



# **Safety and Health at Work Act**

Summary

# CAP 356



*Compiled by the  
Labour Department  
Barbados*

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## Foreword

An effective Occupational Safety and Health Management system is essential for the maintenance of a healthy nation and by extension a wealthy nation.

The Labour Department as the agency with responsibility for the management of workplace safety considers its business to be about “saving lives, preventing workplace injuries and generally protecting the health of workers in Barbados.”

The preparation of this guide is therefore to help persons at the workplace better understand the objectives of the Safety and Health at Work (SHAW) Act and their corresponding responsibilities.

The guide is intended for the use of all who have an interest in safety, health and welfare. It seeks to assist in the day- to- day application of the Act by providing a simplified version of its provisions.

This guide was prepared by the Safety and Health Section of the Labour Department.

For the precise wording, the reader should refer to the appropriate provisions of the Act and/or Regulations noted after each section.

More detailed advice can be obtained from the Safety and Health Section.

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Chief Labour Officer  
Labour Department

## 1. Introduction

### Structure of the Act

- 1 The Safety and Health at Work Act 2005, referred to hereafter as 'the Act' or 'the SHaW Act' contains provisions for the safety, health and welfare of people at work.

Further to the SHaW Act, Regulations will be prepared to aid in the achievement of the objectives of the Act.

### Objectives of the Act

- 2 The objectives of the Act are the following:
  - (a) Securing the safety, health and welfare of persons at work;
  - (b) Protecting people other than those at work against risk to their safety and health arising out of work activities;
  - (c) Providing for the regulation and inspection of pressure vessels and lifting equipment by the required persons;
  - (d) Providing for the provisions in relation to fire safety in the workplace;
  - (e) Controlling the storage and use of explosives of highly flammable or otherwise dangerous substances, and generally preventing person from unlawfully having and using certain substances;
  - (f) Controlling the release into the atmosphere of noxious or offensive substances from premises where work is being done;
  - (g) Provide for the development of regulations to accompany the Act;
  - (h) To consolidate the law relating to safety, health and welfare in the workplace;
  - (i) Look at the issue of prosecution for offences against the Act;
  - (j) Regulate the conduct of owners, occupiers, and persons generally within the workplace;
  - (k) Outline the power of the Chief Labour Officer;
  - (l) Outline the power of the Chief Fire Officer as it relates to workplaces;

## Terms (Some key words and phrases)

Authorised Person:	a person designated by the occupier for carrying out a specific function
Competent Person:	a person approved as such by the Minister for a specified purpose. The listing of such persons is available from the Labour Department.
Confined Space:	a space that has any of the following characteristics: <ul style="list-style-type: none"> <li>• Limited opening for entry and exit;</li> <li>• Unfavourable natural ventilation;</li> <li>• Not designed for continuous worker occupation;</li> <li>• Atmosphere lacking oxygen;</li> <li>• Restricted space;</li> </ul>
Employer:	a person who employs persons for carrying out any trade, business, profession, office, vocation or apprenticeship
Employee:	a person who has entered into or works under a contract of service or apprenticeship with an employer to do work for hire or reward, whether the contract is expressed, implied, oral, in writing, or partially written.
Lifting Tackle:	refers to chain slings, rope slings, hooks, shackles, and swivels
Owner:	the person for the time being receiving rent for the premises in connection with which the work is carried on, whether on his own account or as an agent or trustee for another person, or the person who would so receive the rent if the premises were let at a rent
Occupier:	the person who has control over a workplace and the work that is done there
Pressure Vessel:	includes steam boilers, air receivers, steam receivers, and any vessel containing fuel for commercial or industrial use in quantities greater than 91 kilograms and at a pressure greater than atmospheric pressure
Workplace:	any place where persons work or are employed including a factory, but does not include a private household where persons work or are employed only in domestic service
Young Person:	Means a person who has attained the age of 16 years but is under the age of 18

## General Application

This Act applies to all **workplaces** in Barbados, including any department of government except the Police Force, the Barbados Defence Force and those specified by the Minister. **Section 3**

## 2. General Duties under the Act

### Duties of Occupier or Employer

Where an owner or occupier enters into a contract with sub-contractors to undertake civil work or works of engineering construction, the owner retains responsibility for maintaining safety in the workplace. **Section 5 (2)**

Persons who design, import, or manufacture articles or substances for use in the workplace should conduct risk assessments so as to minimise risks associated with those articles and substances. **Section 6 (1)**

Occupiers must ensure the health, safety, and welfare of all their employees, and provide plant, equipment, and systems of work that lend to a safe and healthy workplace. Occupiers are also required to provide adequate job information, instruction, and; training and supervision for workers. **Section 6 (5), 6 (6)**

Upon notification and provision of a medical certificate by a female employee indicating that she is pregnant, an employer must adapt her working conditions to limit her exposure to anything or any condition that may be dangerous to her unborn child. **Section 6 (7)**

During pregnancy, or while nursing a child, or for a period of 6 months after the birth of her child, no employee should be required by her employer to perform work that poses a danger to the safety or health of her and her child. **Section 6 (9), 6 (10)**

### Duties of Occupier to Persons Generally

Every occupier must take reasonable precaution to ensure the safety of every person in the workplace. **Section 7 (1) (a)**

When communicating with employees with special needs, employers must use the means of communication appropriate to the circumstance. **Section 7 (1) (c)**

An employee has a special need if he is affected by a condition or disability, which prevents him from receiving information that under normal circumstances would be a sufficient means of communication. **Section 7 (2)**

Every occupier should conduct his undertaking in such a manner that persons not in his employment, who may be affected, are not exposed to risks. **Section 7 (3)**

Occupiers must prepare and revise as necessary, a statement of general policy with respect to safety, health and welfare in the workplace. Where 10 or more persons are employed, the statement must be written and communicated to the employees. **Section 7 (4)**

Every ways, plant, or thing in the workplace must be of safe construction, sound material, properly maintained, effectively guarded and not overloaded as to create a danger to anyone in a workplace. **Section 7 (6), 7 (7)**

Safe means of access should be provided to every place where persons are required to work, and that place must be made and kept safe for any person working there. **Section (8)**

### **Duties of Employee**

Every employee must take reasonable care for the safety and health of himself and persons who may be affected by anything he does or neglects to do. **Section 9 (1) (a)**

Every employee must cooperate with his employer in an effort to allow that employer to carry out the statutory duties required of him. **Section 9 (1) (b)**

Employees should not misuse any means provided to ensure his safety or that of his fellow employees. Where items, including personal protective equipment, have been provided to ensure the safety, health and welfare of an employee, they should be used. **Section 10 (1)**

## **3. General Provisions – Safety**

### **Machinery**

Every dangerous part of machinery must be fenced in or made safe by position or design. **Section 11 (1)**

Means should be provided in an accessible location to cut off power to machinery in the workplace. **Section 12 (1)**

Prior to using pre-owned machinery, the owner must notify the Chief Labour Officer and have the machine certified by a Competent Person. **Section 14 (2)**

The moving parts of machinery, or the material being transported on the machinery should not come within 45cm of any fixed structure. **Section 17**

Where it is necessary to carry out maintenance or to clean machinery while it is in motion, the person carrying out the maintenance should be:

- i. Suitably trained and;
- ii. Over the age of 18 years

**Section 18**

No person should operate a machine unless he has received sufficient training in the working of, risk associated with, and precaution necessary for that machine, or he is adequately supervised. **Section 19**

### **Statutory Examinations**

Under the Act, certain persons are permitted to act as 'Authorised Persons' and 'Competent Persons'. Those persons have the responsibility to examine and report to the Chief Labour Officer and the employer, as the case may be, on the condition of selected pieces of equipment including lifting equipment, pressure vessels, and pre-owned machinery. The type of, and scheduling of inspections varies with the category of equipment.

### **Lifting Equipment**

All chains, rope and lifting tackle should be of good construction, free from defect, and should not be used for any load exceeding its safe working load. **Section 20 (1) (a), 20 (1)(c)**

Tables showing safe working load of lifting tackle should be posted and available for reference. **Section 20 (1) (b)**

Chains, ropes and lifting tackle must be examined by an Authorised Person:

- i before being put into use, and
- ii once in every period of 3 months or less.
- iii at intervals prescribed by the Chief Labour Officer

Reports on these examinations should be kept in the general register for inspection. **Section 20 (1) (d)**

Lifting tackle must be examined by a 'Competent Person' once in every 12 months, and reports on these examinations kept in the general register and sent to the Chief Labour Officer within 28 days. **Section 20 (1) (e)**

All parts and working gear being used in connection with lifting, including tracks and rails on which travelling cranes move, should be of proper size,



adequate strength, properly maintained and have an even running surface. **Section 21 (1)**

Cranes and lifting machines must be examined by a Competent Person:

- i. before being put into use, and
- ii. once in every 12 months.

Reports on these examinations should be kept in the general register for inspection. **Section 21 (3)**

The safe working load of cranes and lifting machines must be indicated on the device, and no lifting machine should be loaded beyond its safe working load. **Section 21 (4)**

Systems must be put in place to warn persons of the approach of moving cranes, and the measures taken should be communicated to such persons. **Section 21 (7)**

Every doorway or opening used for hoisting or lowering goods should be provided with:

- i. a hand-hold on each side, and
- ii. a fence which remains in place when the doorway or opening is not in use. **Section 22 (1), 22 (2)**

Every hoist or lift must be examined by a Competent Person:

- i. before being first put into use, and
- ii. once in every period of 12 months.

Continuous hoist or lifts not connected to mechanical power should be inspected once in every period of 24 months. Reports on these examinations should be kept in the general register for inspection. **Section 23 (2)**

Hoist-ways and lift-ways should be enclosed and fitted with gates to prevent persons from falling, and also prevent them coming into contact with moving parts. **Section 23(4)**

The gates of a hoist or lift must not be allowed to open unless the hoist or lift is positioned at the landing, and the hoist or lift must not be allowed to move unless the gate is closed. **Section 23 (5)**

## Pressure Vessels

### *Steam boilers*

Every part of a steam boiler and its fittings and attachments must be of sound construction and adequately maintained. **Section 28 (5), 29 (1)**

All steam boilers must be examined by a Competent Person:

- i before being put into use, and
- ii once in every period of 12 months.

Reports on these examinations should be kept in the general register for inspection and forwarded to the Chief Labour Officer. **Section 29(2)**

Non-destructive testing of boilers should be performed every 5 years or as prescribed by a Competent Person. **Section 29 (8)**

### *Steam receivers*

Steam receivers that cannot withstand the maximum working pressure of the connected boiler or the maximum pressure obtainable in the pipe, must be fitted with suitable devices to ensure the safe working pressure is not exceeded. **Section 30 (1)**

Steam receivers and their fittings must be properly maintained and should be thoroughly examined by a Competent Person once in every period of 12 months. Report on these examinations should be entered into the general register. **Section 30 (5)**

### *Air Receivers*

Every air receiver connected to an air compressing plant must be soundly constructed to withstand the maximum pressure obtained from that plant or be fitted with a suitable device to prevent the safe working pressure being exceeded. The safe working pressure should be clearly marked on the air receiver. **Section 31 (1) 31 (2) 31 (3)**

Every air receiver should be properly maintained, cleaned, and examined once in every period of 12 months. Air receivers and their attachments must be examined by a Competent Person:

- i before being put into use, and
- ii once in every period of 12 months

Reports on these examinations should be kept in the general register for inspection and sent to the Chief Labour Officer. **Section 31 (4)**

## Fire Safety

Occupiers must provide and maintain adequate means of escape in case of fire. The contents of any room should be arranged so there is always unrestricted access to, or along any means of escape. **Section 32, 39(9)**

All:

- factories in which:
    - I. more than 20 persons are employed,
    - II. more than 10 persons are employed other than on the ground floor, and
    - III. explosive or highly flammable materials are stored
  - workplaces where the Chief Labour Officer in consultation with the Chief Fire Officer have specified,
- must be in possession of a certificate of fire escape. **Section 34**

In all workplaces there must be means of giving warning to **all** persons on the premises in case of fire. These warnings must be tested once in every three months. **Section 38, 40**

While persons are in the workplace, no door should be fastened in such a manner that it cannot be opened from the inside, and all means affording escape in the case of fire should be distinctly and conspicuously marked. **Section 39 (1)**

Every hoistway or liftway must be completely enclosed in fire resistant material and all means of access to the hoist or lift should be fitted with fire resistant material. **Section 39 (4)**

At every workplace adequate equipment for fighting fire must be:

- i. provided
- ii. maintained and,
- iii. readily accessible, also

a person trained in the use of this apparatus should be on the premises at all times when persons are employed. **Section 39 (7) & (8)**

Fire drills should be undertaken to ensure that persons are familiar with means of escape, and the routine to be followed in case of fire. **Section 41 (1)**

## Housekeeping

All floors, steps, passages, and gangways must be of sound construction, free of obstruction and free of substances likely to cause slipping and tripping. Employers should use cleaning, drainage and slip resistant materials to eliminate or reduce slippery or wet conditions. **Section 43 (1)**

Handrails must be provided and maintained for every staircase. **Section 44**

Where there is a possibility that a person might fall from a height of 2m or more, fall protection must be provided. **Section 44 (3)**

## Confined Spaces

The entrance to a confined space should be no less than 45cm long and 40cm wide, or if circular not less than 45cm in diameter.

A person should not enter a confined space unless:

- The confined space is tested and evaluated by an Authorised Person and is **certified in writing** as being safe for entry during a specific period.
- There is adequate means of exit from that confined space.
- Mechanical equipment in the confined space is cut off from its power source and not in motion.
- Lines containing content that may be hazardous are blocked off.
- There is a continuous supply of breathable air available or provided, whether by natural or artificial means, for that person.
- Where the air is supplied by artificial means the person should be adequately trained in the use of the breathing apparatus.

Additionally, a person must not enter or remain in a confined space unless:

- A person is keeping watch on the outside and is in constant contact with the person to receive any communication of danger, and provide necessary assistance.
- Suitable procedure and equipment are in place to warn of danger and effect the removal of the person from the confined space.
- A person trained in artificial respiration is conveniently available.

**Section 45**

## Dangerous Substances

No gas or dangerous substance of an explosive or volatile nature should be stored in a workplace except as prescribed in the Regulations. **Section 46**

Employees must be protected against the inhalation of any gas, dust, fume, or impurity that results from the work process. Further, these

substances should not be allowed to accumulate in any workroom. Where practicable extraction **Section 47 (1)**

No gas, dust, fume, vapour, or impurity should be conducted into the open air in such a manner that they are hazardous or offensive to the public. **Section 47 (2)**

All possible steps should be taken to prevent accumulations or the combination of factors which may lead to an explosion. **Section 48 (1)**

Measures should be put in place to limit the effect and restrict the spread of explosions in the workplace. **Section 48 (2)**

Any area where explosive or inflammable gas, or vapour under pressure is stored should be fitted with suitable apparatus to prevent their sudden escape and ignition. **Section 48 (3)**

No plant, tank or vessel that contains or has contained any explosive or inflammable substance should be subjected to any process or the application of heat unless steps have been taken to prevent or to render the process non-explosive or non-inflammable. **Section 48 (4)**

## **4. Health**

### **Cleanliness**

Workrooms must be cleaned of accumulations of dirt and refuse, and a vector control program must be in place. Workrooms must be cleaned:

1. As often as the nature of the work requires.
2. Accumulations of dirt and refuse shall be removed from the areas by suitable means not less than once a day.
3. Sweeping and cleaning shall be done between work intervals where possible.

**Section 49**

### **Temperature**

Effective provisions shall be made for securing and maintaining a reasonable temperature in each workroom.

Employees should not be exposed to excessively hot temperatures and where possible employers should use insulation, increased air exchange, and other means to reduce temperature. **Section 51**

Where the temperature in any workroom requires the use of special clothing by the employees, the employer should provide such clothing to ensure protection. Persons must not be required to remain in such a workroom for longer than 2 ½ hours without a break. **Section 51 (5) (b)(c)**

Effective and suitable provisions shall be made in every workplace for the adequate ventilation of every room in which work is carried on by securing and maintaining the circulation of fresh air. **Section 52 (1)(a)**

Effective and suitable provisions shall be made for rendering harmless as far as reasonable any substance or impurity likely to be injurious to the health of employees. **Section 52 (1)(b)**

Internal combustion engines in the workplace must be partitioned from other workrooms, and provisions must be made for conducting exhaust away from the workplace. **Section 52 (2)**

No underground room should be used as a workplace unless it has been certified by the Chief Labour Officer. **Section 53 (1)**

### **Workspace**

A workplace shall not be so overcrowded as to cause risk of injury to the health of persons employed therein. **Section 54(1)**

Each person in any workroom should be provided with a minimum of 8.5 cubic metres of workspace, taking a maximum floor to ceiling height of 3.4 metres. **Section 54**

### **Lighting**

Sufficient and suitable lighting must be provided in all workplaces. **Section 55 (1)**

### **Noise and vibration**

A person in, or in the vicinity of a workplace must not be exposed to the risk of hearing impairment caused by noise, or disease caused by vibration. The directives issued by the Chief Medical Officer or The Chief Labour Officer shall be followed. **Section 56 (1)**

It shall be the duty of the owner, occupier or employer to ensure that all protective equipment necessary for the prevention of hearing loss and disease cause by vibration is used at all appropriate times. **Section 56 (2)**

Occupiers must arrange initial and periodic examinations for employees who are exposed to the risk of injury to their hearing or who may contract a disease caused by vibration. The occupier should keep adequate records of these examinations and the results. **Section 56 (2)**

## 5. Welfare

All persons employed in any workplace must have access to an adequate supply of wholesome, cool drinking water from a public main or an approved source. **Section 57 (1)**

Water supplied in approved containers must be labeled “Drinking Water”, renewed daily, and all steps should be taken to prevent its contamination. **Section 57 (2)**

Facilities for washing up, which include a supply of clean running water and suitable means of cleaning and drying, should be provided and maintained. **Section 58 (1)**

An area for the taking of meals should be provided in all workplaces where ten or more people are employed. This should be a room furnished with an adequate number of tables and seating. **Section 59 (1)**

Persons should not remain in areas containing poisonous or hazardous substances, while smoking, partaking of food or drink while not necessary to do so. **Section 60 (1)**

Where a change of clothing is necessary, a room must be provided for the changing of clothing. Where persons of both sexes are employed, these rooms must be separate and provide adequate privacy. **Section 61 (1)**

Where during employment, employees have opportunities for sitting without any adverse effect on their work, adequate and suitable seating should be provided. **Section 62 (1)**

Where a substantial portion of the work can be done sitting, a seat of suitable design and construction should be provided along with adequate provision for supporting of the feet. **Section 62 (2)**

First Aid supplies must be provided, maintained, and accessible in all workplaces. There should be an additional set of supplies for every 150 persons or part there of. **Section 63 (1)**

The First Aid supplies should be put under the charge of a responsible person. The person in charge of the first aid kit should be:

- i. always available
- ii. trained in First Aid treatment where 25 people or more are employed. **Section 63 (4)**

An adequate area capable of being screened should be provided for resting. Where 20 or more persons are employed, a rest room that affords

privacy and is equipped with facilities for resting should be provided. **Section 64 (1)**

Sanitary conveniences must be provided and maintained in every workplace. Where persons of both sexes are employed these conveniences should be separate unless permitted by the Chief Labour Officer, and afford persons adequate privacy. **Section 65**

No person should be required to lift, carry, or move any load so heavy or so distributed, as to cause him injury. **Section 66**

## **6. Medical Examinations and Young Persons**

No young person should be employed in a factory for a period exceeding 2 weeks, unless a medical examination deems him fit for the work he is employed to do. **Section 68 (1)**

Young persons employed in continuous employment in a factory should be medically examined at intervals of not more than one year or such intervals as specified by the factory doctor. **Section 68 (5)**

No woman or young persons should be employed in any process where there is exposure to zinc or lead, which would be hazardous to their health. **Section 73**

Persons employed in processes involving the use of lead compounds:

- a. must be provided with suitable protective gear,
- b. must undergo medical examination,

Records of these examinations should be kept by the employer. **Section 74**

No medical practitioner who directly or indirectly has an interest in a workplace should act as factory doctor for that workplace and if appointed they should declare their interest. **Section 75 (2)**

Where no factory doctor is appointed for a workplace, a medical officer of health may act in that capacity. **Section 76**

Every factory doctor and medical officer of health must annually report to the Chief Labour Officer on any examinations done. **Section 77**

Any fees payable to a factory doctor or medical officer of health, for the examination of a young person, must be paid by the occupier. **Section 78 (1)**



#### **4. Special Applications and Extensions of the Act**

Where a part of a building is being used as a separate workplace, the owner of the building is the person on whom, duties are imposed, rights are conferred, and any notice is served in relation to fire safety matters under his control. **Section 79 (1)**

The occupier of a workplace occupying part of a building must inform the owner where he proposes to make any material changes in the workplace after the owner has been granted a certificate of fire escape by the Chief Fire Officer. **Section 79 (4)**

Owners of premises who are prevented by occupiers from carrying out their duties can bring a complaint before a magistrate. **Section 79 (6)**

Copies of certificates of the Chief Fire Officer provided to an occupier by the owner of the premises should be treated as a certificate issued to such occupier. **Section 79 (7) (c)**

The owner of a building is liable for the contravention of any of the provisions of the Act relevant to sanitary conveniences, where tenants share such facilities. The owner is, however, not liable to keep the sanitary conveniences in a clean state except where they are used by more than one workplace occupying the building. **Section 80 (2)**

Any liability arising out of the use of items supplied by the occupier or in relation to matters not within the control of the owner of the building in which the workplace is situate, attaches to the occupier. Liability attaches to the owner where matters are within his control. **Section 80 (4)**

Written notice must be sent to the Chief Labour Officer by the occupier where pressure vessels are put into use in any workplace, or at any premises that is not a workplace. **Section 81 & 82 (1)**

Importers of pressure vessels must submit the names and addresses of the occupier of premises to whom the vessel are delivered, to the Chief Labour Officer within one month of delivery. **Section 82 (2)**

The provisions of this Act extend to any ship owned and worked by or on behalf of the crown or owned or hired by any person resident in Barbados, and used within the territorial seas of Barbados. **Section 83**

The provisions of this Act apply to any premises forming part of an educational or vocational institution and any institution operated for charitable or reformatory purposes. **Section 84**

Where building operations or works of engineering construction are to be carried on which may last more than one week, written notice must be sent to the Chief Labour Officer by the person undertaking the work. **Section 85**

A person who puts any machinery, tool, article, or substances into use at a workplace must ensure that as far as reasonable information is provided for their safe use and when properly used they are without risk to safety and health. **Section 86**

Information concerning machinery, tools, articles, or substances must be readily accessible to:

- i Workers likely to be affected by their use,
- ii Members of the Health and Safety Committee, and
- iii The workers representatives.

**Section 86 (2)**

Persons who use, intend to use, store, trade or deal in any hazardous substances or articles must inform in writing, the:

- Chief Labour Officer;
- Chief Fire Officer;
- Commissioner of Police;
- Accident and Emergency Unit; and
- Chief Medical Officer.

**Section 86 (4)**

Where a hazardous substance is stored, handled, or used in a workplace warning must be given to persons entering the premises of the presence of the substance and the precautions to be taken. **Section 86 (5)**

The Chief Labour Officer shall issue written directions with regard to processes that may involve special risk. The Chief Labour Officer may set out any actions to be taken, any procedures to be followed and methods to be adopted. **Section 87 (1)**

The Chief Labour Officer may in certain circumstances vary the standards attached to any regulations if in his judgement such amendments are necessary.

The Minister responsible for trade may on the advice of the Minister of Labour prohibit the importation of materials or articles used in the production of prohibited materials or in prohibited processes. **Section 88**

## 5. Notices and Registers

Persons proposing to use premises as a factory must notify the Chief Labour Officer in writing at least 30 days in advance. Where these premises are being used for the first time, a site plan should be submitted. **Section 89 (1)**

The Chief Labour Officer must keep a register of factories. **Section 90**

The prescribed abstract of the Act and required notices mentioned in Section 91 of the Act should be posted at the principal entrances of every workplace and any other place as prescribed by the Chief Labour Officer. **Section 91**

Every occupier of a workplace must keep a general register in the format as directed by the Chief Labour Officer. To the register must be attached:

- i. a copy of all accident reports sent to the Chief Labour Officer;
- ii. a certificate of the Chief Fire Officer relating to means of fire escape;
- iii. a certificate of examination of an air receiver;
- iv. a certificate of examination of boiler;
- v. a certificate of examination of hoists and lifts;
- vi. a certificate in respect of any other examination required under the Act;
- vii. any other report and particulars required by any other provision of this Act to be entered into or attached to the register;
- viii. any other matter that may be prescribed; and
- ix. any report regarding the safety and health in the workplace.

**Section 93**

## 6. Administration

An inspector may for the purpose of carrying out his duties under this Act at any reasonable time enter, inspect, examine, or require the production of information, on any premises to which the Act applies. **Section 97**

An inspector may, after notifying the occupier or his agent at of a workplace, take samples of materials found in that workplace. **Section 98**

The occupier or his agent, of every workplace must provide the means required by an inspector for the execution of his powers. **Section 100**

Any person who assaults or intimidates, hinders or interferes with an inspector or a member of the fire service in the course of their duties is guilty of an offence. **Section 100 (2)**

No inspector or other person should, except in the case of civil or criminal proceedings disclose any information respecting any workplace.

**Section 101(1)**

Despite the provisions of Section 101 (1), information may be disclosed in certain circumstances, namely:

- I. where representation has been made concerning conditions in a workplace or
- II. in the case where a person was injured while engaged in work.

Such disclosure will be made on payment of the prescribed fee.

that information may be released to:

- I. the injured worker or a person authorised by him;
- II. any trade union representing the workers at the workplace;
- III. an attorney-at-law authorised by the person making the representation;
- IV. the occupier of the workplace or his attorney;
- V. the personal representative of the deceased in any case where an injury results in death. **Section 101 (2)**

Except to the extent immediately necessary no person should disturb, alter, or move anything that is likely to assist in the investigation of an accident in the workplace. **Section 101 (3)**

No employee should be dismissed or disciplined for requesting an inspection of his workplace by an inspector. **Section 102**

## **Safety Consultation**

Employers must consult with employees or their representatives in developing measures to promote safety and health in the workplace. Where 25 persons or less are employed, consultation should be facilitated through the appointment by the employees of one or more safety delegate. Where 25 persons or more are employed, a Safety and Health Committee, comprising of an equal number of employer and employee representatives, should be established. Employee representatives should be chosen through consultation with the trade union(s) or staff association representing employees at that workplace. **Section 103**

The recommendations of the Safety and Health Committee should be implemented where possible. **Section 103 (5) (e)**

## Right to Refuse Dangerous Work

When there is sufficient evidence to indicate that an employee's safety and health are in **imminent danger**, that employee may refuse to carry out the task assigned to him pending consultation with:

- The safety and health committee;
- The trade union;
- The staff association; or
- The Chief Labour Officer.

**Section 104**

## 7. Regulations

Regulations are extensions of the Act and will supplement the general duties imposed by the Act in a more specific manner. The Act specifically mentions some of the areas e.g. safety of machinery, examination of equipment, welfare provisions, medical supervision of young persons etc, which may be addressed by Regulations. Additionally, the Minister may, in relation to any class or description of a workplace make regulations relating to the safety, health and welfare of persons in that workplace.

**Section 105**

Any breach of requirements imposed by regulations made under the Act is an offence, and may lead to prosecution.

## 8. Offences, Penalties and Legal Proceedings

Contravention by any workplace of the provisions of this Act or its associated Regulations attaches to the owner or occupier as specified by the Act, and that person is guilty of an offence. **Section 109 (1)**

In the event of any contravention by an employee or any person given duties under the Act or its associated Regulations, that employee or person is guilty of an offence. **Section 109 (2) (a)**

Where an offence under the Act has been committed by a company with the consent, or has been facilitated by any act or neglect on the part of any director, manager, secretary, or other officer of that company, both the officer and the company are guilty of an offence. **Section 109 (6)**

Any person who contravenes any provision of the Act, Regulation, or Order for which no special penalty is provided; is liable on summary

conviction to a fine of \$500 and a further \$100 for each day the offence continues after conviction. **Section 110**

Where a contravention of the Act results in death or permanent injury the owner or occupier as the case may be, is liable on summary conviction to a fine of \$5,000 or to 12 months imprisonment, or both. **Section 110(2)**

### **Improvement Notices**

Where the Chief Labour Officer is of the opinion that a person is or has contravened any provision of this Act or the Regulations or that a contravention is likely to continue, he may serve on that person an **'Improvement Notice'** requiring that the situation be corrected within a specified period. **Section 112**

### **Prohibition Notices**

Where the Chief Labour Officer is of the opinion that any circumstance within a workplace presents an **imminent danger** to any person within that workplace, he may serve on the occupier a **'Prohibition Notice'**, requiring that activities to which the notice relates must not be carried on unless the circumstance has been corrected. **Section 113**

Any person who fails to comply with an **'Improvement Notice'** or **'Prohibition Notice'**, is liable on summary conviction to a fine of \$1000, and \$100 for each day the offence continues. **Section 118**

In any proceeding for an offence under the relevant statutory provision, it is for the accused to prove that it was not practical to do more than was done. **Section 120**

Any person who forges or counterfeits any certificate or willfully acts in a false manner in relation to the provision of this Act or Regulations is guilty of an offence, and liable on summary conviction to a fine of \$2,500 or imprisonment for a term of 6 months, or both. **Section 121**

Where a contravention for which the owner or occupier is liable is in fact the act or default of an employee, or some other person, then that employee or other person is liable and punishable as if he were the occupier or owner. **Section 122**

All prosecutions under this Act shall be in the name of the Chief Labour Officer. **Section 129**

## 9. General

The Minister responsible for Labour may appoint persons to advise him in connection with his functions under the Act, and the Chief Labour Officer may in writing authorise these persons to enter a workplace and make inquiries. **Section 132**

No fee or other charge should be required from any person employed in connection with arrangements, articles or appliances provided in accordance with this Act. **Section 133**

Nothing in this Act exempts any person from civil or criminal liability to which he is subject under any other enactment or at common law. **Section 134**

The Safety and Health at Work Act 2005 replaces the Factories Act 1983 **Section 137**