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**SAFETY AND HEALTH AT WORK (REFUSAL OF DANGEROUS
TASKS) REGULATIONS, 2023**

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Safety and Health at Work Act

CAP. 356

**SAFETY AND HEALTH AT WORK (REFUSAL OF DANGEROUS
TASKS) REGULATIONS, 2023**

The Minister, in exercise of the powers conferred on him by regulation 108(1)(h) of the *Safety and Health at Work Act*, makes the following Regulations:

Citation

1. These Regulations may be cited as the *Safety and Health at Work (Refusal of Dangerous Tasks) Regulations, 2023*.

Definitions

2. In these Regulations,

“imminent danger” means a situation where conditions or practices in a workplace present a danger which could reasonably be expected to cause immediate serious physical harm, a serious health hazard, an occupational disease or death;

“incapacity” means inability or lack of sufficient strength or power;

“occupational disease” has the meaning assigned to it in section 2 of the *Accidents and Occupational Diseases (Notification) Act*, Cap. 338;

“serious health hazard” means a potential source of significant danger to the health of an employee which may cause life threatening, irreversible or long-term impacts but is not limited to an occupational disease;

“serious physical harm” means severe damage to a part of the body, whether or not reversible, to the extent that incapacity could result;

“sufficient evidence” means any condition that a reasonable person would consider likely to pose a real danger of death or serious physical harm to a person.

Application

3. An employee may refuse to carry out a task assigned to him in the course of his employment, if he believes that there is sufficient evidence to indicate that there is an imminent danger to his health and safety.

Exception

4.(1) Notwithstanding regulation 3, an employee who believes that there is sufficient evidence to indicate that there is an imminent danger to his health and safety, may not refuse to carry out a task where

- (a) he is a member of the Fire Service, Police Service, Prison Service or other correctional institution;
- (b) the refusal directly endangers the safety or health of another person;
- (c) the nature of the work involves inherent dangers and all reasonably practicable measures have been taken to reduce the risks of those dangers;
- (d) the nature of the work involves the operation of
 - (i) an ambulance service;
 - (ii) a hospital, clinic or health centre;
 - (iii) a nursing home or children’s home;
 - (iv) a nursery or other child care facility; or
 - (v) a facility for persons with a disability.

(2) An employee, to whom paragraph (a), (b) or (c) applies, who believes that there is sufficient evidence to indicate that there is an imminent danger to his

health and safety, may refuse to carry out a task where that danger is not inherent to the employee's work or is not a normal condition of work.

Employee to report refusal

5. An employee who refuses or intends to refuse to carry out a task because of imminent danger to his health and safety shall immediately report the circumstances of the refusal or the intention to refuse with reasons to the employer or the person authorised to act on the behalf of the employer.

Investigation of refusal

6.(1) Where an employee makes a report in accordance with regulation 5, the following persons shall conduct an investigation immediately after receiving the report:

- (a) the employer or the person authorised to act on the behalf of the employer;
- (b) the employees' representative appointed to the Health and Safety Committee; and
- (c) the safety delegate where there is no Health and Safety Committee.

(2) During or pending an investigation conducted in accordance with paragraph (1),

- (a) the employee who refuses to carry out a task because of imminent danger to his health and safety shall
 - (i) attend work;
 - (ii) receive his full wages or salary and any additional benefits;
 - (iii) if possible, carry out the task under alternative conditions within the workplace until
 - (A) the investigation is completed; or

- (B) the employee is reassigned by the employer to carry out an alternative task; and
 - (iv) carry out any reasonable directions given by the employer where it is impractical for the employer to reassign reasonable alternative work; and
 - (b) an employee who assists in the investigation shall be paid his full wages or salary and any other benefit.
- (3) Unless the investigation requires, no employee shall be assigned to carry out the task that was refused or any other task in the area of the workplace that is the subject of an investigation.
- (4) Following an investigation
- (a) the employer or the person authorised to act on the behalf of the employer;
 - (b) the employees' representative appointed to the Health and Safety Committee; or
 - (c) the safety delegate, where there is no Health and Safety Committee,
- shall prepare a written report setting out the findings of the investigation and where necessary, the measures that are to be implemented to remove the imminent danger reported in accordance with regulation 5.
- (5) Where the investigation finds that there is sufficient evidence of imminent danger to the health and safety of an employee or another person, and the report recommends the measures that are to be implemented to remove that danger, the employer shall implement the recommendations where it is reasonably practicable to do so.

(6) Where the investigation finds that there is not sufficient evidence of imminent danger to the health and safety of an employee or another person, the employer may

- (a) reassign the employee who refused to carry out the task to which he was assigned; or
- (b) assign another employee to carry out the task in the area and under the conditions that caused the previous employee to refuse to carry out the task.

Employee who refuses task not to be punished

7. No employer or person acting on behalf of an employer shall

- (a) dismiss or threaten to dismiss;
- (b) discipline, suspend or threaten to discipline or suspend;
- (c) impose any penalty on;
- (d) intimidate or coerce; or
- (e) victimize,

an employee who refuses to carry out a task because he believes that there is an imminent danger to his health and safety.

Report to Chief Labour Officer

8. Where following the investigation the employer implements the measures contained in the report submitted in accordance with paragraph (5) of regulation 6 to remove the imminent danger to the health and safety of the employee, and that employee believes that there is sufficient evidence that the imminent danger continues, the employee may continue to refuse to carry out the task and a report shall be made to the Chief Labour Officer by

- (a) the employee;

- (b) the employee through the trade union representing the workers at the workplace; or
- (c) an employee who has reason to believe that there is sufficient evidence of imminent danger to the employee assigned to the task.

Investigation by Chief Labour Officer

9.(1) The Chief Labour Officer shall commence an investigation into the circumstances of an employee's continued refusal within 48 hours of receiving a report that the employee believes that there is a continuation of imminent danger to their health and safety.

(2) During or pending an investigation conducted by the Chief Labour Officer, the employee who continues to refuse to carry out a task because of imminent danger to his health and safety shall

- (a) attend work;
- (b) receive his full wages or salary and any additional benefits; and
- (c) carry out reasonable alternative work as assigned by the employer; or
- (d) carry out any reasonable directions given by the employer where it is impractical for the employer to reassign reasonable alternative work.

(3) Unless the investigation requires, no employee shall be assigned to carry out the task that was refused or any other task in the area of the workplace that is the subject of an investigation.

(4) During an investigation, the Chief Labour Officer shall provide preliminary guidance and issue directions to the employer to address the circumstances which caused the employee to refuse to carry out a task.

(5) Following an investigation in accordance with paragraph (1), the Chief Labour Officer shall prepare and submit a written report to the employer setting out the findings of the investigation, and where necessary, the measures that are to be implemented to remove the imminent danger reported in accordance with regulation 8.

(6) The report of the Chief Labour Officer shall be binding on all parties.

Complaints to be made to Chief Labour Officer

10.(1) Where there are reasonable grounds to believe that

- (a) an employer;
- (b) an employee; or
- (c) a trade union representing the employees at the workplace,

has acted recklessly or in bad faith with respect to an employee's refusal to work under regulations 5 or 8, the employer, employee or trade union representing the employees at the workplace, as the case may be, may file a complaint with the Chief Labour Officer as soon as is practicable, but not later than 14 days after the event to which the complaint relates, for determination.

(2) Where an employee has reasonable grounds to believe that any provision of these Regulations has been contravened to his detriment, the employee may file a complaint with the Chief Labour Officer as soon as is practicable, but not later than 14 days after the event to which the complaint relates, for determination.

(3) The Chief Labour Officer shall determine the complaints made under paragraphs (1) and (2) not later than 15 days after receiving the complaint, and may make such order as he considers appropriate.

Made by the Minister this day of , 2023.

Minister responsible for Labour

