



The Workplace Policy and Labour Legislation

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What we will cover

- Overview of the Safety and Health at Work Act (SHAW)
- Quick glance at the Employment Rights Act
- Employer duties under SHAW
- Employees duties under SHAW
- Role of the joint health and safety committee (JHSC)
- ACTION - the occupational safety and health (OSH) self-management programme

Safety and Health at Work Act Cap 356

- Applies to all workplaces except:
 - the military, armed forces, domestic service in private households,
 - work done by the master or crew of a ship or done aboard a ship during a trial run.
- Minister may exempt certain dept's of gov't

General Intent of SHAW Act

- The Act makes Provision for
 - Securing health, safety and welfare at work
 - Protecting other persons against risks to health and safety in connection with the activities of persons at work
 - Controlling emissions into the environment

Approach to Management of Safety and Health

- The principle of joint responsibility is promoted
- Clearly defined roles for government, employers & employees
- Self regulation is encouraged as seen through the mandatory requirements for formal safety and health management systems

Structure

- i. General Duties (S 6-10)
- ii. General Provisions – Safety (S 11-48)
- iii. Health (S 49-56)
- iv. Welfare (S 57-66)
- v. Medical examinations and young persons (S 67-78)
- vi. Special Applications and Extensions of the Act (S 79-88)

Structure continued

- vii. Notices and Registers (S 89-95)
- viii. Administration (S 96-104)
- ix. Regulations (S 105-108)
- x. Offences, Penalties and Legal Proceedings (S 109-131)
- xi. General (132-138)

Definitions

- Employer: A person who employs persons for the purpose of carrying out any trade, business, profession, office, vocation or apprenticeship
- Employee: any person who has entered into or works under a **contract of service** or apprenticeship with an employer to do any skilled, unskilled, manual, clerical or other work for hire or reward, whether the contract is expressed or implied, oral or written or partly oral and partly in writing, and includes a public officer

General Duties of Employers

- Section 6 outlines the “General duties of an employer”
 - Obligation to assess risks
 - Explicitly states common law duties
 - Explains obligations to pregnant workers

General Duties of Employers

- Section 6 of the SHaW Act outlines the “General duties of an occupier or employer”

I. Obligation to assess risk

- Person who undertakes design, importation or manufacture of any article for use at work
- No work should be done; equipment, material, article or substance used unless a suitable and sufficient risk assessment and steps to eliminate or minimise risks have been undertaken

General Duties of Employers

II. Explicitly states common law duties

- It shall be the duty of every occupier to ensure the health, safety and welfare at work of all his employees

III. New and Expectant Mothers

- Worker to inform employer of pregnancy in writing
- Employer to conduct job risk assessment on notification of pregnancy and on return to work
- If necessary suitable alternative work to be offered during pregnancy and for 6 months after birth of child

General Duties of Occupiers

- Section 7 addresses duties to persons generally including
 - Visitors to the workplace
 - Employees with special needs
 - Persons who are not employees but may be affected by workplace operations
 - Requirements regarding the safety policy
 - Proper construction, maintenance and guarding
 - No overloading

Employees With Special Needs

- Employers have a duty to cater to employees with special needs, appropriately e.g ramps
- Information should be communicated in such a manner that persons are able to receive it
e.g. fire alarms must be audible and visible

Safety Policy / Statement - S 7 (4) &(5)

Employers shall prepare and as appropriate, revise a statement of policy with respect to workplace safety, health and welfare, and the organisation and arrangements for the time being in force for carrying out the policy, and to bring the policy and any revisions of it to the notice of all employees.

Where 10 or more persons are employed the statement of policy shall be in writing.

Proper Construction, Maintenance etc

- Every part of any ways, works, plant or thing in a workplace shall be of safe construction, sound material and shall be properly maintained, and every dangerous part of such ways, works, plant or thing shall be so enclosed, covered, fenced or otherwise effectively guarded as to prevent danger.
- No part of any ways, works, plant or thing shall be so overloaded or maintained as to create danger to any person in a workplace.

General Duties of Employees

- Section 9 covers the employee's role
 - Secure safety and health of self and others
 - Cooperate with employer to ensure compliance
 - Report infractions of legislation
 - Use PPE correctly
 - Not misuse anything provided in accordance with legislation

What is Risk Assessment?

A risk assessment is a careful examination of what, in your work, could cause harm to people, so that you can weigh up whether you have taken enough precautions or should do more to prevent harm.

The aim is to make sure that no one gets hurt or becomes ill.

Definitions

Hazard means anything that can cause harm (e.g. chemicals, electricity, working from ladders, etc)

Risk is the chance, high or low, that somebody will be harmed by the hazard. It considers the severity of the consequences.

Safety Organisation – S 103

- JHSC is mandatory where there are 25 or more employees
- Access to information on articles and substances used in the workplace
- Recommendations to be implemented where practicable
- Written safety policy / statement where >10 persons are employed

Safety Organisation

- Half & half management and employees reps
- Meet at least quarterly and post notes prominently
- Meetings should have a cooperative atmosphere
- Meetings should stay focused on OSH issues
- Committee should develop and follow an action plan
- Committee is the first response team especially in dealing with imminent danger

Right to Refuse – S 104

Where, during his employment there is sufficient evidence to indicate that an employee's health and safety are in imminent danger that employee may refuse to carry out the tasks assigned to him pending consultation with his Safety Committee, Trade Union, Staff Association or CLO.

Enforcement

- Chief Labour Officer given authority to issue prohibition and improvement notices
- Prohibition notice may be issued to take immediate effect
- Employer to lodge appeal with court if there is disagreement with the action of CLO

Procedures

- The Safety and Health Officer visits workplaces to conduct inspections, respond to concerns, to give advice on request
- The cooperation of employers, employees is anticipated

Other Labour Laws

- **Labour Department Act, Cap 23**
- **Accidents and Occupational Diseases Notification Act - (Cap 338)**
 - *applies to all workers except maids in private households*
 - *accidents resulting in more than three days absence must be reported to the CLO*
- **Miscellaneous Provisions Act – (Cap 346)**
 - *make provisions for the employment of person generally including young persons and children.*

Cap 346 - Employment (Miscellaneous Provisions) Act

- Applies to industrial undertakings which are certain types of 'factories'
- Requires a certificate for night work i.e 9pm to 7am
- Does not apply to certain positions or activities

Employment Rights Act

- Does NOT apply to the public sector
- Applies to Private Sector and Statutory Boards etc

The right not to be unfairly dismissed

27. (1) An employee has the right not to be unfairly dismissed The right.
by his employer.

(2) Subsection (1) has effect subject to the following provisions
of this Part.

(3) Subsection (1) does not apply to the dismissal of an employee
unless he has been continuously employed for a period of not less than
one year ending with the effective date of termination.

al.

30. (1) A dismissal of an employee contravenes the right conferred on him by section 27 where

- (a) the dismissal took place while the employee was absent from work for a period of not more than one year, although he was certified by a medical practitioner to be incapable of work throughout the entire period of the absence as a result of an occupational disease or a work-related accident;

(c) the reason for the dismissal is

(vi) that the employee refused to carry out tasks assigned to him in the circumstances set out in section 104 of the *Safety and Health at Work Act, 2005*;

Act 2005-12.

(vii) that the employee is or was a disabled person, whether or not the disability resulted from an occupational disease or a work-related accident, in circumstances where the employer could reasonably have been expected to offer the employee alternative employment;



Overview of the Barbados OSH Self Management System:

ACTION[©]

Rationale for Self-Management

- SHaW Act places duties on employers and others to manage risks to safety and health
 - Risk assessment
 - Safety and Health Policy
- Recognition that self-management of safety and health by the business is preferable to relying on visits by Inspectors to ensure compliance
- Self-regulation is encouraged

Goals of Barbados OSH Self Management Programme

- Promotion and implementation of safety and health management systems in enterprises of all sizes;
- Facilitation and enhancement of voluntary arrangements for the systematic identification, planning, implementation and improvement of OSH activities;
- Promotion of the active participation of workers and their representatives;
and
- Promotion of continual improvement.

Barbados OSH Self-Management Programme

- Based on the PASST model from Mexico
 - One day seminar on July 11, 2011 details explained
- Informed by stakeholders comments
 - Stakeholder consultation on July 12, 2011

Pilot Phase

- Pilot period April 2014 – Mar 2015
- Five to ten companies selected
- Companies admitted into programme
- Monitoring and review
- Evaluation and Report

1. Company Self-Assessment

- Risk assessments
- Accident, incident and illness statistics
- SHaW compliance
- Management Commitment & Employee involvement

Appendix 5

Internal Self-Audit Checklist

Occupational Safety and Health Programme Checklist

Use this checklist to make sure that you have all the necessary information in your safety management system program.

Safety Management System Program Checklist			
	OK	NOT OK	COMMENTS
COMPANY OCCUPATIONAL SAFETY POLICY			
The OSH Policy is:			
• Written			
• Communicated			
• Posted			
• Reviewed			
Specific responsibilities are assigned			
Safety and health objectives are set			
SAFETY AND HEALTH LEGISLATION			
Front Line Managers/Supervisors			
• Trained in OSH			
• Understand their duties			
• Held accountable for OSH			
Employees			
• Trained in safe work practices			
• Understand their duties			
• Aware of their rights			
• Report unsafe conditions & practices			
• Participate in the development of OSH programmes and safe work practices			
WORKPLACE HAZARDOUS MATERIAL INFORMATION SYSTEM			
Material Safety Data Sheets are readily available			
Product labels on all containers			

2. Labour Department Audit

- Opening conference
- Audit of the company's management system/procedures (Part 1)
- Walk-through inspection (Inspector, management representative, representative from the workers)
- Closing conference

Initial Audit (2)

- SHaW compliance (Part 2)
- Identification of gaps
- Focus on management commitment to safety
- Fully functioning Safety and Health Committees/Safety delegates
- Follow- up advisory visits as necessary

Part 1 - Assessment of OSH Management System

SAFETY AND HEALTH PROGRAM ASSESSMENT TOOL- Safety Management Requirements

A. SAFETY AND HEALTH POLICY	Evidence Criteria			Yes	No	COMMENTS
	Documentation	Interview	Inspection			
<ul style="list-style-type: none"> Is the Safety and Health Statement in writing, signed by senior management, and dated? 						
<ul style="list-style-type: none"> Does the Safety and Health Statement reflect management's commitment to protect the safety and health of workers at the workplace? 						
<ul style="list-style-type: none"> Is there a process in place to ensure that the Safety and Health Policy has been communicated to all workers? 						
<ul style="list-style-type: none"> Has the Safety and Health Policy been communicated to all workers? 						
<ul style="list-style-type: none"> Has the Safety and Health Policy been developed in consultation with the safety and health committee/ safety delegate? 						

A. SAFETY AND HEALTH POLICY

Comments:

MANAGEMENT SYSTEM RATING SUMMARY

RATING	RATING LEVEL	SUMMARY
A	High Rating	Meets 96% - 100% of the section requirements.
B	Moderate Rating	Meets 71% - 95% of section requirements.
C	Low Rating	Meets between 31% - 70% of section requirements.
D	Extremely Low Rating	Meets 30% or less of section requirements.

SECTION	A	B	C	D
	TOTAL REQUIREMENTS	TOTAL AFFIRMATIVES	(B/A)*100% % REQUIREMENTS MET	RATING LEVEL
A: SAFETY AND HEALTH POLICY	5			
B: PLANNING	12			
C: IMPLEMENTING THE POLICY	12			
D: MONITORING PERFORMANCE	8			
E: REVIEWING PERFORMANCE	3			
TOTAL	40			

Part 2 – SHaW Compliance

C	EMERGENCY PROCEDURES & AWARENESS	Y	N	N/A	REMARKS/ ACTION REQUIRED
C 1	Is there sufficient means for escape in the event of an emergency?				
C 2	Are the means of escape kept free from obstruction?				
C 3	Does the company have a valid fire certificate from the Fire Service?				
C 4	Is the Fire Service provided with drawings indicating the layout of the building site?				
C 5	Has the fire service been provided with any information relating to structural changes?				
C 6	Has the fire service been provided with any information relating to significant increases in staff complement?				
C 7	Has the fire service been provided with any information relating to the storage of flammable materials?				
C 8	Is a fire alarm system installed?				
C 9	If you have an alarm system, is it tested a minimum of once per quarter?				
C 10	If yes to C9, are the results recorded in accordance with Legislation? if no to C9, tick N				
C 11	Is there an emergency response procedure?				
C 12	Are employees aware of the emergency procedures (exit routes, assembly areas etc)?				
C 13	Are fire drills conducted?				

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A	SAFETY ORGANIZATION & MANAGEMENT	1	<input type="checkbox"/>
B	ACCESS AND EXITS	2	<input type="checkbox"/>
C	EMERGENCY PROCEDURES & AWARENESS	3	<input type="checkbox"/>
D	FLOORS & PASSAGES	5	<input type="checkbox"/>
E	OCCUPATIONAL HEALTH	6	<input type="checkbox"/>
F	STORAGE OF CHEMICALS	8	<input type="checkbox"/>
G	INDOOR AIR QUALITY	9	<input type="checkbox"/>
H	ERGONOMICS	10	<input type="checkbox"/>
I	NOTICES AND REGISTERS	12	<input type="checkbox"/>
J	HEALTH SECTOR ONLY	13	<input type="checkbox"/>
K	SCHOOLS ONLY	14	<input type="checkbox"/>
L	CONFINED SPACES	15	<input type="checkbox"/>
M	GAS, DUST, FUMES AND EXPLOSIVE/FLAMMABLE SUBSTANCES	16	<input type="checkbox"/>
N	MACHINERY	17	<input type="checkbox"/>
O	STEAM BOILERS	18	<input type="checkbox"/>
P	AIR RECEIVERS	19	<input type="checkbox"/>
	ADDITIONAL COMMENTS	20	<input type="checkbox"/>
	HAZARD RATING SUMMARY	21	<input type="checkbox"/>

HAZARD RATING SUMMARY						
RATING	COMPLIANCE LEVEL	SUMMARY				
A	High Compliance	Meets 96% - 100% of the section requirements. Minimum action required at convenience.				
B	Moderate Compliance	Meets 71-95% of section requirements. Requires action within the medium term (12- 18 months)				
C	Low Compliance	Meets 31-70% of section requirements. Requires action within the short term (less than 12 months)				
D	Extremely Low Compliance	Meets less than 30% of section requirements. Requires immediate action.				
SECTION	A	B	C	D	E	F
	TOTAL REQUIREMENTS	TOTAL N/A	A-B	TOTAL AFFIRMATIVES	(D/C)* 100%	COMPLIANCE LEVELS
			TOTAL RELEVANT REQUIREMENTS		% REQUIREMENTS MET	
A: SAFETY ORGANISATION AND MANAGEMENT	23					
B: ACCESS & EXITS	2					
C: EMERGENCY PROCEDURES AND AWARENESS	20					
D: FLOORS & PASSAGES	12					
E: OCCUPATIONAL HEALTH	22					
F: STORAGE OF CHEMICALS	10					
G: INDOOR AIR QUALITY	5					
H: ERGONOMICS	15					
I: NOTICES & REGISTERS	10					
J: HEALTH SECTOR ONLY	10					
K: SCHOOLS ONLY	1					
L: CONFINED SPACES	9					
M: GAS,DUST,FUMES & EXPOLOSIVE OR FLAMMABLE SUBSTANCES	12					
N:MACHINERY	11					
O: STEAM BOILERS	5					
P: AIR RECEIVERS	3					
TOTAL	170					

3. Programme Levels

Bronze

- 80% SHaW complaint
- 30% operability of HSMS

Silver

- 85% SHaW complaint
- 70% operability of HSMS

Gold

- 95% SHaW complaint
- 95% operability of HSMS

Platinum

- Same as gold
- Active promoter of OSH

Awards/Penalties

- The development of a logo indicating that the organisation is part of the programme and their current level in the programme
- Companies given a plaque indicating their level
- A reduced inspection schedule where companies that have achieved gold standard will have a detailed inspection once every four years
- Companies with serious OSH infractions can be removed
- There is NO exemption from legal proceedings being brought by Labour Dept

ACTION Self-Management System



A COMMITMENT TO IMPROVING OUR NATION

Bronze

- 80% SHaW complaint
- 30% operability of HSMS

Silver

- 85% SHaW complaint
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- 95% SHaW complaint
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- Same as gold
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Occupational Safety & Health Section

Labour Department



Promoting the attainment and maintenance of desirable standards of occupational safety and health practice in Barbados.