

**DRAFT BILL
ON
OCCUPATIONAL SAFETY AND HEALTH**

ACT

To provide for the safety and health of workers against hazards arising out of or in connection with the activities at the workplace; to provide for duties and rights at the workplace; provide for the establishment of the Commission for Occupational Safety and Health; to provide for the appointment of the occupational safety and health commissioner, to provide for appointment and powers of inspectors for occupational safety and health, to provide for enforcement and compliance measures; to establish an effective system for reporting on occupational incidents, to provide for incidental matters, and provide for occupational health services.

(Signed by the President on [...])

TABLE OF CONTENTS

TABLE OF CONTENTS

CHAPTER 1

INTRODUCTORY PROVISIONS

- 1 Definitions and interpretation
- 2 Scope and application of Act

CHAPTER 2

INSTITUTIONAL AND ADVISORY ARRANGEMENTS

- 3 Establishment of the Occupational Safety and Health Commission
- 4 Powers of the Occupational Safety and Health Commission
- 5 Functions of the Commission
- 6 Constitution of the Commission and Appointment of Commissioners
- 7 Establishment of Technical Committees
- 8 Terms of office of members of the Commission
- 9 Meetings of the Commission
- 10 Allowances payable to members of the Commission
- 11 Appointment of the Occupational Safety and Health Commissioner

CHAPTER 3

ENFORCEMENT AND PREVENTION

- 12 Designation of Competent Authorities for administration and enforcement of occupational safety and health
- 13 Cooperation with public institutions for the administration of occupational safety and health
- 14 Designation and Powers of the Chief Inspector of Occupational Safety and Health
- 15 Designation and powers of an Inspector
- 16 Designation and functions of the Chief Inspector for Mines
- 17 Designation and functions of the Chief Medical Officer of Occupational Health

CHAPTER 4

OCCUPATIONAL HEALTH SERVICES

- 18 Monitoring the working environment
- 19 Medical Surveillance
- 20 Provision of employee wellness

CHAPTER 5

DUTIES AND RIGHTS IN RELATION TO OCCUPATIONAL SAFETY AND HEALTH

- 21 General duties of employer and persons in charge of premises
- 22 Duty to conduct risk assessment
- 23 Duty to provide protective equipment or clothing
- 24 Duty to inform
- 25 Duty to adopt and implement workplace policy and programme for safety and health
- 26 Duty to cooperate in shared workplace
- 27 General duties of self-employed persons

- 28 General duties of designers, manufacturers and others regarding articles and substances for use at work
- 29 Duties of Accounting Officer
- 30 Duty to appoint a Safety and Health Officer
- 31 Prohibition of violence and harassment in the workplace
- 32 General duties and rights of the worker
- 33 Right to nominate and elect safety and health representatives
- 34 General duties and rights of safety and health representatives
- 35 Safety and Health Committees
- 36 Duties related to notification of occupational accidents and dangerous occurrences
- 37 Duties related to the notification of occupational diseases
- 38 Registration of workplaces
- 39 Notification of commencement of building and construction work
- 40 Safety of Machinery
- 41 Notification of the use of carcinogens and other controlled substances

CHAPTER 6

ADMINISTRATION

- 42 Appointment of approved inspection authorities
- 43 Approved Guidelines
- 44 Codes Practice, Ethics and Conduct
- 45 Incorporation of safety and health standards
- 46 Regulations
- 47 Administration of Regulations
- 48 Exemptions

CHAPTER 7

VIOLATIONS, DISPUTES, PENALTIES AND APPEALS

- 49 Offences, penalties, disputes, legal proceedings, and special orders of court
- 50 Appeal in terms of this Act

CHAPTER 8

TRANSITIONAL PROVISIONS

- 1 Definitions
- 2 General Preservation of rights, duties, regulations, notices and other instruments

FIRST SCHEDULE

SECOND SCHEDULE

THIRD SCHEDULE

CHAPTER 1
PART I: INTRODUCTORY PROVISIONS

1 Definitions and interpretations

(1) In this Act, unless the context otherwise indicates -

“approved inspection authority” means an inspection authority approved by the Chief Inspector under section 42 in respect of a particular approved service;

“accounting officer” means the highest officer charged with the management of an organization, including public and private corporations.

“Chief Inspector of Occupational Safety and Health” means the officer designated under section 14 of this Act as Chief Inspector, and includes any officer acting as Chief Inspector;

“Chief Medical Officer of Occupational Health” means the officer designated under section 17 of this Act as Chief Medical Officer, and includes any officer acting as Chief Medical Officer;

“Commission” means the Occupational Safety and Health Commission established by section 3 of this Act;

“commuting accident” means an accident resulting in death or personal injury occurring on the direct way between the workplace and-

- (i) the worker’s principal or secondary residence;
- (ii) the place where the worker usually takes a meal; or
- (iii) the place where the worker usually receives his or her remuneration;

“Commissioner” means the officer designated under section 11 of this Act as Commissioner;

“competent authorities” means a government ministry or agency entrusted with power to administer national functions related to occupational safety and health, enforce legislation and monitor compliance therewith;

“dangerous occurrence” means a readily identifiable event with potential to cause an injury or disease to persons at work or to the public, and includes -

- (a) the structural failure of a building, structure, temporary false work or concrete form work;
- (b) the overturning or major failure of a crane or similar hoisting device;
- (c) contact with an uninsulated electrical conductor by any hoisting or excavating equipment, by any vehicle or by any load associated with that equipment or vehicle;
- (d) the structural failure of all, or part of, any temporary or permanent support for an excavated shaft, tunnel, caisson, coffer dam, trench or excavation;
- (e) the bursting of a grindstone or grinding wheel;
- (f) an uncontrolled spill or escape of toxic, corrosive or explosive substances that has, or may have, seriously affected the health and safety of any worker;
- (g) any premature detonation or uncontrolled use of explosives; or
- (h) the failure of a support system of any suspended platform;

“dispute” means any disagreement an employer or employers ‘organization and the worker, or worker’s organization have related to occupational safety and health;

“employer” means, subject to the provisions of section 20 of this Act, an employer as defined in section 1 of the Labour Act, 2007 (No. 11 of 2007);

“Executive Director” means the Executive Director of the Ministry responsible for labour;

“first aid” means immediate assistance given in case of injury or acute physical distress until medical aid has been obtained;

“health”, in relation to work, indicates the absence of disease or infirmity, and includes the physical and mental elements affecting health which directly relate to safety and hygiene at work;

“inspector” means a person designated under section 15 of this Act;

“Inspectorate” means the inspectorate and designated competent authorities responsible for enforcing the provisions of this Act in accordance with section 12 of this Act;

“labour court” means the labour court referred to in section 115 of the Labour Act, 2007 (Act No. 11 of 2007);

“machinery” means any article or combination of articles assembled, arranged or connected and which is used or intended to be used for converting any form of energy to performing work, or which is used or intended to be used, whether incidental thereto or not, for developing, receiving, storing, containing, confining, transforming, transmitting, transferring or controlling any form of energy;

“medical surveillance” means a planned programme of regular examinations of workers by an occupational health practitioner, and includes clinical examinations, biological monitoring or medical tests;

“Minister” means the Minister responsible for labour;

“Ministry” means the Ministry responsible for labour;

“occupational disease” means any disease contracted as a result of an exposure to risk factors arising from work activity including any disease listed under the Second Schedule;

“occupational health” means a discipline that aims at promoting and maintaining the highest degree of physical, mental and social well-being of workers in all occupations; preventing amongst workers departures from health caused by their working conditions; protecting workers in their employment from risks resulting from factors adverse to health; and placing and maintaining the worker in an occupational environment adapted to his or her physiological and psychological capabilities;

“occupational health practitioner” means a person registered as such and who holds a qualification in occupational health recognised as such by the Allied Health Professions Council of Namibia in terms of sections 5(b)(viii) and 17, respectively, of the Allied Health Professions Act, 2004 (Act No. 7 of 2004);

“occupational health services” means the services entrusted with essentially preventive functions and responsible for advising employers, workers and their representatives in the enterprise on -

- (i) the requirements for establishing and maintaining a safe and healthy working environment which will facilitate optimal physical and mental health in relation to work; and
- (ii) the adaptation of work to the capabilities of workers in the light of their state of physical and mental health;

“occupational hygiene” means the anticipation, recognition, evaluation and control of conditions arising in or from the workplace, which may cause illness or adverse health effects to persons;

“occupational safety and health system” is a national infrastructure that provides the main framework for implementing the national policy and national programmes on occupational safety and health;

“occupier” means the person who has control over a workplace and the work that is done there;

“plant” includes fixtures, fittings, implements, equipment, tools and appliances, and anything that is used for any purpose in connection with such plant;

“premises” includes any building, vehicle, vessel, train or aircraft;

“prescribed” means prescribed by regulation;

“properly used” means used with reasonable care, and with due regard to any information, instruction or advice supplied by the designer, manufacturer, importer, seller or supplier;

“reasonably practicable” means practicable having regard to -

- (a) the severity and scope of the hazard or risk concerned;
- (b) the state of knowledge reasonably available concerning that hazard or risk and of any means of removing or mitigating that hazard or risk;
- (c) the availability and suitability of means to remove or mitigate that hazard or risk; and
- (d) the cost of removing or mitigating that hazard or risk in relation to the benefits deriving therefrom;

“regulation” means a regulation made under section 46 of this Act;

“safety and health committee” means a joint management and workers’ committee established under section 35;

“safety and health equipment” means any article or part of it which is manufactured, provided or installed in the interest of the health or safety of any person;

“safety and health representative” means a person elected in terms of section 33 of this Act to represent the safety and health interests of their work group;

“safety and health standard” means any standard, irrespective of whether or not it has the force of law, which, if applied for the purposes of this Act, will in the opinion of the Minister promote the attainment of an object of this Act;

“security cluster” means –

- a) the Namibian Defence Force established in terms of section 5 of the Defence Act, 1957 (Act 44 of 1957),
- b) the Namibian Police Force established by section 2 of the Police Act, 1990 (Act 19 of 1990); or
- c) the Prison Service established under section 2 (1) of the Prisons Act, 1959 (Act 8 of 1959);

“substance” includes any solid, liquid, vapour, gas or aerosol, or combination of them;

“this Act” includes any regulation made under it;

“user”, in relation to plant or machinery, means the person who uses plant or machinery for his or her own benefit or who has the right of control over the use of plant or machinery, but does not include a lessor of, or any person employed in connection with, that plant or machinery;

“violence and harassment in the world of work” refers to a range of unacceptable behaviours and practices, or threats thereof, whether a single occurrence or repeated, that aim at, result in, or are likely to result in physical, psychological, sexual or economic harm, and includes gender-based violence and harassment.

“work” means any activity performed by any worker during the time that he or she is in the course of his or her employment, and a worker is deemed to be at work during such time as he or she devotes to work as a worker;

“worker” means a person who carries out work in any capacity, including a person who -

- (a) is an employee as defined in section 1 of the Labour Act, 2007 (No. 11 of 2007);
- (b) seeks to be engaged by another person to provide labour;
- (c) works for himself or herself, in either the formal or informal economy;
- (d) works as a contractor, a subcontractor, an employee of a contractor or subcontractor,
- (e) an apprentice or a trainee, a person gaining work experience or undertaking a work trial, or a volunteer worker.

“workplace” means any premises, physical area or place where a person performs work.

2 Scope of application of this Act

- (1) This Act applies to all workers and employers.
- (2) In case of conflict between a provision of this Act and a provision of any other **laws** listed in First Schedule, in connection with the safety and health of workers, unless the provision of other law is more favourable to the worker, the provision of this Act shall prevail to the extent of the conflict.

NATIONAL SYSTEM FOR OCCUPATIONAL SAFETY AND HEALTH

CHAPTER 2

INSTITUTIONAL AND ADVISORY ARRANGEMENTS

3 Establishment of the Occupational Safety and Health Commission

- (1) There is hereby established a Commission to be known as an Occupational Safety and Health Commission.
- (2) The Commission shall be under the jurisdiction of the Ministry responsible for Labour.

4 Power of Occupational Safety and Health Commission

- (1) For the purpose of this Act, the Commission shall have power to—
- (a) **oversee** the efficient cooperation and collaboration of competent authorities and institutions designated in Chapter 3 of this Act in **fulfilment** of requirements of the Act and related legal provisions.
 - (b) **advise** the Minister with regard to review of the provisions of this Act and related laws, formulate and review of regulations, standards, Codes of Practice and guidelines for the purpose of this Act;
 - (c) advise the Minister on ratification and application of the International Labour Organization Conventions, Protocol, Recommendations and Codes of Practice related to occupational safety and health;
 - (d) upon consulting the Minister with a **view to the performance** of its functions, conduct or cause conduction of such research and investigation as it may deem necessary
 - (e) exercise such other powers or perform such other duties and functions as may or is required to be performed or exercised by the Commission under this Act.

5 Functions of the Commission

- (1) The functions of the Commission shall be to:
- (a) coordinate the functions of authorities and institutions designated in Chapter 3 of this Act,
 - (b) develop and review of the national laws, regulations, and collective agreements related to occupational safety and health
 - (c) develop, implement and **review of the national** policies, programme, codes of practice, guidelines other relevant instruments on occupational safety and health
 - (d) adopt the application of standards and management systems related to occupational safety and health
 - (e) research, investigate or inquiry in relation to emerging issues, crises and any other matter relating to occupational safety and health
 - (f) provide for education, training and professional development for the purpose of occupational safety and health
 - (g) collect, analyse, compile and publish the national statistics on occupational safety and health
 - (h) promote the preventative culture for safety and health,
 - (i) establish safety and health mechanisms for small and medium enterprises and the informal economy,
 - (j) any other function, as may be directed by the Minister, to support and coordinate the functioning of the Commissioners, competent authorities and designated institutions; and
 - (k) promotion and applications of the international Labour standards resolutions and agreements
- (2) The national policies referred to in subsection (1) (d) shall aim to prevent accidents and injury to health arising out of, linked with or occurring in the course of work, by minimising the causes of hazards inherent in the working environment.
- (3) The Commission may, upon consulting the Minister with a view to the performance of its functions -
- (a) conduct or cause conduction of such research and investigation as it may deem necessary
 - (b) co-opt any non-voting number of persons with expert knowledge and experience whose assistance or advice it may require to any of its meetings, and
 - (c) establish technical committees to support its function.

- (4) The Chairperson of the Commission shall appoint any member of the Commission as chairperson of the technical committee established in terms of subsection (3)(c).
- (5) The Commission shall, within five months after the end of each financial year, prepare and submit to the Minister a report on its functions.
- (6) The report submitted to the Minister in terms of subsection (5) shall be laid upon the Table of the National Assembly by the Minister within one month after receipt thereof if the National Assembly is then in ordinary session, or, if the National Assembly is not then in ordinary session, within one month after the commencement of its next ensuing ordinary session.
- (7) The chairperson or any member of the Commission may exercise the powers conferred on an Inspector by section 15 in the performance of the Commission's functions.

6 Constitution of the Commission and appointment of Commissioners

- (1) The Commission shall comprise of 15 members appointed by the Minister, namely -
 - (a) the Chairperson
 - (b) four persons from the responsible authorities, which shall include -
 - (i) the Commissioner of Occupational Safety and Health or as appropriate any other nominated by the Commissioner,
 - (ii) the Chief Medical Officer of Occupational Health or as appropriate any other nominee of Minister responsible for health
 - (iii) the Chief Ship Surveyor or his/her nominee or as appropriate any other person as nominated by Minister responsible for the administration of the Merchant Shipping Act, and
 - (iv) the Chief Inspector of Mining Safety or as appropriate any other person nominated by the Minister responsible for mines.
 - (c) two persons representing other relevant authorities, which shall include -
 - (i) a person nominated by the Minister of Local Governments to represent the Local Authorities, and
 - (ii) a person nominated by the Social Security Commission.
 - (d) three persons to represent the interests of employers
 - (e) three persons to represent the interests of workers, including a person representing domestic workers; and
 - (f) one person representing the interest of persons in the informal economy.
- (2) Before appointing a member of the Commission, the Minister must, by notice in writing, invite nominations from -
 - (a) registered trade unions, if the member is to represent them; and
 - (b) registered employers' organisations, if the member is to represent them.
- (3) In appointing a person as a Commission member, the Minister must, where practically possible, aim for gender equity and representation of persons with disability.

7 Establishment of technical Committee

- (1) The Commission, with the approval of the Minister may establish such technical committee to advise the Commission on any matters regarding the performance of its functions.

- (2) In appointing a person as a technical committee member, the Chairperson of the Commission must consider the person's practical experience and competence relevance to the matter for which the committee is established.
- (3) A member of the Commission shall be designated as a Chairperson of the Committee.
- (4) The decision of the Committee shall be approved by the Commission

8 Terms of office of members of the Commission

- (1) The members of the Commission referred to in section 6 shall be appointed for a period of three years, and on such conditions as the Minister may determine.
- (2) Any member shall be eligible for reappointment, for second term only.
- (3) A member of the Commission, vacates his or her office if he or she -
 - (a) resigns by giving a signed notice of resignation to the Minister;
 - (b) is convicted of an offence for which the member is sentenced to imprisonment without the option of a fine, whether or not such sentence or part thereof is suspended;
 - (c) is absent from three consecutive meetings of the Commission without the permission of the Commission or the chairperson of the Commission acting with the authorisation of the Commission,
 - (d) ceases to hold the qualification or office on account of which he or she was appointed under section 5 (1);
 - (a) or is removed from office under subsection (4).
- (4) A member of the Commission may be removed from office by the Minister by notice in writing if -
 - (a) the member is unfit or mentally or physically incapable of efficiently performing the duties of a member
 - (b) the member, after due process, is found guilty of misconduct by the Minister; or
 - (c) the member's estate is sequestrated.
- (5) Whenever a vacancy occurs on the Commission, the Minister must, in accordance with Section 6(1) and (3), appoint a member to fill that vacancy for the unexpired term of office.

9 Meetings of the Commission

- (1) The Commission shall meet once in every three months of a 12-month period.
- (2) The members of the Commission shall, at the first meeting of the Commission's term, elect from amongst themselves, a vice-chairperson.
- (3) Notwithstanding the provisions of subparagraph (1), the Chairperson may call a special meeting at any time where it is deemed expedient for the transaction of the business of the Commission.
- (4) A majority of the members of the Commission shall constitute a quorum for a meeting of the Commission.
- (5) The Commission will adopt any other rules in relation to its meetings and meetings of the technical committees.
- (6) The Commission may co-opt any non-voting number of persons with expert knowledge and experience whose assistance or advice it may require to any of its meetings.

10 Allowances payable to members of the Commission

- (1) Subject to sections 18 of the Public Enterprises Governance Act, 2019 (Act No. 1 of 2019), including regulations made under that Act, the Minister shall determine allowances payable to the members of the Commission.
- (2) The allowance referred to in subsection (1) shall apply to the meetings stipulated in section 9 of this Act, to a maximum of six meetings in a 12-month period.

11 Appointment of the Occupational Safety and Health Commissioner

- (1) The Minister must, subject to the laws governing the public service, appoint a suitable person who has expertise relevant to the functions contemplated in section 5 of this Act as a Commissioner of Occupational Safety and Health.
- (2) The Commissioner
 - (a) is responsible for the administration of this Act;
 - (b) is responsible for carrying out of the resolutions of the Commission and manages the affairs of the Commission subject to the control and directions of the Minister.
- (3) The Executive Director may appoint such other worker as it considers necessary to assist the Commissioner in the performance of the functions of the Commission.
- (4) The Commissioner may delegate any of his or her functions to a staff member employed in the Ministry.
- (5) The Commissioner may attach conditions to a delegation and may amend or revoke that delegation at any time.
- (6) The Commissioner, as the case may be, shall not be divested or relieved of any power, function or duty delegated or assigned under subsection (4).
- (7) Whenever the office of the Commissioner is vacant, or the Commissioner is for any reason unable to perform the functions of the office, the Minister, may appoint a staff member of the Commission.

CHAPTER 3

ENFORCEMENT AND PREVENTION

12 Designation of competent authorities for administration and enforcement of occupational safety and health

- (1) Notwithstanding the provisions by Proclamation referred to in First Schedule and laws listed in First Schedule of this Act, the following institutions shall be designated as competent authorities responsible for the administration and enforcement of occupational safety and health in Namibia -
 - (a) the Inspectorate of occupational safety and health under jurisdiction of the Ministry responsible for Labour;
 - (b) the Ministry responsible for health; and
 - (c) the Ministry responsible for mining
- (2) The Proclamation referred to in First Schedule shall be deemed as promulgated under this Act.
- (3) The competent authorities referred to in this section shall cooperate and collaborate with the Commission on matters related to safety and health of workers.

13 Cooperation with public institutions for administration of occupational safety and health

- (1) Without derogating from the provisions of the laws listed in First Schedule of this Act; the Minister shall, upon consulting with the Council, by mean of a Gazette or Memorandum of Understanding, institute cooperation with the following public institutions, to perform functions under this Act, but not limited to-
 - (b) the Ministry responsible for maritime affairs,
 - (c) the institution responsible for road safety,
 - (d) the institution responsible for compensation for occupational injuries and diseases
 - (e) the Local Authorities,
 - (f) the Ministry responsible for environment,
 - (g) the institution responsible for standards;
 - (h) the Ministry responsible for public procurement, and
 - (i) the institution responsible for electricity.
- (2) The institutions referred to in this section shall cooperate and collaborate with the Commission on matters related to safety and health of workers.

14 Designation and Power of the Chief Inspector of Occupational Safety and Health

- (1) The Minister shall designate an officer serving in the Ministry under the Inspectorate of Occupational Safety and Health as Chief Inspector for the purposes of this Act.
- (2) The overall function of the Chief Inspector is to enforce the provisions on occupational safety and health in terms of this Act.
- (3) The Chief Inspector shall provide oversight over the functions of the Inspectors.
- (4) The Chief Inspector perform his or her functions and give effect to section 12 of this Act by exercising his or her authority over –
 - (a) appointment of the approved inspection authorities
 - (b) appointment of competent person in terms of prescribed criteria
 - (c) permits, certificate and licenses issued in connection with this Act
 - (d) commencement of dangerous work
 - (e) installation and testing performed in connection of this Act
 - (f) inquiry into and investigation of notifications of occupational accidents and dangerous occurrences
 - (g) inspection, enforcement and compliance mechanisms
 - (h) advice and support to employers and workers to enable them to comply with this Act, and
 - (i) any other function as required by the Commissioner.
- (5) The Chief Inspector shall hold such powers as designated in Section 15 of this Act.
- (6) The Chief Inspector may delegate any of the Chief Inspector’s functions to any individual employed in the Ministry.

15 Designation and power of an Inspector

- (1) The Minister shall issue each appointed Inspector with a certificate confirming the appointment and empowering such Inspector to -
 - (a) enter freely and without previous notice, and as appropriate, at any hour of the day or night any workplace liable to inspection;
 - (b) enter by day any premises which they may have reasonable cause to believe to be liable to inspection;
 - (c) enter at all reasonable times, day or night any medical institution, with the consent of the head of the institution where an injured worker is admitted in order to conduct inquiry and investigation;

- (d) enter, with the consent of the head of any undertaking, any building provided by the employer as lodging accommodation for workers, in order to conduct inspection inquiry or investigation as may be necessary;
 - (e) require a member of the Namibian Police Force to assist in the exercise of the powers referred to in this subsection;
 - (f) request any individual to assist as an interpreter or otherwise in the exercise of the powers referred to in this subsection;
 - (g) issue a compliance order in the prescribed form instructing the employer to comply with specific provisions within a specified period.
 - (h) impose fines for non-compliance to the order contemplated in sub-section (2) (g) or any offence under this Act or regulations made under this Act, to be paid by the offenders to the Public Treasury.
- (3) An Inspector may enter premises and conduct a search in terms of subsection (1)(a) only if it is done in accordance with Chapter 2 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977) and as if –
- (a) a labour inspector is a police official; and
 - (b) any book, document or object is concerned with the commission of an offence.
- (4) An Inspector must issue a receipt for any book, document or object seized in terms of this section.
- (5) (a) An Inspector who has reasons to believe that an employer or a person in charge of any premises or place of work;
- (i) requires or permit particular work activity, process or use of machinery that threatens or is likely to threaten the safety or health of a worker or any other person,
 - (ii) has continuously contravene any of the provision of this act,
 - (iii) may in writing prohibit that employer from continuing or commencing with the particular activity, process or use of machinery.
- (b) A prohibition imposed under paragraph (a), may at any time be revoked by an inspector in writing if action has been taken to the satisfaction of the inspector to dispose of the threat which gave rise to the imposition of the prohibition.
- (c) In order to enforce a prohibition imposed under paragraph (a) an inspector may block, barricade or fence off that part of the workplace, plant or machinery to which the prohibition applies, and no person shall interfere with or remove such blocking, barricade or fence.
- (6) In exercising the powers referred to in subsection (2), the Inspector shall carry out any examination, test or enquiry which he or she may consider necessary, in particular -
- (a) to subpoena any person for the purpose of any matter concerning the application of the Act
 - (b) to interrogate, alone or in the presence of witnesses, the employer or the staff of the undertaking on any matters concerning the application of the Act
 - (c) to require the production of any books, registers or other documents the keeping of which is prescribed by national laws or regulations relating to conditions of work, in order to see that they are in conformity with the legal provisions, and to copy such documents or make extracts from them
 - (d) to enforce the posting of notices required by the Act, and
 - (e) to take or remove for purposes of analysis samples of materials and substances used or handled, subject to the employer or his representative being notified of any samples or substances taken or removed for such purpose.

- (7) Any member of the Namibian Police Force requested to assist in terms of subsection (2) (e) or any individual requested to assist, may accompany the inspector as if that member or individual were an inspector.
- (8) Any individual in charge of any premises in which individuals are employed must provide facilities as may be reasonably required in order for an inspector to exercise the powers referred to in this section.
- (9) An employer shall forthwith bring the contents of a prohibition, orders or notice under this section to the attention of the safety and health representatives and workers concerned.

16 Designation and functions of Chief Inspector for Mines

- (1) Pursuant to the Proclamation No. 10 of Labour Act, 2007 on Assignment of the provisions of the Regulations relating to the Health and Safety of Employees at Work, and without derogating from provision of the Minerals (Prospecting and Mining) Act 33 of 1992, and the Mines, Works and Minerals Ordinance, 1968, the Minister shall assign an officer serving in the Ministry responsible for mining as Chief Inspector of Mines for the purposes of this Act.
- (2) The Chief Inspector of Mines shall perform his or her functions and give effect to section 12 of this Act by exercising assigned authority over –
 - (a) permits, certificates and licenses issued in connection with this Act
 - (b) commencement of mining activities and dangerous work in mines
 - (c) installation, testing and use of dangerous machinery
 - (d) inquiry into and investigation of notifications of occupational accidents and dangerous occurrences in mines
 - (e) inspection, enforcement and compliance mechanisms in mines
 - (f) advice and support to employers and workers to enable them to comply with this Act, and
 - (g) any other relevant function as required by the Commissioner.
- (3) The Chief Inspector shall hold such powers as designated in Section 15 of this Act.

17 Designation and functions of Chief Medical Officer of Occupational Health

- (1) Pursuant to the Proclamation No. 10 of Labour Act, 2007 on Assignment of the provisions of the Regulations relating to the Health and Safety of Employees at Work, the Minister shall assign an officer serving in the Ministry responsible for health as Chief Medical Officer of Occupational Health for the purposes of this Act.
- (2) The Chief Medical Officer of Occupational Health shall perform his or her functions and give effect to section 12 of this Act by exercising assigned authority over –
 - (a) minimum requirements for occupational health services and facilities,
 - (b) minimum requirements for first aid and emergency arrangements and training
 - (c) permits, certificates, and licenses issued for the purpose of this Act
 - (d) determination of biological exposure indices and occupational exposure limits to hazardous substances
 - (e) inquiry into and investigation of notifications of occupational diseases,
 - (f) authorization for importation, mixing, production, use, processing or handling of hazardous substance,

- (g) Reviewing applications for and designating occupational health practitioners and medical practitioners to undertake occupational medical surveillance
 - (h) designating occupational health medical practitioners to undertake the specialized medical examination of –
 - (i) divers or prospective divers, and
 - (ii) aviation workers or prospective aviation workers
 - (i) facilitating follow-up and compensation for occupational diseases in conjunction with the institution responsible for employee compensation
 - (j) determination of the minimum requirements and scope of occupational medical surveillance and periodic review of medical surveillance plans
 - (k) receiving and reviewing notifications of levels of exposure in excess of the exposure limits
 - (l) maintaining a register for workers engaged in the silica process, and sandblasters
 - (m) maintaining the records of biological monitoring of workers that have left employment
 - (n) provision of guidance on personal protective equipment selection
 - (o) maintaining database of material safety data sheets
 - (p) approval of asbestos processing as well as results of asbestos measurements
 - (q) Reviewing results of lead monitoring, and other heavy metals of significant health concern, and
 - (r) any other function as required by the Commissioner.
- (3) The Chief Medical Officer of Occupational Health shall hold such powers as designated in Section 15 (2) (a), (b) and (c) of this Act.

CHAPTER 4

OCCUPATIONAL HEALTH SERVICES

18 Monitoring the working environment

- (1) Every employer shall ensure that the working environment where-
 - (i) there is a substance hazardous to health to which workers are or likely to be exposed,
 - (ii) the exposure to that substance may cause adverse effect to health or may lead to notifiable occupational disease, as listed on Second Schedule,
 - (iii) the employer's risk assessment indicates a need to establish and maintain a system of occupational hygiene measurements, or
 - (iv) the Chief Medical Office or Inspector has advised for such surveillance,
 is under suitable surveillance.
- (2) Employer shall maintain occupational hygiene measurement records, on site for a minimum of five years.
- (3) The employer shall, for the period of 30 years after the end of employment of any worker potentially exposed to hazardous substances, keep a register of occupational exposures and exposure monitoring.
- (4) The employer shall ensure appropriate maintenance of these records referred to in subsection (3) and their use for the establishment of preventive measures.

19 Medical Surveillance

- (1) Every employer shall place workers who are-
 - (i) exposed or liable to be exposed to substances that are likely to cause occupational diseases listed in the Second Schedule of this Act, or an adverse effect may be related to the exposure,
 - (ii) working in the work listed in the Third Schedule of this Act, or
 - (iii) on the advice of the Chief Medical Officer or Occupational Health Practitioner, under medical surveillance.
- (2) The medical surveillance shall be carried out by persons registered as Occupational Health Practitioner.
- (3) The surveillance contemplated in subsection (1) shall include the medical examination of the workers before they are employed, during their employment, and after the termination of their employment.
- (4) In addition to the minimum requirement conferred in section 17 (j), employer shall, with the advice of Occupational Health Practitioner, use company occupational risk profile to set the medical surveillance requirement.
- (5) The medical surveillance shall be conducted at the expense of the employer and during working hours, without loss in pay to the worker being examined.
- (6) The employer shall provide suitable facilities at the workplace for the medical surveillance and facilitate the performance of the examinations.
- (7) The conclusions of the medical surveillance shall be expressed in terms of the worker's fitness to work.
- (8) The employer shall keep a medical surveillance record for every worker for a period of 30 years.

20 Provision of employee wellness

- 1) The employer shall integrate employee Wellness Program into occupational safety and health policy and programmes, to ensure holistic employee health promotion and maintenance.
- 2) The employer shall adapt and integrate psychosocial into occupational risk assessment and control mechanism, inclusive of the provision of psychosocial support to prevent occupational and non-occupational stress.

CHAPTER 5 DUTIES AND RIGHTS IN RELATION TO OCCUPATIONAL SAFETY AND HEALTH

21 General duties of employers and persons in charge of premises

- (1) Every employer or person in charge of premises shall, without charge to the workers, provide and maintain a working environment that is safe and without risk to the health of workers.
- (2) An employer or person in charge of premises shall provide without charge to workers first aid and emergency arrangements.
- (3) An employer or person in charge of premises shall provide appropriate, adequate and accessible welfare facilities inclusive of safe entry and exit for men and women including workers with disabilities.

- (4) An employer or person in charge of premises who has entered into an agreement with a contractor to perform certain tasks shall ensure that such a contractor complies with this Act
- (5) No employer or person in charge of premises shall –
 - (a) operate a workplace unless it is registered under section 38.
 - (b) commence the building, construction or electrical installation work unless duly authorized under section 39.
 - (c) erect, operate and maintain the dangerous machinery unless in possession of an appropriate permit issued under section 40.
 - (d) use the carcinogens and other controlled substances unless **dully** authorized under section 41.

22. Duty to conduct risk assessment

- (1) Every employer shall conduct his or her undertaking in such a manner to ensure, as far as is reasonably practicable, workers and persons other than those in his or her employment not thereby exposed to hazards to their safety or health.
- (2) Every employer shall cause the hazard identification and risk assessment to be conducted by an appropriately trained person, to any work that is performed or may be performed by any of his or her workers, including the risks or potential risks to the health and safety of workers associated with such work, or to the health and safety of any other person who may be affected by such work;
- (3) Employer shall take precautionary measures to eliminate the hazards at their source, and only if such is not reasonably practicable, then minimize the hazards or reduce the risks caused by the hazards by means of minimizing-
 - (a) the effects of the hazard at its source;
 - (b) the effects of the hazards on workers; and
 - (c) the level and period of exposure of workers to the hazard by means of the arrangement and organization of work.
- (4) The risk assessment made under subsection (1) shall include psychosocial hazards.
- (5) The risk assessment made under subsection (1) shall be documented, and reviewed by the employer –
 - (a) not later than 3 years;
 - (b) earlier when there is significant change in work processes, or
 - (c) upon being directed by the Inspector.

23 Duty to provide protective equipment or clothing

- (1) The employer shall provide workers with appropriate and adequate personal protective equipment and clothing to prevent risks of accidents or of adverse effects on health -
 - (a) if the hazard identified could not be reasonably practicably reduced, or

- (b) as a temporary measure while other steps are being taken to eliminate or reduce the hazard concerned.
- (2) All safety equipment and facilities, including personal protective equipment and clothing issued in terms of any provision of this Act, shall be -
 - (a) appropriate and effective for the purposes for which they are provided;
 - (b) supplied free of charge and at reasonable intervals;
 - (c) maintained in an effective or working order and in a clean conditions; and
 - (d) available at each workplace in sufficient quantities to ensure that any worker who is required to use personal protective equipment or clothing, is in a position to use such equipment or clothing.

24 Duty to inform

- (1) In fulfilling the duty to provide information, instructions, training and supervision to work safely and without risk to health; the employer shall -
 - (a) inform workers and their safety and health representatives about the hazards and risks associated with work and related processes.
 - (b) inform workers and other persons likely to be affected of the precautionary measures that they should take and observe with respect to identified hazards.
 - (c) inform and consult safety and health representatives about planned hazard and risk control measures, including policies and procedures.
 - (d) instruct any worker not to work in a place or in circumstances where the use of safety equipment, clothing or facilities are required by the Act, unless the worker uses the safety equipment, clothing or facility so required.
 - (e) instruct any worker required to use protective equipment on the proper use, the maintenance and the limitations of such equipment or clothing.
 - (f) inform the safety and health representatives concerned beforehand of inspections, investigations or formal inquiries of which an inspector has notified him or her.
 - (g) inform the safety and health representative of any order and notice issued in terms of section 15 (2) (g) and 15 (5) (a) (iii) of this Act.
 - (h) inform a safety and health representative as soon as possible of the accident or dangerous occurrence in the workplace or section of it for which such representative has been elected.
 - (i) Inform workers on other right as stipulated in section 32 (3), 33 and 34.
- (2) The employer shall convey information timely and, in a manner, easily and clearly understood by workers and other persons likely to be affected.

25 Duty to adopt and implement the workplace policy and programme for safety and health

- (1) An employer shall, in consultation with the work-place safety and health representatives, regularly prepare and review a written policy and programme that aim for the prevention of work-related accidents and diseases.

- (2) The safety and health policy contemplated in subsection (1) shall specify –
 - (a) the aims and objectives of the policy; and
 - (b) the general approach, means and measures to be adopted in order to achieve the objectives of the policy.
- (3) The safety and health programme of an employer shall in detail specify-
 - (a) the employer's safety and health arrangements for the hazard identification and prevention of safety and health risks including violence and harassment;
 - (b) the responsibilities relating to safety and health of persons occupying positions concerning the safety and health programme, or holding supervisory positions;
 - (c) the programme aimed at improving the working conditions at the workplace, including, but not limited to –
 - (i) safety and health awareness programmes and training programmes;
 - (ii) health promotion and wellness programme
 - (iii) the procedures and methods to be adopted to implement the safety and health programme and policy.
- (4) The safety and health policy and program contemplated in subsection (1) must be accessible for all workers.

26 Duty to cooperated in shared workplace

- (1) The employers, contractors and self-employed workers organising work at the same workplace shall enter into a written agreement relating to the:
 - (a) safety and health workplace policy and program,
 - (b) risk assessment and hazard identification,
 - (c) precautionary measures and safe working procedures,
 - (d) personal protective equipment and clothing,
 - (e) safety and health representatives,
 - (f) safety and health committee,
 - (g) first aid and emergency arrangements,
 - (h) welfare facilities,
 - (i) accommodation facilities, if applicable,
 - (j) recording, reporting and investigation of accidents, and
 - (k) any other relevant matters
- (2) Without derogating from section 21 of this act, the Chief Inspector may, if necessary, for the purpose of this Act, designate the employer to exercise the main authority at a shared workplace
- (3) The employer designated in subsection (2) shall coordinate the duties in subsection (1).

27 General duties of self-employed persons

- (1) Every self-employed person shall conduct his or her undertaking in such a way as to ensure that he or she and any other person who is not his or her worker who may be affected thereby is not exposed to risks to safety or health.
- (2) Every self-employed person shall give relevant safety and health information to a person who may be affected by the manner in which the self-employed person conducts his or her undertaking, on such aspects of the way he or she conducts his or her business as may affect safety or health.

28 General duties of designers, manufacturers and others regarding articles and substances for use at work

- (1) Any person who designs, manufactures, imports, sells or supplies any article and substance for use at work shall -
 - (a) ensure that the article or substance is safe and without risks to health when properly used; and
 - (b) take such steps as may be necessary to ensure that information is available with regard to the use of the article or substance at work, the risks to safety and health associated with such article or substance, the conditions necessary to ensure that the article or substance will be safe and without risks to health when properly used and the procedures to be followed in the case of an accident involving such substance.
- (2) Any person who erects or installs any article for use at work or in any premises, shall –
 - (a) ensure, as far as is reasonably practicable, that nothing about the manner in which it is erected or installed makes it unsafe or creates a risk to health when properly used
 - (b) avail information concerning the correct installation, use, maintenance and disposal of the machinery, plant or equipment and provide information on any likely hazards and means to prevent or control them.
- (3) Any person who manufactures, imports or supplies any substance for use at work that presents such intrinsic health or physical hazards as may be prescribed, shall –
 - (d) ensure that the packaging and labelling on containers of the substance comply with such standards as may be prescribed, and
 - (e) provide to any person supplied with such substance by him or her, material safety data sheets.
- (4) Any person who handle, transport and dispose chemicals and other hazardous substances, shall comply with established suitable system for the safe collection, packaging, collection, transportation, recycling and disposal of chemical wastes, obsolete chemicals and empty containers of chemicals to avoid the risks to safety and health of workers and to the environment.
- (5) For the purpose of this Act, a person responsible for the civil engineering of a structure under construction or to be constructed is a designer of that structure.

29 Duties of Accounting Officer

- (1) The Accounting Officer of an organisation shall ensure that such organisation complies with the Act.
- (2) The Accounting Officer contemplated in subsection (1) may in writing delegate to any person under his or her control any duty contemplated in that subsection,
- (3) A person delegated in subsection (2) shall perform such duty on behalf of and subject to the control of the Accounting Officer, but the Accounting Officer shall not be relieved from any duty so delegated by him or her.
- (4) The Accounting Officer or the person delegated in subsection (2) shall be a member of the workplace safety and health committee and shall take part in all the activities of the committee as part of his or her duties and functions of employment.
- (5) For the purposes of this Act, the Executive Director of a Ministry is the Accounting Officer of that Ministry.

30 Duty to appoint a Safety and Health Officer

- (1) Every employer shall, subject to subsection (7) appoint a safety and health officer for the purpose of assisting him or her to comply with the provisions of this Act who has in writing consented thereto.
- (2) The appointed safety and health officer shall be required to monitor and evaluate the employer's compliance with its safety and health policy, with the provision of the Act and with the regulations.
- (3) The employer shall provide to every safety and health officer sufficient time and adequate resources to enable him or her to discharge his or her duties.
- (4) In the event of a vacancy in the position of Safety Officer, whether due to removal, resignation, or any other cause, the employer shall, within 30 days, appoint a replacement Safety Officer and comply with the provisions of section.
- (5) A safety and health officer shall on resignation or removal from office shall by certified post inform the Chief Inspector -
 - (a) that he or she has resigned or been removed from office;
 - (b) of the date of his or her resignation or removal from office;
 - (c) of the date up to which he or she performed his or her duties;
 - (d) of any matters with respect to the occupational safety and health of the employer of which he or she was aware, at the time of his or her resignation or removal, which were in contravention of the provisions of this Act.
- (6) Notwithstanding the duty imposed on every employer by subsection (1) the Minister may, from time to time, in consultation with the relevant minister responsible for a particular sector, prescribe, by notice in the Gazette, the specific qualifications to be possessed by a safety and health officer to be appointed by a certain class of employer.
- (7) A firm may be appointed as a safety and health officer for a corporation, provided that each partner in the firm is qualified to be so appointed based on the prescribed criteria in subsection 8.

31 Prohibition of violence and harassment in the workplace

- 1) Every worker has the right to a respectful and safe work environment, free from violence and harassment.
- 2) No person shall engage in any improper conduct or behaviour at a workplace that constitute a physical or psychological hazard to any person.
- 3) The employer must establish and enforce policies against violence and harassment in the workplace ensuring mutual respect, a safe and healthy work environment for all workers.
- 4) Subject to section 19 employer shall identify all factors that contribute to work place violence and harassment, and assess the risk for work place violence and harassment accordingly. Assessment of violence and harassment at workplace must consider-
 - (a) previous experience of violence or harassment in that workplace,
 - (b) occupational experience in similar workplaces, and
 - (c) the physical work environment and circumstances in which work will take place.
- 5) Subject to section 19 (3) employer shall take appropriate measures to prevent violence and harassment. Special precautions must be provided for worker assigned to work in isolation or work late at nights.

32 General duties and rights of the worker

- (1) Workers have a right to a safe and healthy working environment
- (2) Every worker shall -

- a) take reasonable care for the safety and health of himself or herself, and of other persons who may be affected by his or her acts or omissions;
 - b) avail himself or herself to participate in any activity as arranged by the employer for information, instructions, and training in relation to safety and health,
 - c) as regards any duty or requirement imposed on his or her employer or any other person by this Act, cooperate with such employer or person to enable that duty or requirement to be performed or complied with;
 - d) carry out any lawful order given to him or her, and obey the safety and health rules and procedures laid down by his or her employer or by anyone authorized by his or her employer, in the interest of health or safety;
 - e) report unsafe situation to his or her employer or to the safety and health representative for his or her workplace or a section of it, who shall report it to the employer; and
 - f) report any incident which may affect his or her health or which has caused an injury to himself or herself, to the employer or to anyone authorized by the employer, or to his or her safety and health representative, as soon as possible but not later than the end of the particular shift during which the incident occurred.
- (3) If a worker has reasonable cause to believe that he or she is exposed to eminent or serious danger to the health or safety, that worker may leave that place.
 - (4) If a worker leaves a place of work in terms of subsection (3), the worker must immediately inform the employer of the basis for believing that it is not safe or healthy to continue working there, and should stay in contact with the employer
 - (5) An employer shall not dismiss or in any other way take disciplinary action against a worker for exercising his or her rights in terms of this section and any such action by an employer shall be regarded as unfair dismissal.
 - (6) A worker who leaves a place of work in terms of this section is entitled to the same conditions of service applicable to that worker and to receive the same remuneration during the period of absence.

33 Right to nominate and elect safety and health representatives

- (1) Workers in a workplace -
 - a) with less than 100 workers, are entitled to elect from among themselves at least one safety and health representative; or
 - b) with 101 or more workers, are entitled to elect from among themselves at least one safety and health representative for the first 100 workers in the workplace, and at least one other representative for each additional 100 workers, or part of it; but, the employer and the workers or the trade union representing the workers may agree to a greater number of safety and health representatives.
- (2) Every worker shall have the right to nominate and elect safety and health representatives at the workplace.
- (3) Whenever it is necessary to conduct an election for a safety and health representative -
 - a) the election must be conducted by secret ballot; and
 - b) the employer must provide any facilities that are reasonably necessary for the purposes of conducting the election.

- (4) Elected safety and health representatives hold office for two years and may stand for re-election.

34 General duties and rights of safety and health representatives

- (1) In respect of the workplace or section of the workplace for which he or she has been elected, a safety and health representative has the right to perform the following functions-
- (a) review the effectiveness of safety and health measures;
 - (b) identify potential hazards at the workplace;
 - (c) in collaboration with his or her employer, examine the causes of incidents at the workplace;
 - (d) investigate complaints by any worker relating to the occupational safety or health of that worker;
 - (e) make representations to the employer or a safety and health committee on matters arising from paragraphs (a), (b), (c) or (d), or where such representations have not succeeded, to an inspector;
 - (f) make representations to the employer on general matters affecting the safety or health of workers at the workplace;
 - (g) inspect the workplace, including any article, substance, plant, machinery or safety and health equipment at that workplace with a view to the safety and health of workers, at such intervals as may be agreed upon with the employer, provided that the safety and health representative give reasonable notice of his or her intention to carry out such an inspection to the employer, who may be present during the inspection;
 - (h) submit a copy of the written report to the safety and health officer and to the employer.
 - (i) participate in consultations with inspectors at the workplace and accompany inspectors on inspections of the workplace; and
 - (j) in his capacity as a safety and health representative attend meetings of the safety and health committee of which he is a member, in connection with any of the above functions.
- (2) A safety and health representative shall, in respect of the workplace or section of the workplace for which he or she has been elected be entitled to-
- (a) visit the site of an incident at all reasonable times and attend any inspection;
 - (b) attend any investigation or formal inquiry held in terms of this Act;
 - (c) in so far as it is reasonably necessary for performing his or her functions, inspect any document which the terms of this Act require the employer to keep;
 - (d) accompany an inspector on any inspection;
 - (e) with the approval of the employer (which approval shall not be unreasonably withheld), be accompanied by a technical adviser, on any inspection; and
 - (f) participate in any internal health or safety audit.
- (3) An employer must provide such facilities, assistance and training to enable the safety and health representative carrying out of his or her functions and improve the safety and health in the workplace.
- (4) Employer must consult the Safety and Health Representatives-

- (a) on any policy pertaining to safety and health that may apply to the workers represented by that representatives.
 - (b) in planning any change to the content, process or organization of the work that may affect the safety, health or welfare of the workers represented by the representative.
- (4) A safety and health representative shall not incur any civil liability only because he or she failed to do anything which he or she may do or is required to do in terms of this Act.

35. Safety and health committees

- (1) Every employer of 20 or more workers shall establish a safety and health committee at the workplace.
- (2) A safety and health committee shall comprise an equal number of representatives elected by workers and of representatives appointed by the employer.
- (3) Safety and health representatives elected in terms of section 33 shall elect among themselves, the safety and health committee referred in subsection (1) to represent their interests.
- (4) Employer shall appoint members of the safety and health committee referred in subsection (1) to represent his or her interests.
- (5) The members of a safety and health committee shall serve for such period as may be determined by the employer, while the safety and health representatives shall be members of the committee for the period of their election in terms of section 33.
- (6) A safety and health committee shall hold meetings at least once every three months, at a time and place determined by the committee.
- (7) A safety and health committee may co-opt one or more persons by reason of his or her or their particular knowledge of safety or health matters as an advisory member or members of the committee; who shall not have the right to vote on any matter before the committee.
- (8) A safety and health committee shall -
 - (a) monitor the application of health and safety regulations and rules in the workplace;
 - (b) advise the employer on any matter concerning health, safety and welfare in the workplace;
 - (c) discuss occupational accidents, dangerous occurrences and occupational diseases and make recommendations to the employer,
 - (d) make recommendations to the employer or, where the recommendations fail to resolve the matter, to an inspector regarding any matter affecting occupational safety and health shall perform such other functions as may be prescribed.
- (9) A safety and health committee shall keep record of each recommendation made to an employer in terms of subsection (1)(g) and of any report made to an inspector in terms of subsection (1)(g).
- (10) The employer shall provide the committee with such facilities and assistance, as are reasonably required for the purpose of carrying out its functions;
- (11) A safety and health committee or any of its members shall not incur any civil liability only because it, he or she failed to do anything which it, he or she may or is required to do in terms of this Act.

- (12) To perform any action incidental to the function of the committee.

36 Duties related to notification of occupational accidents and dangerous occurrences

- (1) The employer shall provide appropriate information to workers and their representatives concerning the recording and reporting of any accident or dangerous occurrence.
- (2) The employer shall refrain from instituting retaliatory or disciplinary measures against a worker for reporting an occupational accident, dangerous occurrence, or commuting accident.
- (3) In the event of an accident, including commuting accidents, or dangerous occurrence in or in connection with a workplace, including a mine, or if a worker dies, or suffers a serious injury as a result of such an accident or dangerous occurrence, the employer shall, in accordance with the regulations -
 - (a) notify the Chief Inspector through the quickest means available, including by telephone, email or by fax;
 - (b) notify the appropriate workplace safety representative of any accident or dangerous occurrence;
 - (c) in co-operation with the workplace safety representatives, conduct an investigation into any accident or dangerous occurrence required to be reported;
 - (d) report the death, injury, accident or dangerous occurrence, as the case may be, to the Chief Inspector in the prescribed form within a period of seven days of such accident or occurrence, or within such shorter period of time as the Chief Inspector may in writing notify the employer.
- (4) The notification contemplated in subsection (3) shall include data on:
 - (a) the enterprise, establishment and employer;
 - (b) if applicable, the injured persons and the nature of the injuries; and
 - (c) the workplace, the circumstances of the accident or the dangerous occurrence
- (5) The employer shall, for the period of 45 years, keep a register of occupational accidents, or dangerous occurrences at the workplace, and a copy of every form sent to the Chief Inspector in respect of any such accident or occurrence.
- (6) The employer shall ensure appropriate maintenance of these records referred to in subsection (5) and their use for the establishment of preventive measures.
- (7) The Minister, in consultation with the Minister responsible for the administration of Justice, may from time to time, by notice in the Gazette, prescribe rules for the keeping of records required in terms of this Act

37 Duties related to notification of occupational diseases

- (1) The employer shall provide appropriate information to workers and their representatives concerning the recording and reporting of suspected and confirmed occupational diseases.
- (2) The employer shall refrain from instituting retaliatory or disciplinary measures against worker for reporting an occupational exposure, or upon consulting a medical practitioner for a suspected occupational disease or confirmed occupational disease.
- (3) Where a medical practitioner suspects or finds that any person is suffering from any occupational disease listed in the Schedule 2, or of any other disease that he or she believes was caused by that person's current or past employment, he or she shall immediately notify the employer and the Chief Medical Officer of Occupational Health.
- (4) Upon receipt of a notification under subsection (2) and (3), the employer shall in accordance with the regulations –

- (a) in co-operation with the safety and health representatives, conduct an investigation into possible exposure to the hazards in relation to the suspected or confirmed occupational disease
 - (b) within seven days notify the Chief Medical Officer of Occupational Health in a prescribed form of the occupational disease which has or is suspected to have occurred.
- (5) The notification contemplated in subsection (4) shall include data on:
- (a) the enterprise, establishment and employer;
 - (b) the name, address and place of work of the person concerned
 - (c) the nature disease;
 - (d) the workplace, and the circumstances of the exposure to health hazards, and
 - (e) any other relevant information as might be determined by the Chief Medical Officer of Occupational Health
- (6) The employer shall, for the period of 30 years after the end of employment of any worker with suspected or confirmed occupational disease, keep a copy of every form sent to the Chief Medical Officer of Occupational Health.

38 Registration of workplaces

- (1) No person shall operate a workplace which is not registered under this Act.
- (1) An application for the registration of any premises as a workplace shall be lodged with an inspector in the prescribed form, duly completed, together with the prescribed plans and particulars.
- (2) All plans submitted shall be accurate prints or drawings in ink on durable material to the satisfaction of the inspector.
- (3) The workplace contemplated in subsection (1) does not include premises in which low risk activities are conducted by less than 50 people.

39 Notification of commencement of building and construction work

- (4) A person who intends to commence building or construction work shall give not less than 30 days' notice of such intention to the Chief Inspector.
- (2) A notice contemplated in subsection (1) shall include –
 - (a) the names of the main contractor and of any sub-contractors to be engaged on the work;
 - (b) the address where the building work is to be carried out;
 - (c) the nature of the work;
 - (d) the expected dates of commencement and completion of the building work; and
 - (e) the total number of employees to be engaged on the work.

40 Safety of Machinery

- (1) All machinery shall be designed, constructed and installed in such a manner that it is safe and suitable for the function for which it is to be used, and that it can be adjusted, used and maintained without putting persons at risk.
- (2) An employer shall, to the satisfaction of the Chief Inspector appoint in writing a competent person to take charge of all machineries under his or her supervision and control.
- (3) The employer may apply in the prescribed form, to the Chief Inspector for approval of a Competent person according to the prescribed criteria.

- (4) No dangerous machinery may be operated and maintained without the supervision and control of a competent person.

41 Notification of the use carcinogens and other controlled substances

- (1) No person shall import, mix, produce, use or handle carcinogens and other controlled substances without the written permission of the Chief Medical Officer for Occupational Health.
- (2) A person contemplated in subsection (1) shall notify the Chief Medical Officer for Occupational Health in the prescribed form of such intended importation, mixing, producing, use or handling.
- (3) The Chief Medical Officer of Occupational Health may, upon receipt of a notification contemplated in subsection (2) and subject to any other law, in writing authorize the importation, mixing, producing, use or handling of such substance, if he or she is satisfied that all prescribed and other preventative measures have and will be taken.

CHAPTER 6 ADMINISTRATION

42 Appointment of approved inspection authorities

- (1) The Chief Inspector shall, in consultation with the Advisory Council develop criteria for the approval of inspection authorities.
- (2) Any juristic person who satisfies the criteria in subsection (1) may, in accordance with the prescribed form, apply to the Chief Inspector to be an approved inspection authority.
- (3) The Chief Inspector must assess an application in terms of subsection (2) to determine whether the applicant has the necessary expertise to render a particular service as an approved inspection authority and may approve or refuse such application.
- (4) The Chief Inspector must issue a certificate signed by him or her to any juristic person who applies to be an Approved Inspection Authority and whose application he or she has approved as well as the standard for performance in terms of subsection (11)
- (5) The certificate referred to in subsection (4) must state the approved scope of competencies of the Approved Inspection authority, the name of the natural person whose competencies support the application, and the period of time for which the Chief Inspector has allowed the approved inspection authority to serve in that capacity.
- (6) The Chief Inspector may in writing permit an approved inspection authority to perform inspection, investigation, testing, sampling, analysis, training and any other function in this Act or prescribed.
- (7) No person may perform any service contemplated in subsection (6) unless he or she possesses a valid certificate issued under subsection (4), authorizing him or her to render such service.
- (8) No Approved Inspection Authority may perform any function in subsection (6) without the supervision and control of natural person whose competencies are on the certificate in subsection (4).
- (9) If an approved inspection authority performs any service contemplated in subsection (6), he or she shall provide the employer concerned with a report stating the findings of his or her service, and shall retain a copy of the report for a period of five years which may be examined on request by an inspector or a safety and health representative.
- (10) An approved inspection authority shall submit the annual report on the function performed in terms of subsection (5).

- (11) The Chief Inspector shall, in consultation with the Advisory Council develop standards of performance.
- (12) The Chief Inspector may, at any time, after due process, revoke a certificate issued in terms of subsection (6) if, the approved inspection authority or the natural person in subsection (5) contravene any provision of section 42.

43 Approved Guidelines

- (1) The Minister may, for the purpose of providing practical guidance concerning sound occupational safety and health management system, and any provision of the Act, after consultation with the Council, approve and issue guidelines.
- (2) Guidelines shall not be legally binding or impose upon any person any duty or obligation.

44 Codes of Practice, Ethics and Conduct

- (1) The Minister may, after consulting the Council, issue or amend codes of good practice, ethics or conduct on-
 - (a) the measures to be taken to secure the wellness of workers at work, including disease management, prohibition of violence and harassment, and health promotion.
 - (b) The management of medical incapacity; and
 - (c) any other matter the Minister deemed it necessary.
- (2) Any issued or amended code of practice, ethics or conduct must be published in the *Gazette*.
- (3) Any person interpreting or applying this Act must take into account any code of practice, ethics or conduct published in terms of this section.
- (4) The code of practice, ethics or conduct shall not impose upon any person any duty or obligation in addition to those contained in the Act or its regulations.

45 Incorporation of safety and health standards

- (1) The Minister may by notice in the Gazette and after consultation with the Council, incorporate in the regulations promulgated under this Act any health and safety standard, or part of such standard, with a reference to the number, title and year of issue of the health and safety standard and any other particulars required to identify it sufficiently, but need not state the text of the health and safety standard.
- (2) Any safety and health standard incorporated under subsection (1) shall, for the purposes of this Act and in as far as it is not repugnant to any relevant law or regulation, be considered to be a regulation, provided they form part of the schedule.
- (3) When any safety and health standard is at any time after its incorporation, amended or substituted by the competent authority, the notice incorporating the standard shall, unless otherwise stated, be considered to refer to the safety and health standard as amended or substituted.
- (4) The Commissioner shall keep a register of particulars of every safety and health standard incorporated in the regulations to be maintained and to supply any person on request with a copy of any such standard.
- (5) "Safety and health standard", for the purposes of this Act, means a safety and health standard which, in the opinion of the Minister, will promote the attainment of any object of this Act or its regulations.

46 Regulations

- (1) The Minister may, after consulting the Council, make regulations in relation to any matter-
 - (a) required or permitted to be prescribed by this Act;

- (b) that may be necessary or expedient in order to achieve the objects of this Act.
- (2) Without derogating from the generality of subsection (1) any regulation made under subsection (1) may include any matter relating to -
- (a) the measures to be taken to secure the safety and the preservation of the health and welfare of workers at work, sanitation, ventilation and lighting in, on or about premises where machinery is used or building, excavation or any other work is performed by workers;
 - (b) the duties of occupiers of such premises, users of such machinery, builders, and employers and workers in connection therewith;
 - (c) the accommodation facilities and conveniences to be provided on such premises by occupiers for workers while they are working, resting or eating therein;
 - (d) the clothing, safety devices and protective articles to be provided by employers, builders, occupiers of premises and users of machinery for workers who handle specified articles in the course of their work or who are employed in specified activities under specified conditions;
 - (e) the first-aid equipment to be provided by occupiers of premises, users of machinery, builders and excavators, and the employment of persons who hold specified qualifications in first-aid, and the provision of ambulances and other health care facilities;
 - (f) the steps to be taken by the owners of premises used or intended for use as factories or places where machinery is used, or by occupiers of such premises or by users of machinery in connection with the structure of such buildings or otherwise in order to prevent or extinguish fires, and to ensure the safety, in the event of fire, of persons in such buildings;
 - (g) the medical examination of persons in relation to occupational health,
 - (h) the conditions of work of workers in, on or about any premises where in the opinion of the Minister concerned special provision is necessary to safeguard the physical, moral or social welfare of such workers;
 - (i) the returns, statistics, information and reports which must be furnished in relation to premises, machinery, building work, excavation work, and workers, and the times at which, the manner in which, and the persons by whom such returns, statistics, information and reports are to be furnished, and the records which must be kept;
 - (j) the conditions governing the erection, installation, working and use of any machinery and the duties, responsibilities and qualifications of the user or person in charge of erecting, installing, working or using such machinery;
 - (k) the reporting of accidents, the submission of notices of dangerous occurrences and occupational diseases, the manner of holding inquiries in connection therewith and the procedure to be followed at such inquiries;
 - (l) the conditions governing the construction, erection, alteration or taking down of scaffolding or cranes;
 - (m) the conditions governing building work and excavation work, including the steps to be taken in connection with timbering, underpinning and shoring up;
 - (n) the precautions to be taken by builders or workers to prevent persons being injured by falling articles;
 - (o) the lighting of building work and the safeguards to be used in connection with electrical equipment;
 - (p) the stacking of material on or near the site;
 - (q) the necessary qualifications of a crane driver or hoisting appliance operator;
 - (r) the provision of equipment and the precautions necessary where persons employed on building or excavation work are in risk of drowning;

- (s) safety, health, hygiene, sanitation and welfare of persons employed in or about mines, including sea-bed operations, and generally or persons, property and public traffic;
- (t) the grant, cancellation and suspension of certificates of competency to workers in certain industries in respect of operations to be performed by them;
- (u) the submission of notices of commencement and cessation of any operations;
- (v) the submission of notices of appointment of workers in industries to which the provisions of paragraph (t) applies;
- (w) the functions of officers acting in the administration of this Act;
- (x) the making and keeping of plans of any premises relating to health and safety measures in, on or about such premises and the depositing of copies thereof in such office as may be specified in such regulations;
- (y) the protection and preservation of the surface of land and of buildings, roads, railways and other structures and enclosures on or above the surface of the land, and the conditions under which any such buildings, roads, railways, structures and enclosures may be undermined or excavated;
- (z) the prohibition or restrictions in relation to the making or use of roads or railways or other traveling ways over, or the erection or use of buildings or other structures over areas which have been undermined or excavated;
- (aa) the making safe of undermined ground and of dangerous slimes and tailing dams, dams, waste dumps, ash dumps, shafts, holes, trenches or excavations of whatever nature made in the course of prospecting or mining operations, posing a risk to safety and health, the imposition of monetary and other obligations in connection with such safe-making on persons who are or were responsible for the undermining of such ground or the making of such slimes and tailing dams, dams, waste dumps, ash dumps, shafts, holes, trenches or excavations or for the dangerous condition thereof, who will benefit from such safe-making;
- (bb) the assumption by the State of responsibility or co-responsibility for such safe-making as mentioned in paragraph (aa) in particular cases;
- (cc) the conditions upon which machinery may be erected or used;
- (dd) the generation, transformation, transmission, distribution and use of electricity;
- (ee) the prevention of outbreak of fire and precautions to be taken against heat, dust, noise and vibration in, on or about any premises or in connection with any operations;
- (ff) the precautions to be taken against irruption or inrush of water or other liquid matter into workings;
- (gg) the transport, handling, storage and application of explosives in connection with any operations and the mixing of substances to make explosives in any working place which are not contrary to the provisions of any other law;
- (hh) the conveyance of persons and materials;
- (ai) the movement of vehicles;
- (aj) the fees payable by persons applying for any other certificates mentioned in paragraph (t) or on their admission to an examination for any such certificate;
- (ak) the particulars of workers in safety and health management;
- (al) the provision of disaster management and rescue services;
- (am) the prevention and combating of pollution of the air, water, land or sea which arises or may possibly arise in the course of any operations involved in any works or after such operations have ceased, and the imposition of monetary and other obligations;
- (an) the conservation, rehabilitation and safe-making of land disturbed by any operations;
- (ao) the disposal of waste rock, its stabilization, prevention of run off and land reclamation;
- (ap) the administrative fees which are payable for any service under these regulations;
- (aq) the regulation or prohibition of noise and vibration generated in the workplace;

- (ar) the manufacturing, storage, transport and labelling of chemicals and other hazardous substances;
- (as) the registration or licensing of industries specified in such regulations for purposes of securing the health and safety of workers employed in such industries; and
- (at) minimum competence and qualification requirements for the purpose of this Act
- (au) Occupational exposure limits (OELs)
- (av) Use and prohibition of carcinogens and other controlled substances
- (aw) Use and control of Hazardous Biological Agents (HBAs) and measures related to pandemics and epidemics
- (ax) Hazardous substances including but not limited to Asbestos, Lead and Silica
- (ay) Special protective measures and conditions for workers in situation of vulnerability, including but not limited to workers in small to medium enterprises (SMEs) and informal economy, domestic workers, workers with disabilities, and migrant workers
- (az) Special protective measures and conditions for workers in high-risk activities and sectors, including agriculture
- (ba) Hazardous activities prohibited for children and protective measures and conditions for young workers
- (bb) Protective equipment and clothing
- (bc) Appointment of Approved Inspection Authorities (AIAs)
- (bd) Commencement, installation, major alteration or commissioning of construction, building, mining, electrical work, and dangerous machineries and equipment
- (be) Notification of occupational accidents, dangerous occurrences, and occupational diseases
- (bf) Inquiry and investigation into occupational accidents and diseases, and dangerous occurrences
- (bg) Penalties for the contravention of this Act

47 Administration of regulations

- (1) The President may, by proclamation in the *Gazette*, assign the administration of the provisions of any regulation to -
 - (a) the Minister;
 - (b) any other member of the Cabinet;
 - (c) partly to one member of the Cabinet and partly to another; or
 - (d) different members of the Cabinet in so far as the regulations relate to different specified functions.
- (2) The President may, in a proclamation contemplated in subsection (1) –
 - (a) prescribe the powers and functions to be exercised or performed by any member of the Cabinet, and
 - (b) require the exercise or a power or the performance of a function after consultation or with the concurrence of a member of the Cabinet.
- (3) The President may vary or amend any proclamation made in terms of this section.

48 Exemptions

- (1) The Minister may exempt, upon receipt of application in a prescribed form, the employer in Security Cluster and Fire Brigade from section 21(3) and 31 (3) of this Act, where applicable.
- (2) An employer in security cluster may apply for exemption from some requirements in the interest of the national security.

- (3) Any employer who wishes to apply for exemption in terms of subsection (1) and (2) shall consult the workers.
- (4) An exemption granted in terms of subsection (1) must-
 - (a) be granted by issuing to such employer a certificate of exemption in which his name and the scope, period and conditions of the exemption are specified; and
 - (b) be granted by the publication in the Gazette of a notice in which that employer is described and the scope, period and conditions of the exemption are specified.
- (5) If the exemption was published in the Gazette in terms of subsection (3) (b), the Minister may amend or withdraw the exemption only by notice in the Gazette from a date stated in the notice.

CHAPTER 7

VIOLATIONS, DISPUTES, OFFENCES, PENALTIES AND APPEALS

49 Offences, penalties, disputes, and special orders of court

(1) Any person who -

- a) contravenes or fails to comply with section 15 (4) & (5), 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41 and 42
- b) contravenes or fails to comply with order, direction or notice under section 15 (2) (g), 15 (5) (a), 18 (1) (iv), and 22 (5z) (c)
- c) in any record, application, statement or other document referred to in this Act, wilfully furnishes information or makes a statement which is false in any material respect;
- d) hinders or obstructs an inspector in the performance of his or her functions;
- e) refuses or fails to comply, to the best of his or her abilities, with any requirement or request made by an inspector in the performance of his or her functions;
- f) refuses or fails to answer, to the best of his or her abilities, any question which an inspector in the performance of his or her functions has put to him or her;
- g) wilfully furnishes to an inspector information which is false or misleading;
- h) gives himself or herself out as an inspector;
- i) having been subpoenaed to appear before an inspector, without sufficient cause to attend on the day and at the place specified in the subpoena, or fails to remain in attendance until the inspector has excused him or her from further attendance;
- j) having been called under section 15, without sufficient cause -
 - i. refuses to appear before the inspector;
 - ii. refuses to swear or to make affirmation as a witness after he or she has been directed to do so;
 - iii. refuses to answer, or fails to answer, to the best of his or her knowledge and belief, any question put to him or her; or

- iv. refuses to comply with a requirement to produce a book, document or thing specified in the subpoena or which he or she has with him or her;
- (i) tampers with or discourages, threatens, deceives or in any way unduly influences any person with regard to evidence to be given or with regard to a book, document or thing to be produced by such a person before an inspector under section 15;
- (k) prejudices or influences the proceedings or findings of an inquiry under section 15;
- (l) tampers with or misuses any safety equipment installed or provided to any person by an employer or user;
- (m) fails to use any safety equipment at a workplace or in the course of his or her employment or in connection with the use of plant or machinery, which an employer or such a user provided to him or her; or
- (n) wilfully or recklessly does anything at a workplace or in connection with the use of plant or machinery which threatens the health or safety of any person-

shall be guilty of an offence and on conviction be liable to a fine not exceeding N\$200 000 or to imprisonment for a period not exceeding one year, or to both such fine and such imprisonment.

(2) Any employer who does or omits to do an act, thereby causing any person to be injured at a workplace, or, in the case of a person employed by him or her, to be injured at any place in the course of his or her employment, or any user who does or omits to do an act in connection with the use of plant or machinery, thereby causing any person to be injured, shall be guilty of an offence if that employer or user would in respect of that act or omission have been guilty of the offence of culpable homicide had that act or omission caused the death of the said person, irrespective of whether or not the injury could have led to the death of such person, and on conviction be liable to a fine not exceeding N\$500 000 or to imprisonment for a period not exceeding two years, or to both such fine and such imprisonment.

(3) Whenever a person is convicted of an offence consisting of a failure to comply with a provision of this Act or of any direction or notice issued under it, the court convicting him or her may, in addition to any punishment imposed on him or her in respect of that offence, issue an order requiring him or her to comply with the said provision within a period determined by the court.

(4) If a person is charged with the contravention of any provision in respect of which a code of practice has been issued –

- (a) the code of practice shall be admissible as evidence in any legal proceedings instituted in respect of the contravention of such provision; and
- (b) if it is proven that the person failed to comply with the code, or that part of the code relevant to the provision contravened, or that the person failed to comply with the provision by any method other than the method stipulated in the code of practice, such person shall be guilty of the contravention of that provision.

(5) Disputes in relation to provisions of this Act shall be referred to the Labour Commission in accordance with section 7 of the Labour Act, 2007 (Act No 11 of 2007).

50 Appeal in terms of this Act

- (1) Any person aggrieved by any decision taken by an inspector under a provision of this Act may appeal against such decision to the Chief Inspector within 30 days after the inspector's decision was made known, and lodge such an appeal in writing, setting out the grounds on which it is made.
- (2) The Chief Inspector shall, within 30 days, after he/she has considered the grounds of the appeal and the inspector's reasons for the decision, confirm, set aside or vary the decision or substitute for such decision with any other decision.
- (3) Any person aggrieved by a decision taken by the Chief Inspector under subsection (2) or in the exercise of any power under this Act, may within 30 days, appeal against such decision, to the Commissioner of Occupational Safety and Health.
- (4) Any person aggrieved by a decision taken by the Commissioner under subsection (3), may, within 30 days, appeal against such decision to the Labour Court, and the Labour Court shall inquire into and consider the matter forming the subject of the appeal and confirm, set aside or vary the decision or substitute for such decision any other decision which the Commissioner in the opinion of the Labour Court ought to have taken.
- (5) Any person aggrieved by the decision taken by the Minister in terms of section 48 shall within 30 days after the decision was given, lodge the appeal with the registrar of the Labour Court in accordance with the rules of the Labour Court.
- (6) An appeal under subsection (1) or (3) in connection with a prohibition imposed under section 15 (2) and (3) shall not suspend the operation of such prohibition.

CHAPTER 8

TRANSITIONAL PROVISIONS

Definitions

1. (1) In this Schedule -

“ provision of previous Act” means relevant section of the Labour Act, 2007 (Act No. 11 of 2007) or its regulations;

2 General preservation of rights, duties, regulations, notices and other instruments

- (1) Subject to this Act, any regulation promulgated in terms of the previous Act remains in force as if it had been promulgated under this Act as from the effective date.
- (2) A notice or order issued to a person in terms of any provision of the previous Act or its regulations must be considered as notice given in terms of any comparable provision of this Act, as from the date that the notice was given under the previous Act or its regulations.
- (3) Permission given by a person to another person in terms of, or as contemplated in, any provision of the previous Act or its regulations, and in effect immediately before the effective date, continues in effect, as if it had been made in terms of this Act, or as contemplated by a provision of this Act, subject to -
 - (a) any condition imposed at the time it was given, whether expressed, or imposed by a provision of the previous Act or its regulations; and
 - (b) this Act.
- (4) An assignment by the President in terms of the previous Act, and in effect immediately before the effective date, continues in effect, subject to the provisions of this Act.
- (5) A document that, before the effective date, had been served in accordance with the previous Act or its regulations must be regarded as having been satisfactorily served for the purposes of this Act.
- (6) An order of the Labour Court, or an Inspector, issued in terms of any provision of the previous Act, and in effect immediately before the effective date, continues in effect, subject to the provisions of this Act.

FIRST SCHEDULE

(2) Other laws in connection with occupational safety and health

- 1.1 Proclamation No. 10 of Labour Act, 2007 on Assignment of the provisions of the Regulations relating to the Health and Safety of Employees at Work,
- 1.2 Labour Act No. 11 of 2007
- 1.3 Minerals (Prospecting and Mining) Act 33 of 1992,
- 1.4 Mines, Works and Minerals Ordinance, 1968
- 1.5 Merchant Shipping Act No. 57 of 1951,
- 1.6 Road Traffic and Transport Act No. 22 of 1999,
- 1.7 Employees Compensation Amendment Act No. 5 of 1995,
- 1.8 Public and Environmental Health Act No. 1 of 2015,
- 1.9 Environmental Management Act No. 7 of 2007,
- 1.10 Standards Act No. 18 of 2005,
- 1.11 Public Procurement Act No. 15 of 2015;
- 1.12 the Apprenticeship Ordinance, 1938 (Ordinance No. 12 of 1938)
- 1.13 Public Service Act No. 13 of 1995.

SECOND SCHEDULE

LIST OF NOTIFIABLE (OCCUPATIONAL) DISEASES

(1) Occupational safety and health professionals must record and notify the following 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. Disease 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 fluorine or its compounds
- 1.1.10. Diseases caused by carbon disulfide
- 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-derivates 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 sulfide, 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. Disease 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. Disease 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, or determined by methods appropriate to national conditions and practice, 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 radiations
- 1.2.5 Disease 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 or determined by methods appropriate to national conditions and practice, 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 or determined by methods appropriate to national conditions and practice, 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, anthraco-silicosis, 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 – mental 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 recognized sensitizing 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 cereal and agricultural work, dust in animal stables dust from textiles, paper dust, arising from work activities.
- 2.1.10. Diseases of the lung caused by aluminum.
- 2.1.11. Upper airways disorders caused by recognized sensitizing 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, or determined by methods appropriate to national conditions and practice, 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 urticaria caused by other recognized allergy provoking agents arising from work activities not included in other items
- 2.2.2 Irritant contact dermatoses caused by other recognized irritant agents arising from work activities not included in other items
- 2.2.3 Vitiligo caused by other recognized 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, or determined by methods appropriate to national conditions and practice, 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, forceful exertions and extreme postures of the wrist
- 2.3.2 Chronic tenosynovitis of hand and wrist due to repetitive movement, 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 prolonged stay in kneeling position
- 2.3.5 Epicondylitis due to repetitive forceful work
- 2.3.6 Meniscus lesions following extended periods of 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, or determined by methods appropriate to national conditions and practice, 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 or behavioural disorder not mentioned in the preceding item where a direct link is established scientifically, or determined by methods appropriate to national conditions and practice, 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 homologues
- 3.1.10. Ionizing radiations
- 3.1.11. Tar, pitch, bitumen, mineral oil, anthracene, or the compounds, products or residues of these substance

- 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. Cancer caused by other agents at work not mentioned in the preceding items where a direct link is established scientifically, or determined by methods appropriate to national conditions and practice, 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, or determined by methods appropriate to national conditions and practice, between the exposure arising from work activities and the disease(s) contracted by the worker

THIRD SCHEDULE

LIST OF HIGH RISK WORK

(1) In this Act high risk work means-

- 1.1 Building Construction work;
- 1.2 Electrical Installation
- 1.3 Drilling for gas, oil and minerals;
- 1.4 Work with hazardous substances
- 1.5 Service for gas and oil wells and power tong services;
- 1.6 Logging;
- 1.7 Saw milling;
- 1.8 Iron and steel processing and manufacturing;

- 1.9 Road construction and earthwork;
- 1.10 Local and provincial hauling and trucking;
- 1.11 Mining and smelting;
- 1.12 Exploration drilling, shaft sinking, quarrying and crushing of rocks;
- 1.13 Manufacturing of concrete block, brick, artificial stone and other clay and cement products; or
- 1.14 any other activities defined by the Chief Inspector in consultation with the Chief Medical Officer of Occupational Health and the work- place safety representative;