to the Minister.

(3) The Minister may in his or her discretion confirm, rescind or vary the terms of such notice, including the period specified for compliance with the terms of the notice.

(4) Any person who fails to comply in all respects with the terms of a notice served on him or her under the provisions of subsection (1) and as may be varied by the Minister under the provisions of subsection (2) commits an offence and is liable, on conviction, to a fine or term of imprisonment provided for in Schedule IV.

Housing provided by Employer

28. (1) The Minister may, by order published in the Government Gazette, designate remote geographical areas in which an employer shall be required to provide adequate housing and sanitary arrangements for his or her workers and members of their families living with them.

(2) An employer who employs workers in an area shall -

(a) provide adequate housing for such of his or her workers who are employed at such a distance from their houses or normal places of residence that it would be impracticable for them to return to at the end of the day's work or to obtain suitable alternative accommodation; and

(b) provide, at the place where the workers and members of

their families living with them are housed -

- (i) an adequate and easily accessible supply of water;
- (ii) adequate sanitary arrangements;
- (iii) medical assistance; and
- (iv) daily rations of sound and wholesome food, of such description and on such scale as the Minister may by regulation prescribe.

(3) No regulations in respect of housing and sanitary arrangements to be provided under paragraphs (a) or (b) (ii) of this subsection shall impose upon an employer any greater obligation than would be required under any written law relating to housing and sanitary arrangements in any town area.

(4) The obligations laid down under this section, shall be without prejudice to those laid down in respect of facilities for the workers at their place of work.

Safety and Health Practitioners

29. (1) An employer who has more than fifty workers at a workplace shall appoint a full-time registered safety and health practitioner within the workplace, for the purpose of exercising general supervision regarding compliance with the provisions of this section and generally, to promote the safe conduct of the workplace.

(2) Notwithstanding subsection (1), the Director may in writing, where satisfied that by reason of the dangerous nature of a plant, process or substance used by an employer of fewer than fifty workers, it is expedient to protect the safety and health of workers at the workplace, direct that the employer appoints a registered safety and health practitioner.

(3) An employer shall allocate or allow sufficient time and adequate resources to a registered safety and health practitioner to achieve his or her duty provided for in subsection (1).

(4) A registered safety and health practitioner shall carry out a hazard identification, risk assessment and processes of the place of work, and record the findings in a register which shall be provided by the employer for that purpose.

(5) A registered safety and health practitioner who carries out such duties for -

- (a) the whole of his or her working time, shall not act in such capacity for more than four separate places of work; or
- (b) part of his or her working time, shall not, without the written permission of the Director, act in such capacity for more than one place of work.

(9) An employer who fails to comply with this section, commits an offence and is liable, on conviction, to a fine or term of imprisonment provided for under Schedule IV.

Safety and health committees

30. (1) An employer who has more than fifteen workers at a workplace, shall establish a safety and health committee for purposes of promoting cooperation between the employer and the workers in achieving and maintaining safe and healthy working conditions.

(2) An employer shall appoint a senior member of the management staff to be responsible for safety, health and welfare at the place of work, if the employer is unable to perform such duties personally.

(3) Notwithstanding subsection (1), where an employer has lesser than fifteen workers at a workplace and it appears to the Director that nature of the plant, process or substances used by the employer, poses great danger and exposes the workers to high risk of safety and health if it is expedient to do so, the Director may direct, in writing, that the employer establish a safety and health committee.

(4) An employer shall provide a safety and health committee with such facilities and assistance as are reasonably required for the purpose of car-

rying out its functions, including the inspection of the work premises and machinery.

(5) A safety and health committee shall consist of an equal number of employer's representatives and workers' representatives, including -

- (a) a chairperson, who shall be an employer or a senior member of the management staff;
- (b) where applicable, at least one safety and health practitioner; and
- (c) at least one safety and health representative.

(6) A secretary of a safety and health committee shall either be a safety and health practitioner or a safety and health representative;

(7) A safety and health committee meeting shall, where the circumstances justify, be held during working hours at least once every three months or at any earlier time, at the request of a representative of the employers or workers on that committee.

(8) A worker shall not lose payment of wages or allowances due to him or her on account of time spent on functions of a health and safety committee.

(9) A safety and health committee may -

- (a) co-opt one or more persons as an advisory member by reason of their expertise on or knowledge of safety and health matters;
- (b) request and obtain information relevant to its functions from -
 - (i) an employer;
 - (ii) an inspector;
 - (iii) a person who or body which conducts an inves-

tigation or inquiry in terms of sections 52 and 53;

- (iv) a safety and health practitioner;
 - (v) a safety and health representative; or
 - (vi) a worker;
- (c) with an employer's approval, request the assistance of or advice from an expert;
 - (d) request an inspector to conduct an inquiry in terms of section 53;
 - (e) request an inspector to conduct an investigation in terms of section 52; and
 - (f) participate in an investigation or inquiry conducted pursuant to sections 52 and 53.

Functions and meetings of a safety and health committee

- 31. (1) A committee shall perform the following functions -
 - (a) facilitate co-operation between an employer and workers in instigating, developing and carrying out measures designed to ensure safety, health and wellbeing of workers at work;
 - (b) assist an employer in developing and implementing an occupational safety and health management system for a workplace; and
 - (c) any other relevant function for safety and health committees as may be prescribed or stipulated in a collective agreement.
- (2) A member of a committee shall be entitled to -

- (a) take reasonable time to -
 - (i) prepare for committee meetings;
 - (ii) report to a safety and health representative and practitioner at a workplace, regarding meetings of the committee; and
- (b) perform functions of a committee and receive training during ordinary working hours.

(3) Any time reasonably spent by a member of the committee to perform functions of the committee, shall be deemed to be time spent performing employment duties of that member.

(4) An employer shall provide a committee with training and information as is reasonably required for the purpose of carrying out its functions, including the inspection of a workplace and the plant, structures and substances used or intended to be used at that workplace.

(5) A meeting of a committee shall be held during working hours and as often as stipulated in a collective agreement or as may be prescribed.

(6) A committee shall determine the procedure and quorum for its meetings.

Medical surveillance

32. (1) An employer shall engage an occupational health practitioner within the workplace, to carry out medical surveillance of workers at the employer's workplace.

- (2) An occupational health practitioner shall -
 - (a) exercise general guidance regarding compliance with the provisions of this Act and the promotion of safe conduct of the work; and
 - (b) as and when required or at least once every 2 months, conduct a medical surveillance or examination for a

worker who is exposed to a health hazard at a workplace.

(3) Where an occupational health practitioner finds that a worker has an occupational disease as a result of exposure to occupational hazards, he or she shall provide a report of the findings to the employer of the workplace.

(4) An employer shall allocate or allow sufficient time and adequate resources to the occupational health practitioner to enable a health practitioner to carry out his or her duties.

Safety and health representatives

33. (1) A safety and health representative shall represent all workers on all aspects of occupational safety and health within a department, unit or section the safety and health representative is designated to represent in a workplace;

(2) Without limiting the generality of subsection (1), a safety and health representative may -

- (a) make representations and recommendations to an employer or a safety and health committee on any safety or health matter affecting or likely to affect his or her work group;
- (b) co-operate with an employer so far as is necessary, to enable an employer to perform or comply with any duty or requirement imposed on the employer or any other person by or under relevant statutory provisions;
- (c) participate in consultations, investigations and inquiries conducted by an employer, an inspector or a commission of inquiry relating to safety or health matter affecting or likely to affect his or her workgroup or members of the workgroup;
- (d) inspect or investigate a safety or health matter affecting or likely to affect his or her workgroup or members of the workgroup;
- (e) direct a member of his or her workgroup to cease, or

refuse to carry out work if there are conditions, accidents or occurrences at a workplace which, the safety and health representative reasonably believes, pose a serious and imminent risk to the safety or health of the member;

- (f) with the approval of an employer, request the assistance of or advice from a safety and health expert where necessary;
- (g) request and receive information concerning the safety or health of members of his or her workgroup;
- (h) in a visible manner, post trade union notices at a work place where workers have easy access; and
- (i) perform any other relevant functions which may be stipulated in a collective agreement or as may be prescribed.

(3) Notwithstanding subsection (2) (g), a safety and health representative shall not have a right to have access to any personal or medical information concerning any worker without that worker's written consent unless the information is in a form that -

- (a) does not identify the relevant worker; and
- (b) may not reasonably be expected to lead to the identification of the relevant worker.

(4) A safety and health representative shall be entitled to perform his or her functions and receive training during ordinary working hours.

(5) An employer shall allocate or allow sufficient time and adequate resources to a safety and health representative, to enable a safety and health representative to carry out his or her duties.

(6) Any time reasonably spent by a safety and health representative while performing his or her functions, shall be deemed to be time spent performing his or her employment duties.

Costs of promoting safety and health at work

34. (1) An employer shall -
- (a) not require or permit any of his or her workers to make payment to the employers or any person in respect of any duty imposed, a function performed or right exercised in terms of this Act; and
 - (b) maintain and ensure proper use of personal protective equipment at cost to workers.

(2) An employer who fails to comply with this provision commits an offence and is liable on conviction to a fine or term of imprisonment provided for under Schedule IV.

Undue consequences

35. (1) A worker is not liable for failing to comply with a duty imposed under this Act where his or her health and safety was exposed to great danger, if he or she did or omitted to do so in good faith and in the reasonable belief that in doing or omitting to do so, he was exercising a right or performing a function under this Act.

(2) Where a worker did or omitted to comply with a duty imposed on him under this Act in terms of the provisions of subsection (1), an employer is prohibited to -

- (a) require or induce the worker to continue work activities or return to work, where there is imminent and serious danger to life or health;
- (b) dismiss, demote, suspend or in any way victimise, intimidate or prejudice the worker for -
 - (i) exercising any of his or her rights under this Act;
 - (ii) performing any of his or her functions under this Act; discharging any of his or her duties under this Act; or

- (iii) complaining of what he considers to be non-compliance or inadequate compliance with the provisions of this Act; or
- (c) prevent the worker from -
 - (i) exercising any of his or her rights under this Act;
 - (ii) performing any of his or her functions under this Act; or
 - (iii) discharging any of his or her duties under this Act.

PART III - ADMINISTRATION AND MANAGEMENT

Establishment of the National Advisory Council for Occupational Safety, Health and Welfare

36. There is established the National Advisory Council for Occupational Safety, Health and Welfare, which shall be an advisory body on safety, health and welfare of persons at work.

Composition of NACOSH

37. (1) The NACOSH consists of the following members who shall be appointed by the Minister by notice published in the Gazette:

- (a) five members from each of the following constituencies:
 - (i) government;
 - (ii) employers, who shall be nominated by the employer's organisation; and
 - (iii) workers, who shall be nominated by the workers organisation; and
- (b) four members having wide experience in occupational safety, health and welfare.

(2) The Minister shall appoint the Chairperson of the NACOSH from a representative of government.

(3) The NACOSH shall determine and regulate its own procedure and conduct of its business.

(4) The Director or his or her representative shall be the secretary of the NACOSH.

Functions of NACOSH

38. The functions of NACOSH are to -

- (a) advice and assist the Minister in relation to -
 - (i) formulation and development of national occupational safety and health policy framework; and
 - (ii) safety, health and welfare issues of persons at work or to any other person whose safety, health and welfare may be affected by work activities; and
- (b) review and advise on the operation of legislation or regulations relating to health, safety, and welfare of workers at work.

Tenure of membership of NACOSH

39. (1) A member of NACOSH shall be appointed for membership for a period of three years from the date of publication of their appointment by the Minister in the Gazette.

(2) A member of the NACOSH may upon satisfactory performance, be re-appointed upon the end of his or her term of office.

Removal of a member from NACOSH

40. A member of NACOSH shall be removed from membership by the Minister if -

- (a) he has resigned;
- (b) he is absent from three consecutive meetings of NACOSH without leave from the Chairperson;
- (c) he is found guilty of misconduct;
- (d) he is physically or mentally incapable of performing his or her duties efficiently and a medical practitioner has issued a certificate to that effect;
- (e) he is no longer a member of the nominating organisation;
- (f) the nominating organization ceases to be the most representative; or
- (g) is convicted of a serious offence.

Vacancies on the NACOSH

41. (1) There shall be a vacancy on the NACOSH if a member -

- (a) resigns from the NACOSH;
- (b) dies; or
- (c) is removed from the NACOSH for non-performance or misconduct.

(2) A member of the NACOSH who is appointed to fill a vacancy which occurred in terms of subsection (1) shall hold office for the remainder of the period of the member who vacated the office.

Meetings of the NACOSH

42. (1) A meeting of NACOSH shall be held at least once every three months and as often as prescribed by their rules of procedure or as it is necessary to perform its functions.

(2) The Chairperson or in his or her absence, the Deputy Chairperson shall -

- (a) preside at all meetings and convene a meeting in accordance with their prescribed rules procedure and preside;
- (b) on a request for a meeting signed by not less than one-third of the total number of members of NACOSH, convene a special meeting.

(3) The NACOSH may appoint any person who has expertise or knowledge on any issues discussed by NACOSH to attend a meeting, but the person shall only deliberate on the issues and is not entitled to vote.

(4) The quorum of the NACOSH shall be at least -

- (a) two members of the employers' representatives;
- (b) two members of the workers' representatives;
- (c) one member of the experts; and
- (d) one representative of the Government.

Remuneration

43. A member of the NACOSH, including a committee or an ad hoc committee member, shall be paid remuneration as may be approved by the Minister in consultation with the Minister responsible for finance.

Disclosure of confidentiality, interest and misrepresentation

44. (1) A member of the NACOSH or any other person present at or concerned in any proceedings of the NACOSH, is prohibited from disclosing any information or the contents of any document which has been furnished to the Board, except for consulting the constituency represented in the NACOSH.

(2) If a member has direct or indirect interest in a proposal or matter discussed or to be considered by the NACOSH, he or she shall, as soon as possible after the member is aware of the proposal or matter, disclose the nature of

the interest to the NACOSH.

(3) A member who has made a disclosure of interest in terms of subsection (2) is automatically disqualified from participating in any relevant deliberation or to the decision of the proposal or matter.

(4) A member who fails to comply with the provisions of subsections (1) and (2) shall be disqualified from membership of NACOSH.

NACOSH committees

45. (1) The NACOSH may form and appoint members to one or more committees or ad hoc committees in accordance with the prescribed procedure and under the prescribed conditions and requirements.

(2) A committee or an adhoc committee appointed in terms of subsection (1) shall exercise powers and perform functions of the NACOSH, as may be delegated by the NACOSH.

General duties of the Director

46. (1) The Director shall be responsible for the -

- (a) general supervision of the occupational safety and health issues in the country;
- (b) implementation of the national occupational safety and health policy and programme administration of this Act; and

(2) The Director shall be an ex-officio member and Secretary of the NACOSH but shall have no right to vote.

Functions of the Director, Occupational Safety and Health

47. (1) The Director shall, in exercising his or her administrative duties, perform the following functions:

- (a) advise the Minister and the NACOSH on the operation and effectiveness of this Act;

-
- (b) monitor and enforce compliance with this Act;
 - (c) provide advice and information on matters of occupational safety and health to -
 - (i) employers;
 - (ii) workers; and
 - (iii) other persons concerned with occupational safety and health;
 - (d) ensure -
 - (i) adequate consultations on proposed occupational safety and health standards regulations and codes of practice; and
 - (ii) that there is maximum co-ordination and co-operation among line ministries and other agencies or institutions, that monitor and enforce compliance with any law on aspects of occupational safety and health;
 - (e) enter into co-operative agreements with line ministries regarding the conduct of joint inspection, investigation or inquiry at a workplace;
 - (f) develop a five-year strategic plan for improving occupational safety and health and ensure that the plan meets the existing and future needs of occupational safety and health industry and the community;
 - (g) issue a certificate of approval to a competent person, after consultation with the technical advisory committee established under section 48, to carry out -
 - (i) examination and testing of plants and equipment;

- (ii) medical examination of workers;
 - (iii) medical surveillance on the health of persons employed;
 - (iv) safety and health audits of workplaces; or
 - (v) any other relevant function to the provisions of this section, necessary under Act, to collect, analyse and publish statistics on occupational safety and health;
- (h) promote and support research, exchange of information, education and training on occupational safety and health;
- (i) promote -
- (i) education and training in occupational safety and health; and
 - (ii) occupational safety and health in all workplaces and in the community to encourage a safety and health culture in workplaces;
- (j) collaborate with any educational, governmental or scientific body or institution in connection with the provision of instruction for, or the training of, inspectors;
- (k) collaborate with any other body or institution for the collection and dissemination of scientific and technical information relating to occupational safety and health;
- (l) collect and disseminate information on occupational safety and health;
- (m) conduct training for enterprises, self-employed persons, individuals and occupational safety and health officers;
- (n) approve in writing and after consultation with the technical advisory committee, training institutions providing

occupational safety and health training; and

- (o) perform any other function conferred on the Director under this Act.

(2) The Director shall renew a certificate of approval issued under subsection (1)(f) annually.

(3) The Director may at any time revoke a certificate of approval issued under subsection (1)(f).

(4) A notice or certificate issued by the Director under this section may be issued for a limited period and may be varied or revoked by the Director.

(5) The Director may, in writing -

- (a) approve a competent person that has been accredited by an accreditation body recognised as such in Lesotho, whose members are qualified to perform inspection functions, including to conduct training on and offering other occupational safety and health services;
- (b) withdraw the approval of an approved inspection authority; and
- (c) request information from an approved inspection authority in a prescribed format for the purposes of the administration of this Act;

Technical advisory committee

48. The NACOSH may from time to time establish a technical advisory committee which consists of members of the NACOSH who have expertise on occupational safety and health.

Functions of the technical advisory committee

49. (1) Functions of a technical advisory committee established under section 48 shall be to -

- (a) approve -
 - (i) a competent person for purposes of this Act; and
 - (ii) institutions or firms to carry out laboratory tests and analysis of substances and articles for use at workplaces;
- (b) recommend training syllabi to be used by organizations, institutions, firms or consultants offering occupational safety and health courses; and
- (c) carry out any other activity relating to occupational safety and health in accordance with the provisions of this Act.

(2) The Minister shall, with approval of the Minister responsible for finance, determine the allowances for the members of the technical advisory committee.

Inspection functions

50. (1) Inspection functions shall be performed by an occupational safety and health inspector within the Ministry responsible for labour and employment.

(2) An occupational safety and health inspector shall be responsible for monitoring and enforcing compliance with the provisions of this Act or any other applicable law, by ensuring that inspection powers and functions provided for in this Act or in any other applicable law, are exercised and discharged effectively, efficiently and properly.

(3) Without limiting the generality of subsection (2), the occupational safety and health inspector shall -

- (a) conduct inspections, investigations and inquiries at workplaces;
- (b) provide logistical, administrative and technical support to the Director;

-
- (c) notify and advise the Director on any defects or abuses not specifically or adequately addressed by any provision under this Act; and
 - (d) exercise any relevant powers and functions related to occupational safety and health inspection.

(4) An inspector shall, when exercising the powers and functions of an inspector provided for in this Act, produce, on request, his or her identity card for inspection.

(5) An inspector may conduct investigations in respect of offences outlined in Part VII and refer them to the Director of Public Prosecution for prosecution.

Factors to consider when performing inspection functions

51. (1) An inspector may, when performing an inspection, investigation or inquiry function -

- (a) enter a workplace, any part of it or anything situated at the workplace freely and at any time, without a warrant or notice except after obtaining a warrant, in accordance with and under circumstances provided for in subsection (3);
- (b) bring into and use necessary vehicles, equipment and material, at a workplace, any part of it or anything situated at the workplace;
- (c) interview a person found at the workplace, any part of it or anything situated at the workplace, who is responsible for or working in the workplace and, record statements from the person and take into consideration that he does not ask the person questions which might incriminate him or her;
- (d) require the production of, examine, and take extracts from, registers, books, records, reports, plans or other relevant documents;

- (e) require any person having responsibilities in relation to a workplace, whether or not, the person is the owner, manager or worker, to give him such services and assistance with respect to any matters or things to which the responsibilities of that person extend;
- (f) make an order, with the written approval of the Director, prohibiting the use of a workplace or the carrying out of activities, if it does not comply with the provisions of this Act, is exposed to great danger or poses threat to the safety and health of workers; and
- (g) exercise such other powers as may be necessary for carrying into effect, inspection functions provided for in this Act.

(2) In the exercise of his or her powers under subsection (1), an inspector may be accompanied by a police officer, a competent person or any person duly authorised in writing by the Director.

(3) A magistrate may issue a warrant contemplated in subsection (1) (a) only on written application by an inspector setting out under oath or affirmation the need to enter a place other than a workplace, to monitor and enforce compliance with the provisions of this Act or of any other applicable law.

(4) An inspector shall when exercising powers vested in him under this section, not unreasonably impede or obstruct the operations or work activities at a workplace.

(5) An inspector shall, in the exercise of his or her functions -

- (a) disclose any interest, direct or indirect, in any business or undertaking under his or her supervision and where such interest exists he shall refrain from exercising his or her functions in this regard;
- (b) refrain from revealing -
 - (i) the identity of the complainant from whose complaints, the provisions of this Act are claimed to

be contravened; and

- (ii) to an employer, the identity of an individual complainant, in consequence of whose complaint any inspection of a place of employment was made.

(6) An inspector may, if he reasonably believes that the circumstances require immediate action, enter freely and unhindered, a workplace, without adhering to or being required to adhere to any security measures or other procedures put in place at that workplace even if such measures or procedures are required under the provisions of this Act or any other legislation.

(7) An inspector may, when carrying out an inspection to determine whether the provisions of this Act are being observed -

- (a) inspect and examine any,
 - (i) workplace or any part of the workplace;
 - (ii) article, plant, structure or substance;
 - (iii) work performed; or
 - (iv) condition;
- (b) seize any document, article, substance or any part or sample of it; and
- (c) perform such other functions as may be necessary to determine whether the provisions of this Act are being observed.

(8) An employer may make and keep a copy of any document before it is seized by an inspector in terms of subsection (7)(b).

(9) An inspector may remove any article, plant, structure, or substance or any part or sample of such article, plant, structure or substance from any workplace or place referred to in subsection (7)(a)(ii) for examination or analysis.

(10) An inspector shall, when exercising his or her powers to seize or remove any item in terms of subsection (7)(b), issue a receipt for that item to the employer or where necessary to a person in charge over that item.

Investigation

52. (1) An inspector may conduct an investigation in order to ascertain -

- (a) any matter affecting or relating to the safety and health of workers and any other person at a workplace, and in particular the causes and circumstances of any accident, incident or disease at a workplace; or
- (b) the factual basis for alleged or suspected contravention of any provision of this Act or of any other applicable law.

(2) An inspector shall, subject to section 50(1), investigate matters referred to in subsection (1) if -

- (a) the matter concerns a notifiable incident;
- (b) he is instructed by the Director or requested to do so by -
 - (i) an employer;
 - (ii) a registered trade union with members at a workplace;
 - (iii) a safety and health representative or safety and health committee;
 - (iv) a worker at a workplace; or
 - (v) any other person.

(3) An inspector shall, after completing an investigation, prepare a report and -

-
- (a) submit the report to the Director; and
 - (b) furnish persons and a committee referred to in subsection (2)(b)(iii) each, with a copy of that report.

(4) An investigation may be converted into an inquiry at any stage before the submission of the report.

(5) An investigation or inquiry provided for in this section may be conducted jointly with an investigation conducted by an employer.

Inquiry

53. (1) Where a matter referred to in section 52(1)(a) is a notifiable incident; an inspector shall, if he does not conduct an investigation in terms of section 52 (2), hold or recommend the holding of an inquiry into the causes and circumstances of that incident.

(2) An inspector shall -

- (a) follow the prescribed procedure if he decides to hold an inquiry;
- (b) after completing an inquiry, prepare a report as may be prescribed in paragraph (a) and -
 - (i) submit the report together with a record of the proceedings to the Director; and
 - (ii) furnish a copy of the report to -
 - (aa) an employer;
 - (bb) a safety and health committee;
 - (cc) a safety and health representative;
 - (dd) a local council where the relevant work place is situated; and

- (ee) any person, on request, who has a material interest in that inquiry.

(4) An inquiry provided for in this section may be held before or after an investigation conducted by an inspector has been completed.

(5) This section does not limit any law regulating inquests and public inquiries.

Remedial measures

54. (1) If an inspector believes or discovers that an employer has failed to comply with any of the provisions of this Act, the inspector may, by way of a report, as may be prescribed -

- (a) instruct the employer to take steps that the inspector considers necessary to comply with the provision;
- (b) specify steps in the instruction and the period within which the specified steps should be taken in the instruction.

(2) A period specified in the instruction may be extended by an inspector at any time, by giving an employer a written notice.

(3) An inspector shall, where he has a reason to believe or finds that a workplace or any matter, thing or practice in or connected with a workplace is or may endanger the safety or health of any person, give a prohibition order, with the written approval of the Director, to an employer -

- (a) stating the particulars in which he considers a workplace, matter, thing or practice to be dangerous;
- (b) requiring the danger to be remedied within the time and in the manner specified in the notice; and
- (c) where the danger appears to the inspector to be serious and imminent, imposing such prohibitions, restrictions or requirements, as he considers necessary for the purpose of safeguarding the safety or health of persons.

(4) Without limiting the generality of subsection (3) (c), a notice may include an instruction that -

- (a) the performance of any act or practice at a workplace or a part of a workplace be suspended or halted, and may place conditions on the performance of that act or practice; and
- (b) all affected persons be removed to safety.

(5) An inspector may, when imposing a prohibition order referred to in subsection (3), block, bar or barricade a dangerous site, matter or thing in such a manner as an inspector may deem necessary.

(6) An inspector may issue a prohibition order referred to in subsection (3) either orally or in writing and if it is issued orally, the inspector shall confirm it in writing and give it to an employer at the earliest opportunity.

(7) An employer shall on receipt of a prohibition order given under subsection (3) or an instruction given under subsection (4), comply with the prohibition order or instruction, or, if he objects to comply, he shall state his or her objection in writing to the Director.

(8) Where an instruction or prohibition order is issued directly by the Director, an employer may, if not satisfied, object in writing to the Court.

(9) Where an employer is not satisfied with the decision of the Director regarding his or her objection, he may appeal against that decision to the Court.

(10) Notwithstanding an objection or appeal under subsections (7), (8) or (9), an employer shall comply with any instruction, prohibition, restriction or requirement given by an inspector or Director until such time the objection or appeal has been resolved by the Director or Court.

PART IV - COLLABORATION, COOPERATION, COORDINATION,
CONSULTATION AND REPRESENTATION AT THE WORKPLACE

Employers who use the same workplace at the same time

55. (1) Where two or more employers within the same workplace, engage, at the same time, in different work activities -

- (a) each employer shall retain responsibility for discharging all the duties of an individual employer under this Act in relation to the workplace or the relevant part of that workplace; and
- (b) where necessary, collaborate, in accordance with the provisions of paragraph (c), for purposes of complying with the provisions of this Act
- (c) an employer shall, within a prescribed period, enter into a written agreement regarding the nature and extent of their collaboration in discharging the employer's duty under this Act.

(2) Where an employer fails or is unable to conclude an agreement in terms of subsection (1)(c), an occupational safety health inspector shall facilitate the conclusion of that agreement within a prescribed period.

(3) If an occupational safety health inspector's facilitation efforts fail to assist the employers to reach an agreement within the prescribed period, an occupational safety health inspector shall issue a binding directive setting out the nature and extent of the required collaboration.

Consultation

56. (1) An employer shall, for the purposes of making and maintaining any arrangements for effective promotion of measures that ensure the safety and health of the workers at a workplace, and for assessing the effectiveness of such measures, consult with -

- (a) a worker, individually or collectively;

-
- (b) a safety and health representative; and
 - (c) a safety and health committees, if any.
- (2) A consultation made in terms of subsection (1) requires that -
- (a) an employer shares relevant information about a matter of making and maintaining any arrangements for effective promotion of measures that ensure the safety and health of the workers at a workplace with the workers or their representatives;
 - (b) an employer gives the workers or their representatives a reasonable opportunity and the necessary resources to -
 - (i) express their views;
 - (ii) raise issues in relation to the matter; and
 - (iii) contribute to the decision-making process relating to the matter; and
 - (c) an employer to inform the workers or their representatives of the outcome of the consultation in a timely manner.

Co-operation and representation at a workplace

57. (1) Where an employer has more than fifteen workers at a workplace, an employer shall cooperate with workers for the workers to nominate and elect safety and health representatives for a workgroup;

(2) An employer, when establishing a safety and health committee in accordance with provisions of section 30, and a worker who nominates and elects a safety and health representative in accordance with provisions of subsection (1), shall do so within the prescribed period and in accordance with the prescribed procedure.

(3) An employer shall cooperate with workers in the fulfilment of their duty to elect a safety and health representative.

(4) A worker shall cooperate with an employer in the fulfilment of the employers' duty to establish a safety and health committee.

(5) Where a workplace that is required to have a safety and health committee and a safety and health representative is used simultaneously by two or more employers within the workplace, the employers using that workplace, shall negotiate and include the provisions relating to the fulfilment of that requirement in the agreement referred to in section 55(1)(c).

Costs of consultations, co-operation and co-ordination

58. An employer shall pay the costs of implementing all the measures provided for in this Part without any discrimination or retaliation to workers.

Liability of safety and health committee members, safety and health practitioners and representatives

59. A member of a safety and health committee, a safety and health practitioner and representative, shall not be liable for anything he or she did or failed to do in that capacity if, in doing or omitting to do so, he -

- (a) was exercising a power or performing a function under this Act in good faith; or
- (b) reasonably believed that he or she was duly exercising a power or performing a function under this Act.

PART V - INFORMATION AND NOTIFICATION SYSTEMS

Record of the management structure

60. An employer who has a duty to establish a management structure in terms of section 6(1), shall -

- (a) keep an up-to-date record of the management structure; and
- (b) furnish the Director with a copy of the management structure within 14 days after the establishment or revision of that structure.

Notifications

61. (1) An employer shall, within the prescribed period, provide a written notice of the employers' intention to commence, recommence or abandon activities relating to the conduct of the employers' business or undertaking at the workplace, to the Director and a local council in which the workplace is situated.

(2) A safety and health representative shall -

- (a) as soon as he or she is aware or reasonably believes that there is an imminent risk of serious personal injury or illness arising from an activity at a workplace, notify an employer and a safety and health practitioner about the risk;
- (b) acting on behalf of a trade union, and with the approval of an employer -
 - (i) post trade union notices on the premises of the undertaking in a place or places agreed to by the safety and health representative and the employer and to which the workers have easy access;
 - (ii) distribute news sheets, pamphlets, publications and other documents of the union among the workers of the workplace.

(3) An employer shall -

- (a) provide a member of a safety and health committee or a safety and health representative with adequate information on safety and health matters -
 - (i) regarding the employers' intention to commence, recommence or abandon activities relating to the conduct of the employers' business or undertaking at the workplace; and
 - (ii) which enables the member of the safety and

health committee or representative to examine factors affecting safety and health, and encourages to propose measures on the subject;

- (b) consult a member of a safety and health committee or a safety and health representative -
 - (i) when major new safety and health measures or decisions are made and before they are carried out, and the member of a safety and health committee or a safety and health representative shall obtain the support of the workers for such measures and decisions;
 - (ii) in planning alterations of work processes, work content or organisation of work which may have safety or health implications for the workers.

(4) A member of a safety and health committee or a safety and health representative shall contribute to negotiations in the workplace on occupational safety and health matters.

(5) A safety and health representative may also notify the workers, whose safety or health is or may be at risk regarding the nature of the imminent risk, and, if he or she reasonably believes it is necessary and after consultation with the health and safety practitioner, instruct the workers to stop work and leave the dangerous place immediately.

(6) An employer shall, immediately after becoming aware or suspecting that a notifiable disease, notifiable incident or commuting accident has occurred at a workplace in accordance with the prescribed criteria, procedure and other related laws, notify the Director, workers and, in the case of a notifiable disease, a safety and health practitioner.

(7) A notice required under this Act to be served on or given to an inspector or to the Director, may be served or submitted by delivering it to the Director personally, by email or leaving it at, or sending it by post to the office of the Director.

(8) A notice required under this Act to be served on or given to an

employer, may be served or submitted by delivering it to the employer personally, by email or by leaving it at the office of the employer, at a workplace, or by sending it by post addressed to the employer at the postal address of workplace.

(9) A notice required to be submitted or served under this Act shall be deemed to have been affected at the time at which it is delivered, emailed, left at the appropriate office, or posted.

(10) For the purpose of subsection (6), a -

(a) “notifiable disease” means any disease -

- (i) specified or declared as “notifiable disease” in terms of the relevant provisions of the Public Health Order, 1970⁴;
- (ii) defined and specified as an occupational disease in terms of the Workmen’s Compensation Act, 1977⁵; or
- (iii) listed as an occupational disease under Schedule II;

(b) “notifiable incident” means -

- (i) the death of a person;
- (ii) serious injury or serious illness of a person; or
- (iii) a dangerous incident; and

(c) “commuting accident” means an accident that causes the death of, or personal injury to a worker which occurs on the direct way between a workplace and -

- (i) a worker’s principal or secondary residence;
- (ii) a place where a worker usually takes a meal; or

(iii) a place where a worker usually receives his or her remuneration.

(11) For the purpose of subsection (10) -

“serious injury or serious illness of a person” means an injury or illness as provided for under Schedules II and III.

(12) For the purpose of subsection (10), a “dangerous incident” means an incident at a workplace that poses a serious safety or health risk to any person as provided under Schedule III.

(a) an uncontrolled -

(i) escape, spillage or leakage of a hazardous substance;

(ii) implosion, explosion or fire;

(iii) escape of gas or toxic steam;

(iv) escape of a pressurised substance;

(b) electric shock;

(c) the fall or release from a height of any plant, substance or thing;

(d) the collapse, overturning, failure or malfunction of, or damage to, any plant that is required to be authorised for use in accordance with any applicable legislation;

(e) the collapse or partial collapse of a structure;

(f) the collapse or failure of an excavation or of any shoring supporting an excavation;

(g) the inrush of water or mud in a workplace; and

(h) any other prescribed incident.

Medical records

62. (1) An employer shall ensure that a record of medical surveillance and medical examination for each worker exposed to a health hazard at a workplace, is intact and kept safely in the custody of the employer in a prescribed form and for a prescribed period.

(2) A worker's record of medical surveillance or medical examination kept in terms of subsection (1) shall be confidential and may only be disclosed -

- (a) in accordance with the ethics of the medical practice;
- (b) if required by law or court order; or
- (c) with a worker's written and informed consent.

(3) Notwithstanding subsection (2), a worker may request an employer to provide the worker with a copy of the record or of any part of it kept in terms of subsection (1) and which relates to that worker, and an employer is obliged to comply with the request.

Exit certificate

63. (1) An employer shall ensure that an occupational health practitioner who conducts an exit medical examination of a worker in terms of section 62 -

- (a) produces an exit certificate with respect to that worker which indicates the -
 - (i) results of all medical surveillance; and
 - (ii) presence or absence of any occupational disease; and
- (b) enter a copy of the exit certificate into the record of a medical surveillance of the worker.

Annual medical reports

64. (1) An employer shall ensure that an occupational health practitioner compiles an annual medical report which does not disclose the identities of the individual workers but which -

- (a) covers all the workers at a workplace;
- (b) shows the number and nature of accidents and dangerous incidents that occurred at a workplace within the relevant period; and
- (c) provides an analysis of the workers' health based on the records of medical surveillance.

(2) An employer shall submit a copy of the annual medical report compiled in terms of subsection (1) to a safety and health committee at a workplace or in the absence of the safety and health committee, to a safety and health representative.

Other records and reports to be kept by an employer

65. (1) An employer shall prepare and be responsible for the safe keeping and custody of the following records and reports -

- (a) a record of -
 - (i) all formal training provided in respect of each worker in terms of section 6;
 - (ii) any significant hazards identified, and risks assessed in terms of section 6;
- (b) a report on the investigations conducted in terms of section 6 which -
 - (i) identifies the causes of an incident, accident or disease;
 - (ii) identifies any unsafe conditions, acts, or proce-

-
- dures that contributed in any manner to that incident, accident or disease; and
- (iii) outlines steps taken, or proposed to be taken, to prevent similar incident, accident or disease;
- (c) a report of the inspections conducted in terms of section 6 which specifies -
- (i) significant defects; and
 - (ii) the steps taken, or proposed to be taken, to remedy such defects;
- (d) a record of all occupational hygiene measurements conducted in terms of section 6 by a competent person in a prescribed manner and for a prescribed period; and
- (e) an annual report on safety and health at a workplace, including the statistics.

(2) An employer shall ensure that a report or record which is required to be made under subsection (1) is in a suitable form and is kept at a workplace or at some other suitable place for at least three years from the date on which the report or record was made, unless the provision concerned, or regulations, expressly imposes some other requirement or specific period.

Director's records, reports and other information systems

66. (1) The Director shall prepare or cause to be prepared and be responsible for the safe custody and retention of the following records and reports-
- (a) an annual report on the state of the national occupational safety and health, including the statistical information on work-related accidents, incidents and diseases;
 - (b) an agreement concluded in terms of section 55(1)(c);
 - (c) a report on every investigation conducted in terms of section 52 which -

- (i) specifies the nature of the contravention, if any;
 - (ii) identifies the causes of an incident, accident or disease;
 - (iii) identifies any unsafe conditions, acts, or procedures that contributed in any manner to that incident, accident or disease; and
 - (iv) outlines recommendations and remedial steps;
- (d) a report of every inquiry held in terms of section 53, which outlines the material evidence, findings, recommendations and any remedial steps.

(2) An annual report referred to in subsection (1) shall be prepared and published in accordance with Schedule V.

Confidential information

67. (1) Any person who is required to provide or entitled to receive any information in the performance of a function or exercise of a right in terms of this Act, shall keep the following information confidential:

- (a) trade secrets;
- (b) an employer's financial or business affairs; and
- (c) a workers' private or personal information.

(2) Notwithstanding subsection (1) confidential information may be disclosed only if -

- (a) required or allowed by law or a court order; or
- (b) it is about -
 - (i) trade secrets, business or financial affairs regarding the employer's workplace, with an employer's written consent; or

- (ii) a worker's private or personal affairs, with the worker's written and informed consent.

PART VI - POWERS OF THE MINISTER

Regulations

68. (1) The Minister may, in consultation with, and approval of the NA-COSH, make regulations for carrying the provisions of this Act into effect and without limiting the generality of this section, the Minister may make regulations for -

- (a) hazardous substances, organisms, plant and structures;
 - (b) the competence of safety and health practitioners;
 - (c) the requisite competence, training and or qualifications for any person required to perform a function or exercise a power under this Act;
 - (d) appropriate personal protective equipment and emergency equipment;
 - (e) specifying offences in this Act in respect of which an administrative fine shall not be imposed;
 - (f) the fees payable under the provisions of this Act; or
 - (g) forms to be kept, published or submitted in terms of or for the purposes of this Act.
- (2) The Minister shall -
- (a) table an annual medical report prepared in terms of section 64 in the Parliament; or
 - (b) prescribe the procedure that must be followed before an administrative fine is imposed, including an appeal procedure where a person who is required to pay an administrative fine is not satisfied with that decision.

(3) The Minister may, on the advice of the NACOSH, and by notice in the Gazette, amend Schedules to this Act.

(4) A regulation may in respect of any contravention or failure to comply with the provisions of this Act, prescribe a penalty of a fine not exceeding Six Hundred Maloti or imprisonment for a period not exceeding six months or both.

PART VII - GENERAL OFFENCES

Prohibition of discrimination, victimisation, intimidation and undue influence

69. (1) An employer who dismisses, discriminates against or in any way victimises a worker or a safety and health representative for exercising any of his or her rights or discharging any of his or her duties under this Act, commits an offence and is liable, on conviction, to a fine or a term of imprisonment prescribed in Schedule IV.

(2) An employer who intimidates, gives or undertakes to give any form of incentive or benefit to a worker or a safety and health representative, to dissuade the worker or safety and health representative from exercising any of their rights or discharging any of their duties under this Act, commits an offence and is liable, on conviction, to a fine or a term of imprisonment, prescribed in Schedule IV.

Unlawful instructions

70. An employer who instructs a worker to continue to work or return to a work situation where there is imminent and serious danger to the workers' life or health, commits an offence and is liable, on conviction, to a fine or a term of imprisonment prescribed in Schedule IV.

Prohibition of work-related violence and harassment

71. (1) A person who engages in any act of violence or harassment at work or at a workplace while exercising any of his or her rights or discharging any of his or her duties under this Act, commits an offence and is liable, on conviction, to a fine or a term of imprisonment prescribed in Schedule IV.

Failure to discharge a duty

72. (1) An employer, a worker, a safety and health representative, an occupational safety and health practitioner and a member of a safety and health committee, who recklessly fails to discharge any of his or her duties under this Act, commits an offence and is liable, on conviction, to a fine or a term of imprisonment prescribed in Schedule IV.

Liability of designers, manufacturers, suppliers and installers

73. (1) A designer who fails to ensure that a plant, substance or structure that is to be used, or could reasonably be expected to be used at a workplace is designed as required under section 14, commits an offence and is liable, on conviction, to a fine or a term of imprisonment prescribed in Schedule IV.

(2) A manufacturer who fails to ensure that a plant, substance or structure that is to be used, or could reasonably be expected to be used at a workplace is manufactured as required under section 14, commits an offence and is liable, on conviction, to a fine or a term of imprisonment prescribed in Schedule IV.

(3) A supplier who fails to ensure that a substance that is to be used or could reasonably be expected to be used at a workplace is packaged and labelled as required under section 14, commits an offence and is liable, on conviction, to a fine or a term of imprisonment prescribed in Schedule IV.

(4) A person who fails to erect or install a plant, substance or structure that is to be used, or could reasonably be expected to be used at a workplace in a way required under section 14, commits an offence and is liable, on conviction, to a fine or a term of imprisonment prescribed in Schedule IV.

Obstruction of inspection, failure to assist an inspector and comply with the inspector's instructions

74. (1) A person who -

(a) obstructs or hinders an inspector or an authorised person while such inspector or person is exercising a power or discharging a duty conferred or imposed by this Act;

- (b) refuses or neglects -
 - (i) to furnish an inspector or an authorised person with the means and assistance necessary for making an entry, inspection or inquiry under this Act;
 - (ii) to attend, when required to do so by an inspector, an inspection or examination; or
 - (iii) to give such statement as an inspector may require of him; or
- (c) persuades an inspector to accept a bribe;
- (d) solicits or accepts a bribe in connection with the exercise of a power or discharge of a duty under this Act;
- (e) assaults or victimises an inspector in connection with the exercise of a power or discharge of a duty under this Act;
- (f) wilfully provides information or makes a statement, which is false or misleading in any material respect;
- (g) presents himself as an inspector; or
- (h) fails to comply with any of the remedial measures stipulated in an instruction or a notice given in terms of sections 54 and 61, commits an offence and is liable, on conviction, to a fine or a term of imprisonment prescribed in Schedule IV.

Power of court to make orders

75. (1) Where an employer is convicted of an offence under this Act, the court may, in addition to a punishment it may impose, require the employer, within a specified period to take such measures as may be specified for remedying the matters in respect of which the offence was committed.

(2) An employer may, by means of an application, request the court

to extend the period within which he is required to take specific remedial measures in terms of subsection (1).

(3) An employer who, on the expiry of the period or extended period specified in the court order in terms of subsection (1), has not fully complied with the court order, commits an offence and is liable for the penalty for which was prescribed for the offence in respect of which the court order was initially made for.

Administrative fines

76. (1) An inspector may, by written notice, impose an administrative fine on any person who contravenes or fails to comply with any provision in this Act.

(2) The amount of an administrative fine imposed by an inspector in terms of subsection (1) shall not exceed M5,000.00.

(3) An administrative fine imposed in terms of this section shall be paid to the Director on or before a date stated in the notice.

PART VIII - MISCELLANEOUS

Liability of officers and members of the NACOSH

77. No action or other legal proceedings, civil or criminal, shall be instituted in any court against the Director, a member of the NACOSH, an inspector or any person acting under the authority of an inspector for or on account of or in respect of anything done in good faith and done or purported to be done in the execution of his or her duty under this Act or under any other applicable law.

Contracting out

78. (1) A term of any agreement or contract shall be void, that purports to -

- (a) exclude, limit or modify any provision of this Act or any duty owed under this Act, except where the exclusion, limitation or modification is expressly provided for under this Act; or

- (b) transfer to another person any duty owed under this Act, except where the transfer of such duty is expressly provided for under this Act.

Savings and Transitional provisions

79. (1) An institute, body or individual established, elected or appointed under the repealed Part VII, section 46 and the Sixth Schedule of the Labour Code Order, 1992 continues to be established, elected or appointed as such under and for purposes of this Act as if established, elected or appointed under this Act on the same terms and conditions, except as otherwise provided under this Act.

(2) An institute, body or individual established, elected or appointed under the repealed Part VII, section 46, and the Sixth Schedule of the Labour Code Order, 1992 and required by this act to perform an act or omission shall, within six months of the coming into operation of this Act unless expressly provided otherwise, comply with the provisions of this Act.

Repeal

80. Part VII, section 46, and the Sixth Schedule of the Labour Code Order, 1992, are repealed.

SCHEDULE 1**HEALTH, SAFETY AND WELFARE****(Section 6 to 28)****Safe means of access and safe place of employment**

1. (1) There shall, so far as is reasonably practicable, be provided and maintained safe means of access to every place at which any person has at any time to work.

(2) Every place of employment shall, so far as is reasonably practicable, be made and kept safe and healthful for any person working there.

Safe means of access

2. (1) Where any person is to work at a place from which he or she will be liable to fall a distance of more than two metres, then unless the place is one which affords secure foothold and, where necessary, secure handhold, means shall be provided so far as is reasonably practicable, by fencing or otherwise, for ensuring his or her safety.

(2) All floors, steps, stairs, passages and gangways shall be of sound construction and properly maintained and shall be kept free from any obstruction and from any substance likely to cause persons to slip.

(3) For every staircase in a building, a substantial handrail shall be provided and maintained which, if the staircase has an open side, shall be on that side, and if the staircase has two open sides shall be on both sides.

(4) Any open side of a staircase shall also be fenced by the provision and maintenance of a lower rail or other effective means.

(5) All openings in floors shall be effectively fenced except in so far as the nature of the work renders such fencing impracticable.

(6) Every opening in a wall used for raising or lowering goods or materials, whether by mechanical power or otherwise, shall be effectively fenced and shall be provided with a secure handhold on each side of the opening, and

the fencing shall be properly maintained and shall, except when the raising or lowering of goods or materials is being carried on at the opening, be kept in position.

Structure of building

3. (1) When an employee has to work in, or in the course of his or her work pass through, any part of a building, such part of the building shall be of sound construction and kept in a good state of repair.

(2) Every building used as a place of work shall be so designed as to protect employees from the weather, have a watertight roof, and be free from any significant amount of dampness as is liable to affect the safety of the building or the health of the employees.

(3) Where any process is carried on which renders the floor of a building liable to be wet to such an extent that the wetness is capable of being removed by drainage, effective means shall be provided and maintained for draining off the wetness.

Cleanliness

4. (1) Every place of work shall be kept in a clean state and free from effluvia arising from any drain, sanitary convenience or other nuisance.

(2) Without prejudice to the generality of subsection (1)

- (a) accumulation of dirt, refuse or trade waste shall be removed daily by a suitable method from the floor and benches of workrooms and from the staircase and passages;
- (b) the floor of every workroom shall be cleaned at least once every week by an effective and suitable method; and
- (c) all inside walls and partitions and all ceilings or tops of rooms, and all walls, sides and tops of passages and stair cases shall be kept clean, and unless they have a smooth impervious surface they shall be properly painted or oth-

erwise kept properly decorated.

Storage

5. (1) All goods, articles and substances shall be stored or stacked:
- (a) in such manner as will ensure their stability and prevent any fall or collapse;
 - (b) in such manner as not to interfere with the adequate distribution of natural or artificial light, the proper operation of machines or other equipment, the unobstructed use of passageways or traffic lanes, and the efficient functioning of sprinkler systems and the use of other fire extinguishing equipment;
 - (c) on firm foundations not liable to settle and in such manner as not to overload any floor.

(2) No goods, articles or substances shall be stored or stacked against a wall or partition unless the wall or partition is of sufficient strength to withstand any pressure caused thereby.

Safety provisions in case of fire

6. (1) Every building shall be provided with such means of escape in case of fire for the employees as may reasonably be required in the circumstances of each case.

(2) Without prejudice to the generality of subsection (1), there shall be provided at least two separate means of escape in different directions in case of fire from each floor of every such building. Spiral staircases shall not be deemed to meet the requirements of this section.

(3) All means of escape as aforesaid shall be properly maintained and kept free from obstruction.

(4) All doors affording means of exit from a building for the employees shall, except in the case of sliding doors, be constructed to open outwards.

(5) In every building effective steps shall be taken to ensure that all employees are familiar with the means of escape and with the procedure to be followed in case of fire.

(6) While any employee is within a building, any door which affords a means of exit for such an employee from the building or from any enclosure in which the building is situated shall not be locked or fastened in such manner that it cannot be easily and immediately opened from the inside.

(7) Every window, door or other exit affording means of escape in case of fire or giving access thereto, other than the means of exit in ordinary use, shall be distinctively and conspicuously marked by a notice printed in red letters of an adequate size in languages understood by the employees.

(8) The contents of any room shall be so arranged or disposed that there is a free passageway for all employees in that room to a means of escape in case of fire.

(9) In every building in which more than 50 persons are employed or in which highly flammable materials are stored, handled or used, there shall be provided and maintained effective devices for giving warning in case of fire, which shall be clearly audible throughout the building and capable of being operated without exposing any person to undue risks. Such devices shall be tested by a competent person at least once a month to ensure their continued operation.

Lighting

7. (1) Effective provision shall be made for securing and maintaining sufficient and suitable lighting, whether natural or artificial, in every part of a place of work in which persons are working or passing.

(2) All glazed windows and skylights used for the lighting of work-rooms shall, so far as is practicable, be kept clean on both the inner and outer surfaces and free from obstruction, but this subsection shall not affect the white-washing or shading of windows and skylights for the purpose of mitigating heat or glare.

Sanitary conveniences

8. (1) In any building where work is carried out, sufficient and suitable sanitary conveniences for the employees shall be provided, maintained and kept clean at all times. Effective provision shall be made for lighting the conveniences and, where persons of both sexes are or are intended to be employed, except in the case of buildings where the only employees are members of the same family, such conveniences shall afford proper separate accommodation for persons of each sex, the approaches shall be separate and the conveniences for each sex shall be indicated by a suitable notice.

(2) Every sanitary convenience shall be sufficiently ventilated and shall not communicate with any workroom, rest room or mess room except through the open or through an intervening ventilated space.

(3) Every sanitary convenience, other than a urinal, shall be under cover, have a proper door and fastenings and be so partitioned off as to secure privacy.

(4) Every urinal shall be so placed or so screened as not to be visible from other parts of the building where persons work or pass.

(5) The sanitary conveniences shall be so arranged as to be conveniently accessible to the employees at all times while they are at the place of work.

(6) Without prejudice to the generality of subsection (1)

- (a) at least one sanitary convenience shall be provided for every 25 females;
- (b) at least one sanitary convenience (not being a convenience suitable only as a urinal) shall be provided for every 25 males;
- (c) where the number of males employed in a building exceeds 100 and enough urinal accommodation is also provided, it shall be sufficient if there is one sanitary convenience for every 25 males up to 100 and one for every 40 males above 100.

(7) For the purposes of this section, any number of persons less than 25 or 40 shall be reckoned as 25 or 40 as the case may be.

Supply of drinking water

9. (1) Where the supply of drinking water is not a supply of running water, it shall be contained in suitable vessels and shall be renewed at least daily, and all practicable steps shall be taken to preserve the water and vessels from contamination at any time.

(2) All containers or vessels containing harmful liquids which may be confused with drinking water or other beverages shall be clearly marked to indicate their contents or marked with an approved warning sign.

Washing facilities

10. There shall be provided and maintained for the use of the employees adequate and suitable facilities for washing which shall include a supply of clean water, soap, clean towels or other suitable means of cleaning and drying, and the facilities shall be conveniently accessible and shall be kept in a clean and orderly condition.

Accommodation for clothing

11. (1) There shall be provided and maintained for the use of the employees adequate and suitable accommodation for clothing not worn during working hours.

(2) Where the number of employees and the nature of the work so require, the Labour Commissioner may direct in writing that proper changing rooms, separate for each sex, be provided.

Seats

12. (1) Where employees have in the course of their employment reasonable opportunity for sitting without detriment to their work, there shall be provided and maintained for their use suitable seats to enable them to take advantage of those opportunities.

(2) Where a substantial proportion of any work can properly be done

sitting, there shall be provided and maintained for each employee doing that work a seat of a design, construction and dimensions suitable for him or her and for the work, together with a back-rest if practicable, and a foot-rest on which he or she can readily and comfortably support his or her feet if he or she cannot do so without a foot-rest.

Facilities for the taking of meals

13. (1) Subject to subsection (2), every employer shall provide and maintain adequate facilities for the taking of meals, due regard being paid to the number of employees remaining on the premises during meal intervals, and the facilities shall be away from the habitual work position and shall include tables and chairs or benches with back-rests.

(2) Every employer of more than 25 employees shall provide and maintain a mess room furnished with tables and chairs or benches with back-rests, sufficient for.

Overcrowding

14. (1) A place of work shall not, while work is carried on, be overcrowded in a manner which causes risk of injury to health of the workers.

(2) Without prejudice to the generality of subsection (1) but subject to subsection (3), the number of workers at any one time in any workroom shall not be such that the amount of cubic space allowed for each is less than 8.5 cubic metres.

(3) In calculating the amount of cubic space in any room for the purposes of this section, no space more than 4.5 metres from the floor shall be taken into account.

Ventilation and temperature

15. (1) Effective and suitable provision shall be made for securing and maintaining adequate ventilation of every workroom for circulation of fresh and artificially purified air of suitable temperature and relative humidity and for rendering harmless, so far as is practicable, all impurities generated in the course of any process or work carried on in the workroom, as may be injurious to health.

(2) Effective and suitable provision shall be made for securing and maintaining a comfortable temperature inside every workroom as prescribed by the Minister.

Ladders

16. (1) Every ladder of good construction, sound material, adequate strength and suitable for the purpose for which it is used and shall be properly maintained.

(2) No ladder shall be used unless -

- (a) it is securely fixed in a position to prevent it from slipping or falling, except that when this is impracticable, a person shall be stationed at the base of the ladder to prevent it from slipping or falling;
- (b) it stands on a firm and level footing except in the case of a suspended ladder;
- (c) it is secured where necessary to prevent undue swaying or sagging;
- (d) it is equally and properly supported on each stile or side;
- (e) in the absence of adequate handhold, it extends at least one metre above the place of landing or the highest rung to be reached by the feet of the person using the ladder or, if this is impracticable, to the greatest practicable height; and
- (f) there is sufficient space at each rung to provide adequate foothold.

(3) Subsection (2) shall not apply to any folding stepladder, provided that it has a level and firm footing and is used in the fully open position with any spreaders locked.

Dangerous substances (including pesticides)

17. (1) Every vessel which contains any toxic, corrosive or flammable substance shall have clearly marked on it the name and nature of the substance, and the precautions to be observed in the storage, handling or use of such substance shall either be marked on the vessel or be clearly displayed or otherwise made known to the employees.

(2) All practicable steps shall be taken by covering, fencing or other means to prevent an employee from falling into any fixed vessel, sump or pit, the edge of which is less than one metre above the adjoining ground or platform and which contains a substance likely to be prejudicial to his or her safety or injurious to his or her health.

(3) Every flammable, corrosive, toxic or otherwise dangerous substance shall be stored in such position and in such a manner as not to cause danger to the employees or to other persons who may be affected thereby

(4) The Labour Commissioner may by order in writing exempt from the requirements of this section any class or description of vessel, sump or pit where he or she is satisfied that the requirements are unnecessary or inappropriate.

(5) For purposes of this Schedule, "toxic substances" include: alphanaphthylamine (other than alpha-naphthylamine containing, as a by-product of a chemical reaction, more than 1 per cent of beta-naphthylamine), orthotolidine, dianisidine, dichlorobenzidine (and the salts of any of the above), acrylonitrile, arsenic and its compounds, asbestos, auramine, benzene, beryllium dust or fume, cadmium and compounds, carbon disulphide, carbon tetrachloride, chloroform, chromic acid, lead when used in the process of manufacture of electric accumulators, the breaking up or sorting of dried plates from electric accumulators, or any other processes where lead may be present in such quantity and under such conditions as may be harmful to health, magenta, mercury and compounds, methyl bromide, 4,4-methylene bis-(2-chloroaniline), nickel and compounds, paradichlorobenzene, platinum salts, sodium or potassium chromate, sodium or potassium dichromate, and vinylchloride monomer.

Precautions with regard to explosive or flammable dust, gas, vapour or substance

18. (1) Where, in connection with any process giving rise to dust, gas or vapour, there may escape dust, gas or vapour of such a character and to such an extent as to be liable to explode on ignition, all practicable steps shall be taken to prevent such an explosion by enclosure of the plant used in the process, and by removal or prevention of accumulation of the dust, gas or vapour that may escape in spite of the enclosure, and by exclusion or effective enclosure of possible source of ignition.

(2) Where there is stored or there is present in any plant any dust, gas or vapour of such a character and to such an extent as to be liable to explode on ignition, all practicable steps shall be taken to restrict the spread and effects of such an explosion by the provision, in connection with the plant, of chokes, baffles and vents or other equally effective appliances or measures, unless the plant is so constructed as to withstand the pressure likely to be produced by any such explosion.

(3) Where any part of a plant contains any explosive or flammable gas or vapour under pressure greater than atmospheric pressure, that part shall not be opened, except in accordance with the following provisions:

- (a) before the fastening of any joint of any pipe connected with the part of the plant or the fastening of the cover of any opening into the part is loosened, any flow of the gas or vapour into the part or into such pipe shall be effectively stopped by a stop-valve or otherwise;
- (b) before any such fastening is removed, all practicable steps shall be taken to reduce the pressure of the gas or vapour in the pipe or part of the plant to atmospheric pressure, and where any such fastening has been loosened or removed, no explosive or flammable gas or vapour shall be allowed to enter the pipe or part of the plant until the fastening has been secured or securely replaced, as the case may be.

(4) No plant, tank or vessel which contains or has contained any explosive or flammable substance shall be subjected to

-
- (a) any welding, brazing or soldering operation;
 - (b) any cutting operation which involves the application of heat; or
 - (c) any operation involving the application of heat for the purpose of taking apart or removing the plant, tank or vessel or any part of it, until all practicable steps have been taken to remove the substance and any fumes arising from it, or to render them non-explosive or non-flammable, and where any plant, tank or vessel has been subjected to any such operation, no explosive or flammable substance shall be allowed to enter the plant, tank or vessel until the metal has cooled sufficiently to prevent any risk of igniting the substance.

(5) No plant, tank or vessel which contains or has contained a substance which when heated may give rise to a toxic gas, fume or vapour shall be so heated unless all practicable steps have been taken to remove such substance.

Dangerous fumes and lack of oxygen

19. (1) The provisions of subsections (2) to (7) of this provision shall have effect where work has to be done inside any vessel, tank, pit or similar confined space in which dangerous fumes are liable to be present to such an extent as to involve risk of persons being overcome thereby.

(2) The confined space shall, unless there is other adequate means of egress, be provided with a manhole, which may be rectangular, oval or circular in shape, and shall be not less than 450 millimetres long and 400 millimetres wide or (if circular) not less than 450 millimetres in diameter, or in the case of tank wagons and other mobile plant, not less than 400 millimetres long and 350 millimetres wide or (if circular) not less than 400 millimetres in diameter.

(3) Subject to subsection (4), no person shall enter or remain in, and no person shall require, instruct or direct any person to enter or remain in, the confined space for any purpose unless the person entering or remaining in the confined space is wearing a suitable breathing apparatus (which shall not include a respirator) and has been authorised to enter by a competent person, and, where practicable, is wearing a belt with a rope securely attached and a person keeping

watch outside and capable of pulling him or her out is holding the free end of the rope.

(4) Where the confined space has been certified by a competent person as being, for a specified period, safe for entry without breathing apparatus and the period so specified has not expired, subsection (3) shall not apply, but no person shall enter or remain in the space unless he or she has been warned when that period will expire.

- (5) A confined space shall not be certified under clause (4) unless -
- (a) effective steps have been taken to prevent any ingress of dangerous fumes;
 - (b) any sludge or other deposit liable to give off dangerous fumes has been removed and the space contains no other material liable to give off dangerous fumes in significant quantities; and
 - (c) the space has been adequately ventilated and tested for dangerous fumes and has a supply of air adequate for breathing.

(6) There shall be provided and kept readily available a sufficient supply of suitable breathing apparatus, belts and ropes, and of suitable reviving apparatus and oxygen, and the apparatus, belts and ropes shall be properly maintained and shall be thoroughly examined at least once every three months by a competent person who shall make a report on every such examination, which shall be kept available for inspection.

(7) A sufficient number of employees shall be trained and given practice in the use of the apparatus specified in clause (6) and in a method of restoring breathing.

(8) No person shall enter or remain in any confined space in which the proportion of oxygen in the air is liable to have been substantially reduced unless -

- (a) he or she is wearing a suitable breathing apparatus; or
- (b) the space has been and remains adequately ventilated

and a responsible person has tested and certified it as safe for entry without breathing apparatus.

Corrosive substances

20. Where corrosive substances are used and there is danger of an employee being splashed thereby, there shall be provided for use in case of emergency

- (a) adequate and readily accessible means for drenching with water or any other appropriate substance such as an employee; and
- (b) sufficient and suitable means of flushing the eyes, conveniently situated and marked, the location of which is made known to such employees.

Dangerous machinery

21. (1) Every dangerous part of every machinery shall be securely fenced unless it is in such position or of such construction as to be as safe to every employee or person working on the premises as it would be if securely fenced.

(2) Where any 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 subsection (1) 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.

(3) Any material being worked upon in or at a machine shall be securely fenced unless it is in such a position as to be as safe to every employee or person at the place of work as it would be if securely fenced.

(4) Without prejudice to the generality of subsection (1), the provisions of this section

- (a) by reason of the ejection of any part of the machinery or the material being worked upon; or
- (b) by reason of its proximity to any fixed part of the struc-

ture or any fixed object.

(5) Without prejudice to the generality of subsection (4)(b), no transversing part of any machine and no material carried thereon shall be allowed to approach within a distance of 500 millimetres of such fixed part of the structure or fixed object.

(6) Sufficiently clear and unobstructed space shall be provided and maintained at every machine while it is in motion or use to enable the work to be carried on safely.

Provisions as to unfenced machinery

22. (1) In determining whether any part of machinery is in such a position or of such construction as to be as safe to every employee or person at the place of work as it would be if securely fenced-

- (a) no account shall be taken of any person carrying out, while that part of the machinery is in motion, an examination thereof or any lubrication or adjustment shown by the examination to be immediately necessary, if the examination, lubrication or adjustment can only be carried out while that part of the machinery is in motion; and
- (b) in the case of any part of transmission machinery used in any process with respect to which the Labour Commissioner has declared, by certificate in writing, that he or she is satisfied that, owing to the continuous nature of such process, the stopping of that part would seriously interfere with the carrying on of the process, no account shall be taken of any person carrying out in the place of work, by such methods and in such circumstances and subject to such conditions as may be specified in the certificate, any such lubrication or any mounting or shifting of belts.

(2) The provisions of this section shall apply only where the examination, lubrication or other operation is carried out by persons who have attained the age of 18, and such other conditions as may be specified by the Labour Com-

missioner are complied with.

(3) All fencing and other safeguards 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 necessarily exposed for examination and for any lubrication or adjustment shown by such examination to be immediately necessary.

Protection of eyes in certain processes

23. (1) In the case of any process which involves a special risk of injury to the eyes from particles or fragments thrown off in the course of the process, an eye protector or shield as appropriate shall be provided to protect the eyes of the employees engaged in the process.

(2) Where, in any place of work, electric arc welding is carried on in such a manner as to involve risk of employees (other than those engaged in the welding process) being exposed to the electric arc flames, effective provision shall be made, by screening or otherwise, to prevent such exposure.

(3) Every eye protector or shield provided under subsection (1) shall be suitable both for the work for which it is intended to be used and for the person using it and shall be for the personal and exclusive use of the person using it.

Chains, ropes and lifting tackle

24. (1) This provision shall apply to every chain, rope or lifting tackle used for the purpose of raising, lowering or suspending persons, goods or materials.

(2) No chain, rope or lifting tackle shall be used unless it is of good construction, sound material, adequate strength and free from patent defect.

(3) No chain, rope other than fibre rope and fibre rope slings or lifting tackle shall be taken into use for the first time in any place of work unless it has been tested and examined by a competent person and a certificate of such test and examination, specifying the safe working load and signed by the competent person, is obtained and kept available for inspection.

(4) Every chain, rope or lifting tackle in use shall be thoroughly examined by a competent person at least once every 12 months.

(5) No chain, rope or lifting tackle shall be used for raising, lowering or suspending any load exceeding the safe working load, except by a competent person for testing purposes.

(6) Every chain, rope or lifting tackle shall bear a distinguishing mark or number sufficient to identify it.

(7) A register containing a record of the prescribed inspections shall be kept by the employer in respect of all such chains, ropes or lifting tackle, except fibre rope slings.

Cranes and other lifting machines

25. (1) All parts and working gear, whether fixed or movable, including the anchoring and fixing appliances, of every lifting machine shall

- (a) be of good construction, sound material, adequate strength and free from patent defect, and shall be properly maintained; and
- (b) be thoroughly examined by a competent person at least once every 12 months and a record of the examination shall be kept for inspection.

(2) Every lifting machine shall be plainly marked with its safe working load or loads and a distinctive number or other means of identification, except that in the case of a jib crane so constructed that the safe working load may be varied by the raising or lowering of the jib, there shall be attached thereto so as to be clearly visible to the driver table indicating the safe working loads at corresponding inclinations of the jib or corresponding radii of the load or alternatively an automatic indicator of safe working loads.

(3) No lifting machine shall, except for the purpose of a test, be loaded beyond its safe working load as specified in subsection (2).

(4) All parts and working gear, whether fixed or movable, including the anchoring and fixing appliances, of every lifting machine shall be inspected

at least once every week by the operator, if competent for the purpose, or other competent person and a report of the result of every such inspection, signed by the person carrying out the inspection, shall be made forthwith in a register provided by the employer and kept available for inspection.

(5) No person under 18 years of age shall be employed to operate any lifting machine driven by mechanical power or to give signal to the operator of any such machine.

(6) A lifting machine shall not be operated except by a person trained and competent to operate that machine but it shall be permissible for such machine to be operated by a person who is under the direct supervision of a competent person for the purpose of training or instruction.

(7) Every crane and winch shall be provided with a readily accessible and efficient brake or other safety device which will prevent the fall of the load when suspended and by which the load can be effectively controlled while being lowered and every hand winch shall be fitted with an efficient pawl capable of sustaining the safe working load.

(8) All rails on which a travelling crane moves and every track on which the carriage of any other lifting machine moves shall be of proper size and adequate strength and have an even running surface, and any such rail or track shall properly laid, adequately supported or suspended and properly maintained.

(9) Where any person is employed or working on or near the wheel track of an overhead travelling crane in any place where he or she would be liable to be struck by the crane, effective measures shall be taken by warning the operator of the crane or otherwise to ensure that the crane does not approach within 6 metres of that place.

(10) Where any person is employed or working otherwise than specified in subsection (9) but in a place above floor level where he or she would be liable to be struck by an overhead travelling crane, or by any load carried by such a crane, effective measures shall be taken to warn him or her of the approach of the crane, unless his or her work is so connected with or dependent on the movements of the crane as to make a warning unnecessary.

Hoists and lifts

26. (1) Every hoist or lift shall be of good mechanical construction, sound material and adequate strength, and shall be properly maintained.

(2) Every hoist or lift shall be thoroughly examined by a competent person at least once every six months and a record of the examination shall be kept for inspection.

(3) Every hoist way or liftway shall be efficiently protected by a substantial enclosure fitted with gates so as to prevent, when the gates are shut, any person falling down the way or coming into contact with any moving part of the hoist or lift.

(4) Any such gate shall be fitted with efficient interlocking or other device so as to secure that the gate cannot be opened except when the cage or platform is at the landing and that the cage or platform cannot be moved away from the landing until the gate is closed.

(5) Every hoist or lift and every enclosure shall be so constructed as to prevent any part of any person or any goods carried in the hoist or lift being trapped between any part of the hoist or lift and any fixed structure or between the counterbalance weight and any other moving part of the hoist or lift.

(6) There shall be marked conspicuously on every hoist or lift the maximum working load which it can safely carry and no load greater than that load shall be carried on any hoist or lift.

(7) The following additional requirements shall apply to hoists or lifts used for carrying persons, whether together with goods or otherwise

- (a) efficient automatic devices shall be provided and maintained to prevent the cage or platform from over-running;
- (b) every cage shall, on each side from which access is afforded to a landing, be fitted with a gate, and in connection with any such gate efficient devices shall be provided to secure that, when persons or goods are in the cage, the cage cannot be raised, or lowered unless the

gate is closed and will come to rest when the gate is opened;

- (c) the maximum number of persons or amount of load that can safely be carried shall be marked conspicuously;
- (d) where the platform or cage is suspended by rope or chain, there shall be at least two ropes or chains separately connected with the platform or cage, each rope or chain and its attachments being capable of carrying the whole weight of the platform or cage and its maximum working load, and efficient devices shall be provided and maintained which will support the platform or cage with its maximum working load in the event of a breakage or failure of the ropes or chains or any of their attachments.

Refrigeration plants

27. (1) Every refrigeration plant capable of being entered by an employee shall

- (a) have all control valves situated outside the cold-storage room; and
- (b) have all doors of every cold-storage room capable of being opened easily and quickly from the inside and outside.

(2) Every refrigeration plant which has a positive displacement compressor shall be provided with

- (a) an automatic pressure-relief device for that compressor; and
- (b) a suitable pressure gauge to indicate the discharge pressure from such plant.

(3) Every user of a refrigeration plant specified in subsection (1) shall cause a registered machinery inspector to examine, test and certify at least once every 12 months the entire plant together with all its components and aux-

iliary parts.

(4) The employer shall send a report of the result of every such examination to the Labour Commissioner within 28 days of the completion of the examination.

Abrasive wheels

28. (1) Every abrasive wheel shall -

- (a) be suitable for the work for which it is used and be properly mounted;
- (b) be provided with a guard
 - (i) of such design and construction as to contain, so far as is reasonably practicable, every part of the abrasive wheel in the event of any fracture of the wheel;
 - (ii) which encloses the whole of the abrasive wheel except such part thereof as is necessarily exposed for the purpose of any work being done at the abrasive wheel and maintained in position whenever the abrasive wheel is in motion;
 - (iii) which is secured against accidental displacement; and
- (c) be marked with its maximum permissible speed in revolutions per minute where its diameter is more than 50 millimetres;
- (d) not be operated at a speed in excess of its maximum permissible speed and provided where necessary with suitable protection flanges of sufficient diameter.

(2) Where at any abrasive wheel there is a rest for supporting a workpiece, the rest shall at all times while the wheel is in motion be

- (a) properly secured;
- (b) adjusted so as to be as close as practicable to the exposed part of the abrasive wheel; and
- (c) of substantial construction and properly maintained.

(3) No person shall mount an abrasive wheel unless he is competent to carry out such work.

(4) In this section “abrasive wheel” means, cylinder, disc or cone made of any material which

- (a) contains abrasive particles held together by mineral, metallic or organic bond whether natural or artificial; and
- (b) is power-driven and intended for use in any grinding or cutting operation.

Electrical installations

29. All electrical apparatus and conductors, including machines, equipment and fittings, shall be sufficient in size and power for the work for which they are used, and shall be so constructed, installed, protected, worked and maintained as to prevent danger so far as is reasonably practicable.

Steam boilers - maintenance, examination and use

30. (1) Every steam boiler and all its fittings and attachments shall be properly maintained.

(2) No steam boiler shall be operated except by or under the constant control or supervision of a competent person.

(3) No person shall enter or be in any steam boiler which is one of a range of two or more steam boilers unless

- (a) all inlets through which steam or hot water might otherwise enter the boiler from any other part of the range are

disconnected from that part; or

- (b) all valves or taps controlling such entry are closed and securely locked, and, where the boiler has a blow-off pipe in common with one or more other boilers or delivering into a common blow-off vessel or sump, the blow-off valve or tap on each such boiler is so constructed that it can only be opened by a key which cannot be removed until the valve or tap is closed and is the only key in use for that set of blow-off valves or taps.

(4) No work shall be permitted in any boiler-furnace or boiler-flue until it has been sufficiently cooled by ventilation or otherwise to make work safe for any person who is required to work therein.

(5) Every steam boiler and all its fittings and attachments shall be thoroughly examined by a competent person at least once every 12 months and a record of the examination shall be kept for inspection.

(6) An examination under subsection (5) shall consist, in the first place, of an examination of the boiler when it is cold and the interior and the exterior have been suitably prepared and, secondly, except in the case of an economiser or superheater, of an examination when it is under normal steam pressure; the examination under steam pressure shall be made as soon as possible after the examination of the boiler when cold, and the registered boiler inspector shall ensure that the safety valve is so adjusted as to prevent the boiler being worked at a pressure greater than the maximum permissible working pressure.

Gas plants

31. (1) All gas plants, which shall include any plant, apparatus or machine used for the manufacture or storage of gas, and any pipes or appliances used in carrying such gas to the place where it is to be used, shall be of good construction, sound material, adequate strength and free from patent defect, and shall be properly maintained.

(2) No gas filling shall be allowed except under the direct supervision of a competent person.

(3) No gas cylinder for corrosive gases shall be filled unless it has

been examined or tested by a competent person at least once every two years and no gas cylinder for other gases shall be filled unless it has been examined or tested by a competent person at least once every five years and the result of such examination or test shall be kept available for inspection.

(4) In this section “gas” includes any gaseous substance whether in its gaseous or liquid state.

Ionising radiation

32. (1) Effective measures shall be taken, so far as is practicable, to restrict the extent to which employees may be exposed to ionising radiations in the course of their employment.

(2) No employee shall expose himself or herself to ionising radiations to a greater extent than is necessary for the purposes of the work being performed.

(3) All sources of ionising radiations shall, where practicable, be adequately shielded.

(4) Every employee liable to be exposed to ionising radiations shall be provided with appropriate instructions concerning the hazards involved and the precautions to be observed.

(5) The employer shall do all that is practicable to prevent the inhalation or ingestion by an employee of any radioactive substance and to prevent the contamination of the body or of the clothing of an employee by any radioactive substance.

(6) Every employee exposed to ionising radiations shall be medically examined free of charge at intervals of not more than six months or at such intervals as the Labour Commissioner may direct in writing.

Non-ionising radiations

33. (1) Where in any place of work persons are employed in any process involving exposure to ultra-violet, infra-red and any other non-ionising radiations which may constitute a danger to their health, effective means shall, so far as is reasonably practicable, be provided for the reduction of such non-ionising radiations within the place of work.

(2) Any employee liable to be exposed to non-ionising radiations shall be provided with appropriate instructions concerning the hazards involved and the precautions to be observed.

Excavations, shafts, earthworks, underground works and tunnels

34. (1) Adequate precautions shall be taken in any excavation, shaft, earthworks, underground works or tunnel

- (a) by suitable shoring or otherwise to guard against danger to workers from a fall or dislodgement of earth, rock or other material;
- (b) to guard against dangers arising from the fall of persons, materials or objects or the inrush of water into the excavation, shaft, earthworks, underground works or tunnel;
- (c) to secure adequate ventilation at every workplace so as to maintain an atmosphere fit for respiration and to limit any fumes, gases, vapours, dust or other impurities to levels which are not dangerous or injurious to health and are within limits laid down by regulations;
- (d) to enable the workers to reach safety in the event of fire, or an inrush of water or material;
- (e) to avoid risk to workers arising from possible underground dangers such as the circulation of fluids or the presence of pockets of gas, by undertaking appropriate investigations to locate them.

Transport, earth-moving and materials-handling equipment

35. (1) All vehicles and earth-moving or materials-handling equipment shall

- (a) be of good design and construction taking into account as far as possible ergonomic principles;
- (b) be maintained in good working order;

- (c) be properly used;
- (d) be operated by workers who have received appropriate training.

(2) On all construction sites on which vehicles, earth-moving or materials-handling equipment are used

- (a) safe and suitable access ways shall be provided for them; and
- (b) traffic shall be so organised and controlled as to secure their safe operation.

Structural frames, formworks, cofferdams caissons

36. (1) The erection of structural frames and components, formworks, falsework and shoring shall be carried out only under the supervision of a competent person.

(2) Adequate precautions shall be taken to guard against danger to workers arising from any temporary state of weakness or instability of a structure.

(3) Formworks, falsework and shoring shall be so designed, constructed and maintained that it will safely support all loads that may be imposed on it.

(4) Every cofferdam and caisson shall be -

- (a) of good construction and suitable and sound material and of adequate strength;
- (b) provided with adequate means for workers to reach safety in the event of an inrush of water or material.

(5) The construction, positioning, modification or dismantling of a cofferdam or caisson shall take place only under the immediate supervision of a competent person. Every cofferdam and caisson shall be inspected by a competent person at prescribed intervals

SCHEDULE II - LIST OF OCCUPATIONAL DISEASES**(Section 7)****1. Occupational diseases caused by exposure to agents arising from work activities**

- 1.1 Diseases caused by chemical agents
 - 1.1.1 Diseases caused by beryllium or its compounds
 - 1.1.2 Diseases caused by cadmium or its compounds
 - 1.1.3 Diseases caused by phosphorus or its compounds
 - 1.1.4 Diseases caused by chromium or its compounds
 - 1.1.5 Diseases caused by manganese or its compounds
 - 1.1.6 Diseases caused by arsenic or its compounds
 - 1.1.7 Diseases caused by mercury or its compounds
 - 1.1.8 Diseases caused by lead or its compounds
 - 1.1.9 Diseases caused by fluorite or its compounds
 - 1.1.10 Diseases caused by carbon disulphide
 - 1.1.11 Diseases caused by halogen derivatives of aliphatic or aromatic hydrocarbons
 - 1.1.12 Diseases caused by benzene or its homologues
 - 1.1.13 Diseases caused by 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 like carbon monoxide, hydrogen sulphide, hydrogen cyanide or its derivatives
- 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 compounds
- 1.1.20 Diseases caused by antimony or its compounds
- 1.1.21 Diseases caused by hexane
- 1.1.22 Diseases caused by mineral acids
- 1.1.23 Diseases caused by pharmaceutical agents
- 1.1.24 Diseases caused by nickel or its compounds
- 1.1.25 Diseases caused by thallium or its compounds
- 1.1.26 Diseases caused by osmium or its compounds
- 1.1.27 Diseases caused by selenium or its compounds
- 1.1.28 Diseases caused by copper or its compounds
- 1.1.29 Diseases caused by platinum or its compounds
- 1.1.30 Diseases caused by tin or its compounds
- 1.1.31 Diseases caused by zinc or its compounds
- 1.1.32 Diseases caused by phosgene
- 1.1.33 Diseases caused by corneal irritants like benzoquinone
- 1.1.34 Diseases caused by ammonia
- 1.1.35 Diseases caused by isocyanates

- 1.1.36 Diseases caused by pesticides
- 1.1.37 Diseases caused by sulphur oxides
- 1.1.38 Diseases caused by organic solvents
- 1.1.39 Diseases caused by latex or latex-containing products
- 1.1.40 Diseases caused by chlorine
- 1.1.41 Diseases caused by other chemical agents at work not mentioned in the preceding items where a direct link is established scientifically between the exposure to these chemical agents arising from work activities and the disease(s) contracted by the worker

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 compressed or decompressed air
- 1.2.4 Diseases caused by ionizing radiation
- 1.2.5 Diseases caused by optical (ultraviolet, visible light, infrared) radiations including laser
- 1.2.6 Diseases caused by exposure to extreme temperatures
- 1.2.7 Diseases caused by other physical agents at work not mentioned in the preceding items where a direct link is established scientifically between the exposure to these physical agents arising from work activities and the disease(s) contracted by the worker

1.3 Biological agents and infectious or parasitic diseases

- 1.3.1 Brucellosis

- 1.3.2 Hepatitis viruses
- 1.3.3 Human immunodeficiency virus (HIV)
- 1.3.4 Tetanus
- 1.3.5 Tuberculosis
- 1.3.6 Toxic or inflammatory syndromes associated with bacterial or fungal contaminants
- 1.3.7 Anthrax
- 1.3.8 Leptospirosis
- 1.3.9 Diseases caused by other biological agents at work not mentioned in the preceding items where a direct link is established scientifically between the exposure to these biological agents arising from work activities and the disease(s) contracted by the worker

2. Occupational diseases by target organ systems

- 2.1 Respiratory diseases
 - 2.1.1 Pneumoconioses caused by fibrogenic mineral dust (silicosis, anthracosilicosis, asbestosis)
 - 2.1.2 Silicotuberculosis
 - 2.1.3 Pneumoconioses caused by non-fibrogenic mineral dust
 - 2.1.4 Siderosis
 - 2.1.5 Bronchopulmonary diseases caused by hard-metal dust
 - 2.1.6 Bronchopulmonary diseases caused by dust of cotton (byssinosis), flax, hemp, sisal or sugar cane (bagassosis)
 - 2.1.7 Asthma caused by recognised sensitising agents or irritants inherent to the work process

- 2.1.8 Extrinsic allergic alveolitis caused by the inhalation of organic dusts or microbially contaminated aerosols, arising from work activities
- 2.1.9 Chronic obstructive pulmonary diseases caused by inhalation of coal dust, dust from stone quarries, wood dust, dust from cereals and agricultural work, dust in animal stables, dust from textiles, and paper dust, arising from work activities
- 2.1.10 Diseases of the lung caused by aluminium
- 2.1.11 Upper airways disorders caused by recognised sensitising agents or irritants inherent to the work process
- 2.1.12 Other respiratory diseases not mentioned in the preceding items where a direct link is established scientifically between the exposure to risk factors arising from work activities and the disease(s) contracted by the worker

2.2 Skin diseases

- 2.2.1 Allergic contact dermatoses and contact urticarial caused by other recognised allergy-provoking agents arising from work activities not included in other items
- 2.2.2 Irritant contact dermatoses caused by other recognised irritant agents arising from work activities not included in other items
- 2.2.3 Vitiligo caused by other recognised agents arising from work activities not included in other items
- 2.2.4 Other skin diseases caused by physical, chemical or biological agents at work not included under other items where a direct link is established scientifically between the exposure to risk factors arising from work activities and the skin disease(s) contracted by the worker

2.3 Musculoskeletal disorders

- 2.3.1 Radial styloid tenosynovitis due to repetitive movements, force-

ful exertions and extreme postures of the wrist

- 2.3.2 Chronic tenosynovitis of hand and wrist due to repetitive movements, forceful exertions and extreme postures of the wrist
- 2.3.3 Olecranon bursitis due to prolonged pressure of the elbow region
- 2.3.4 Prepatellar bursitis due to the prolonged stay in kneeling position
- 2.3.5 Epicondylitis due to repetitive forceful work
- 2.3.6 Meniscus lesions following extended periods or work in a kneeling or squatting position
- 2.3.7 Carpal tunnel syndrome due to extended periods of repetitive forceful work, work involving vibration, extreme postures of the wrist, or a combination of the three
- 2.3.8 Other musculoskeletal disorders not mentioned in the preceding items where a direct link is established scientifically between the exposure to risk factors arising from work activities and the musculoskeletal disorder(s) contracted by the worker

2.4 Mental and behavioural disorders

- 2.4.1 Post-traumatic stress disorder
- 2.4.2 Other mental and behavioural disorders not mentioned in the preceding item where a direct link is established scientifically between the exposure to risk factors arising from work activities and the mental and behavioural disorder(s) contracted by the worker

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 VI 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
- 3.1.9 Toxic nitro- and amino-derivatives of benzene or its compounds
- 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 Nickel compounds
- 3.1.14 Wood dust
- 3.1.15 Arsenic and its compounds
- 3.1.16 Beryllium and its compounds
- 3.1.17 Cadmium and its compounds
- 3.1.18 Erionite
- 3.1.19 Ethylene oxide
- 3.1.20 Hepatitis B virus (HBV) and hepatitis C virus (HCV)
- 3.1.21 Cancers caused by other agents at work not mentioned in the

preceding items where a direct link is established scientifically between the exposure to these agents arising from work activities and the cancer(s) contracted by the worker

4. Other diseases

- 4.1 Miners' nystagmus
- 4.2 Other specific diseases caused by occupations or processes not mentioned in this list where a direct link is established scientifically between the exposure arising from work activities and the disease(s) contracted by the worker

SCHEDULE III

LIST OF DANGEROUS OCCURRENCES

(Section 15)

1. Vehicles, lifting and mobile machinery:

- 1.1. The collapse of, the overturning of, or the failure of any load-bearing part of
 - (a) any lift or lifting equipment;
 - (b) any excavator; or
 - (c) any pile-driving frame or pile driving machine, having an overall height, when operating, of more than 7 metres.
- 1.2 The overturning of any vehicle or mobile work equipment or its trailer or semi-trailer towing equipment.
- 1.3 The load-shift or loss of load from -
 - (a) any vehicle;
 - (b) any mobile machine;

- (c) any trailer, or
 - (d) any semi-trailer, causing a risk of personal injury to a person at work.
- 2. **Bursting of Rotating Equipment:** Failure of a revolving vessel, wheel, grindstone, or grinding wheel powered by mechanical means.
- 3. **Pipelines:** The bursting, explosion or collapse of a pipeline or any part thereof.
- 4. **Structural Failure of Lifting Appliances:** Collapse or malfunction of a crane, derrick, winch, hoist, or similar equipment used for raising or lowering people or materials
- 5. **Collapse of scaffolding:** The collapse or partial collapse of any scaffold more than 5 metres high, including, where the scaffold is slung or suspended, a collapse or part-collapse of the suspension arrangements which causes a working platform or cradle to fall more than 5 metres.
- 6. **Caught in/between Machinery:** Workers caught in by moving machinery, equipment, or between stationary objects.
- 7. **Explosion or fire**
 - (a) An unintentional explosion occurring in any plant or place of work.
 - (b) A fire occurring in any plant or place of work which resulted in the stoppage of that plant or suspension of normal work in that place of work for more than 24 hours.
- 8. **Overhead electric lines:** Any incident in which plant or equipment, including any other overhead line, either comes into contact with an overhead electric line in which the voltage exceeds 200 volts or causes an electrical discharge from such an electric line or cable by coming into close proximity to it, unless in either case the incident was intentional, arising from or in connection with work activities, or any incident involving a live conductor accidentally falling due to breakage or otherwise.

9. **Electrical Malfunction Leading to Structural Damage:** Short circuit or failure of electrical machinery, apparatus, or plant resulting in explosion, fire, or structural damage, leading to its stoppage or disuse for at least five hours.
10. **Explosion of Pressurized Containers:** Explosion of a container used for storing gases or liquids at pressures higher than atmospheric pressure, resulting from gas compression.
11. **Steam Boiler Explosion or Malfunction:** Explosion of a steam boiler, failure of fire tubes or steam tubes, or furnace collapse.
12. **Release of Hazardous Substances:** Accidental or intentional release of dangerous or toxic gases, fumes, liquids, or substances harmful to health.
13. **Confined Space Accidents:** work in confined spaces leading suffocation, poisoning, or injuries due to lack of oxygen, toxic gases, or physical entrapment.
14. **Repetitive Strain and Manual Handling:** Repetitive tasks, awkward work postures, lifting, carrying, pushing, or pulling heavy loads without proper equipment or techniques which may lead to musculoskeletal injuries.

SCHEDULE IV - FINES AND PENALTIES

Section	Offence	Fine (not exceeding)	Imprisonment (not exceeding)
Section 12	General duties of an employer	M 30,000.00	5 months imprisonment
Section 13	Acts or omissions constituting non-compliance or contravention	M 10,000.00	3 months imprisonment
Section 6	duty to prepare a safety and	M 10,000.00	3 months imprisonment

Section 7	health policy Duties of self-employed persons	M 2,000.00	1 month imprisonment
Section 12	Duties of an employer and a self-employed to persons other than their workers	M 2,000.00	1 month imprisonment
Section 16, 17,18,19,20, 21,22,23,24, 27 and 28	Failure to comply with this cited sections	M10,000.00	3 months imprisonment
Section 12	Duties of occupiers of a workplace	M 5,000.00	2 months imprisonment
Section 13	Duties of designers	M20,000.00	4 months imprisonment
Section 14	Notice of accidents	M30,000.00	5 months imprisonment
Sections 25(2) and 38(5)	Failure to provide workers or committee members with an appropriate training	M10 000. 00	2 months imprisonment
Section 28	Safety and health practitioners	M50,000.00	8 months imprisonment
Section 29	Safety and health committees	M20,000.00	4 months imprisonment
Section 31	Failure to carry out consultations	M20, 000.00	4 months imprisonment
Section 32	Safety and health representatives	M10,000.00	3 months imprisonment

Section 34	Costs of promoting safety and health	M10,000.00	3 months imprisonment
Section, 45, 46,47, 51, 52, 53 and 54	Failure to prepare or keep documents or information	M50 000.00	6 months imprisonment
Section 47	safety and health audits	M 10,000.00	3 months imprisonment
Section 54	Failure to comply with a directive	M20, 000.00	4 months imprisonment
Section 61	Non-compliance with notification requirements	M20,000.00	4 months imprisonment
Section 60(1) (e) and (f)	Failure to comply with the inspector's instructions	M30,000.00	5 months imprisonment
Section 61	Non-compliance with notification requirements	M 20,000.00	4 months imprisonment

SCHEDULE V

ANNUAL OCCUPATIONAL, SAFETY AND HEALTH REPORT FORM

(Sections 65 and 66)

1. GENERAL INFORMATION

- 1.1. Submission of the annual report to the executing authority.....
- 1.2. Mission statement
- 1.3. Legislative mandate.....
- 1.4. Executive summary.....
- 1.4.1. Staffing.....
- 1.4.3. Training interventions.....

1.4.4. Current safety and health performance.....	
2. OSH NATIONAL PROGRAMME PERFORMANCE	
2.1. Aim of the programme	
2.2. Purpose of the programme.....	
3. STATE OF OCCUPATIONAL SAFETY AND HEALTH IN LESOTHO	
3.1. Occupational hygiene	
3.1.1. Airborne pollutant exposure 22.....	
3.1.2. Noise exposure.....	
3.1.3. Thermal stress.....	
3.1.4. General 30.....	
3.2. Occupational health services.....	
3.2.1. Annual Medical Reports.....	
3.2.2. Occupational diseases reported.....	
4.1. Accident statistics.....	
4.2. Analysis of accident rate trends.....	
4.2.1. Fatality and injury frequency rates per million hours worked.....	
4.2.2. Fatality Frequency Rate per district.....	
4.2.3. Injury Frequency Rate per district.....	
4.3. Enforcement 79.....	
4.3.1. Instructions dealing with dangerous conditions.....	
4.3.2. Instructions to order compliance.....	
6. TRAINING OF DUTY HOLDERS/STAKEHOLDERS	
6.1. Implemented training.....	
7. ACTIVITIES OF THE INSPECTORATE	
7.1. District operations:.....	
8. ANNEXURES	
8.1. Annexure A: Organogram of the OSH Inspectorate.....	
8.2. Annexure B: Contact list.....	
8.3. Annexure C: Acronyms and abbreviations.....	

GOVERNMENT NOTICE NO. 4 OF 2024

The Parliament of Lesotho

**Statement of Objects and Reasons of the Occupational
Safety and Health Act, 2024**

**(Circulated on the authority of the Honourable Minister of Labour and
Employment- Honourable Tšeliso Mokhosi)**

The purpose of the Act is to establish an occupational, safety and health management system at a workplace.

This Act promotes the development of a national preventative safety and health culture and ensures progressive improvement as people adapt to the new approach to safety and health in and out of the workplace.

The Act further domesticates international labour standards on occupational safety and health, in particular Convention 155 (Occupational Safety and Health, 1981) and Convention 187 (Promotional Framework for Occupational Safety and Health, 2006) which Lesotho has ratified.

The Act further introduces the development of a national profile on issues of occupational safety and health. There were gaps identified and the Ministry decided to design a policy that outlines issues on occupational safety and health.

The Act also seeks to combine the fragmented laws on occupational safety and health, including laws on mine safety, health, labour code and there is a need for a single law that addresses occupational safety and health in all different workplaces.

The enactment of the law will introduce a systematic approach to address issues of occupational safety and health through the establishment of a central authority that will be designated as the Occupational Safety and Health Directorate. The Directorate will oversee compliance assurance, inspection also promote cooperation at the enterprise level between management, workers and their representatives.

The Act also introduces registration and accreditation of competent persons that offer OSH services and Safety officers. The Directorate will also work with Na-

tional Committee on Occupational Safety and Health and other groups of employers and employees to see issues such as management system, emergency plans, occupational safety and health services. The medical surveillance by a qualified doctor is also addressed.

The establishment of the Directorate will encompass private and public sector and anywhere employees are involved except for the national security.

