

**THE OCCUPATIONAL SAFETY AND HEALTH
ACT NO.8 OF 2005**

ARRANGEMENT OF SECTIONS

SECTIONS:

TITLES:

**PART I
PRELIMINARY PROVISIONS**

- | | |
|----|-------------------------------|
| 1. | Short title and commencement. |
| 2. | Application. |
| 3. | Interpretation. |

**PART II
ADMINISTRATION AND ENFORCEMENT**

- | | |
|-----|---|
| 4. | Occupational Safety and Health Directorate. |
| 5. | Appointment and powers of Director. |
| 6. | Appointment of Inspectors. |
| 7. | Confidentiality. |
| 8. | Interested person not to be Inspector. |
| 9. | Power of Inspectors. |
| 10. | Investigation. |

11. Formal inquiries.
12. Complaints against decision of the Director.
13. Occupational Safety and Health Committee.
14. Quorum.
15. Procedure.
16. Limitations of complaints.
17. Power of Inspector to proceedings before a Court.
18. Safety and Health representatives.
19. Functions of safety and health representatives.

PART III
REGISTRATION OF WORKPLACES

20. Register of workplaces.
21. Particulars of a workplace.
22. Certificate of Registration.
23. Any construction on workplaces to be approved by Chief Inspector.
24. Director may vary the register.
25. Director to be notified on use of mechanical power.
26. Appeals.

PART IV
SAFETY, HEALTH AND WELFARE PROVISIONS

- 27. Buildings at workplace to be of sound construction.
- 28. Supply of drinking water.
- 29. Sanitary convenience.
- 30. Washing facilities.
- 31. Accommodation for clothing.
- 32. First Aid box.
- 33. Seats for employees who work while standing.
- 34. Risk assessment by employer.
- 35. Removal of dusts or fumes.
- 36. Provision of protective equipment.
- 37. Protection of eyes in certain processes.
- 38. Power to take samples and measurements.
- 39. Safety and health of agricultural activities.

PART V
GENERAL DUTIES OF THE SELF-EMPLOYED
AND EMPLOYERS

- 40. Employer's Duty to persons other than employees.
- 41. Self-employed duty.

- 42. Employer to display guide safety precautions.
- 43. Duty to provide safe premises.
- 44. Duty of controller of premises to keep air free of pollutants.

PART VI
GENERAL DUTIES OF MANUFACTURERS, SUPPLIERS
AND TRANSPORTERS

- 45. General duties of manufacturers, employers and transporters.
- 46. Joint and several liabilities of Receivers and Suppliers.
- 47. Duty of the effective supplier.
- 48. Duty of designer or manufacturer to protect the respective article.
- 49. Already approved research or examinations may not be repeated.
- 50. Importers to get all relevant information.
- 51. Pre-authorization in cases of highly toxic chemical substances.

PART VII
DUTIES, RIGHTS AND RESPONSIBILITIES OF
EMPLOYERS

- 52. Duty of employees to take care.
- 53. Duty to report to immediate supervisor of any dangerous situation.

- 54. Worker's right to move away from a dangerous situation.
- 55. Reckless or intentional interfering with safety measures.
- 56. Worker not to be penalized for complying with the provisions of this Act.
- 57. Penalty.

PART VIII
SAFETY PROVISIONS

- 58. Medical examination.
- 59. Duty to fence prime movers and transmission machinery.
- 60. Other machinery.
- 61. Safety devices.
- 62. Provision as to unfenced machinery.
- 63. Construction and maintenance of fencing.
- 64. Cleaning of machinery.
- 65. Construction and disposal of new machinery.
- 66. Vessel containing dangerous liquids.
- 67. Self-acting machine.
- 68. Training, supervision and research.
- 69. Hoists and lifts.
- 70. Maximum load of a hoist or lift.

71. Chain, ropes and lifting tackles.
72. Examination of chains, ropes and lifting tackles.
73. Cranes and other lifting machines.
74. Maximum working load.
75. Register of chains, ropes other lift tackles, cranes and other lifting machines.
76. Reporting on plants due for inspection.
77. Director not liable.
78. Steam Boilers.
79. Examination of Steam Boiler.
80. Steam receivers.
81. Examination of steam receivers.
82. Air receivers.
83. Director's power to make an exemption.

PART IX
FIRE PREPAREDNESS

84. Means of escape in case of a fire.
85. Fire extinguishing gadgets.
86. Safe keeping of inflammable substances.
87. Occupier's duty to ensure adequate fire response.

PART X
HAZARDOUS MATERIALS AND PROCESSES

- 88. Handling of hazardous materials.
- 89. Safety of electrical installations and apparatus.
- 90. Toxic materials to be used as a last resort.
- 91. Drenching facilities for emergency cases.
- 92. Protection of workers from exposure to asphyxian or irritants.
- 93. Workers not to be exposed to ionizing, radiations, etc.
- 94. Prohibition of work not adapted to workers.
- 95. Medical examination or supervision in certain processes.

PART XI
CHEMICAL PROVISIONS

- 96. General precautions in handling chemicals.
- 97. Provision of chemical data sheets.
- 98. Labelling of hazardous chemicals.
- 99. Duty of suppliers, manufacturers as regards equipment.

PART XII
OFFENCES AND PENALTIES

- 100. Penalty in case of death or injury.

101. Worker not to endanger premises or working environment.
102. Misuse of appliances, etc.
103. Act or omissions by employees or agents.
104. Forgery of certificates, false entries, etc.
105. Trade secrets.
106. Third Party liability.
107. Owner of machine to be deemed occupier.
108. Penalty on person actually committing offences for which occupier is liable.
109. Power of occupier or owner to exempt himself or herself from liability on conviction of actual offender.
110. General Offences.
111. Penalty for offences for which no express penalty is provided.
112. Power of Court to order cause of contravention to be remedied.
113. Proceedings against third parties.
114. Proof of certain facts.
115. Prosecution of offences.
116. Powers to compound offences.

PART XIII
MISCELLANEOUS PROVISIONS

- 117. Examination where authorised person is not available.
- 118. General Register.

- 119. Entries in the General Register or other records.

- 120. Preservation of registers and record.

- 121. Serving and sending of documents.

- 122. Posting of abstract of Act, Rules and Notices.

- 123. Periodical return of Persons employed or any other matters.

- 124. Victimization forbidden.

- 125. Prohibition of wage deductions.

- 126. Chief Executive Officer charged with certain duties.

- 127. Delegation of powers and assignment of functions.

- 128. Notification of incidents or occupational diseases.

- 129. Power to modify agreements.

- 130. Power to apportion expenses.

- 131. Protection provisions.

- 132. Repeal of Cap. 63 and savings.

- 133. Regulations.

SCHEDULES

ACT NO.8 OF 2005

I ASSENT

**{AMANI ABEID KARUME}
PRESIDENT OF ZANZIBAR
AND
CHAIRMAN OF THE REVOLUTIONARY COUNCIL**

27TH SEPTEMBER, 2005

**AN ACT TO REPEAL THE FACTORIES (SAFETY AND SUPERVISION)
DECREE AND TO MAKE BETTER PROVISIONS FOR THE SAFETY, HEALTH
AND WELFARE OF PERSONS AT WORKPLACES AND TO PROTECT OTHER
PERSONS AGAINST HAZARDS TO SEFETY AND HEALTH ARISING OUT
OF OR IN CONNECTION WITH ACTIVITIES AT WORKPLACES AND TO
PROVIDE FOR MATTERS CONNECTED THEREWITH**

ENACTED by the House of Representatives of Zanzibar.

**PART I
PRELIMINARY PROVISIONS**

Short title and
commencement.

1. This Act may be cited as the Occupational Safety and Health Act, 2005 and shall come into operation on such date as the Minister may by notice published in the Gazette appoint.

Application.

2.(1) Subject to the provisions of subsection (2) of this Act, this Act shall apply to all workplaces except workplaces specifically exempted by the Minister in consultation with the Labour Advisory Board.

(2) This Act shall not apply to merchant shipping.

(3) Except where otherwise expressly provided the provisions of this Act shall be in addition to and not in substitution for or diminution of the provisions of any other Act.

(4) The Minister may by order, exempt from the application of the provisions of this Act, any workplace or specific area of a workplace in case of an emergency.

Interpretation.

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

“air receivers” means any vessel (other than a pipe or coil, or an accessory, fitting or part of a compressor) for containing compressed air and connected with an air compressing plant; or any fixed vessel for containing compressed air or compressed exhaust gases and used for the purpose of starting an internal combustion engine;

“article” means solid, liquid or gas or any of their combination or any plant designed for use or operation (whether exclusively or not) by persons at work or any article designed for use as a component in any such plant or work process;

“authorized person” means in relation to the performance of any function or duty under the provisions of this Act, a person who is authorized in writing by the Director to perform that function or duty;

“authorized plant inspector” means any person whether an officer of the Government or not who is authorized by the Director to carry out examination and tests and issue a certificate as may be required;

“bodily injury” means physical or mental injury;

“building operation” means the construction, structural alteration, repair or maintenance of a building including re-painting,

re-decoration and external cleaning of the structure, the demolition of a building, but does not include any operation which is a work of engineering construction within the meaning of this Act;

“certificate of registration” means certificate of registration granted under this Act;

“chemical substance” means any natural or artificial substance intended for use whatever its physical state (gaseous, liquid or solid) and in particular includes pesticides, fungicides, fumigants, herbicides, wood preservatives, fertilizers, growth control chemicals industrial chemicals, laboratory chemicals, solvents, pharmaceuticals and food preservatives, food additives, and other substance with chemical properties;

“civil engineering work” includes, operation at bridges, aqueducts, dams, reservoirs, docks, waterworks, sewerage works, steel and reinforcement concrete structures, river works, roads, pipe lines, tunnels and shafts;

“class or description” in relation to workplaces, includes a group of workplace described by reference to locality;

“competent person” means a person with suitable training and sufficient knowledge, experience and skill for the performance of specific work;

“confined spaces” include any chamber, vat, pit, pipe, flue, tank, drain, sewer, still tower or any other confined space (other than a steam boiler) where there may be a concentration of dangerous fumes, toxic materials or substances, harmful liquids or lack of oxygen as to cause danger to the health of employed person;

“court” means a Regional Magistrate’s Court;

“Director” means the Director appointed under section 5 of this Act, who is also the Chief Inspector of workplaces;

“emergency” means dangerous situation where decision have to be taken quickly to avoid further damage to person or property;

“employee” means any person who –

- (a) is employed by or works for an employer and who receives or is entitled to receive any remuneration; or
- (b) works under the direction or supervision of an employer or any other person; or
- (c) is an apprentice;

“employer” means any person who employs or provides work for any person and remunerates that person or expressly or tacitly undertakes to remunerate him or her;

“exit medical examination” means medical examination conducted on an employee upon leaving his or her employment;

“explosives” means any substance capable of releasing energy in a rapid and uncontrolled manner to give rise to explosions;

“fume” includes gas or vapour;

“gas” means any combustible gas produced for the purpose of heating or lighting;

“gas plant” means any plant, apparatus or machine for generating gas including any container holding compressed, dissolved or liquefied gas under pressure and connected to a system of appliances or points and includes all pipes and appliances for storing such gas, or for conveying or regulating the flow of such gas to the places where it will be used, but excludes any such plant, apparatus, machine,

pipes or appliances used solely in connection with a single private dwelling house;

“General Register” means the register kept in accordance with the requirements of section 118 of this Act;

“hazard” means a source of or exposure to danger;

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

“health” in relation to work means not merely the absence of diseases or infirmity, it includes the physical and mental elements affecting health which are indirectly or directly related to safety and hygiene at work;

“Inspector” means an occupational safety and health officer in the service of the Government or any other person appointed by the chief Inspector to be an Inspector for the purpose of this Act;

“Labour Advisory Board” means the Board established under the Employment Act 2005;

“lifting gear” means chains, ropes, chain slings, rings, hooks, shackles, swivels, eyebolts, lifting beams and scale beams;

“lifting machine” means a crane, crab, winch, eagle, runway, transport or forklift trucks used for raising or lowering persons or objects;

“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 perform 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;

“maintained” means maintained in an efficient state, in efficient working order, and in good repair;

“manual labour” means work ordinarily performed by tradespersons of every type and description, labourers and description, labourers and drivers of all modes of transport, but does not include clerical work or similar occupation;

“maximum permissible pressure” means the pressure specified in the relevant certificate or the pressure specified in the report of the last examination;

“medical practitioner” means a medical doctor registered in Zanzibar;

“Minister” means the Minister responsible for labour;

“noise” means all sound which can result in hearing impairment or be harmful to health or otherwise is dangerous, disagreeable or undesirable;

“occupational accident” means an occurrence arising out of or in the course of work which results in fatal occupational injury or non-fatal occupational injury;

“occupational disease” means a disease contracted as a result of an exposure to risk factors arising from work activity;

“occupational health” includes occupational hygiene, occupational medicine and biological monitoring;

“Occupational Safety and Health Committee” means the Board established under section 13 of this Act;

“occupational hygiene” means the anticipation, recognition, evaluation and control of conditions arising in or from a

workplace, which may cause illness or adverse health effects to persons;

“owner” means the person for the time being receiving the rents or profits of the premises in connection with which the word is used, whether on his or her own account or as agent or trustee for any other person, or who would so receive the same if the premises were leased;

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

“premises” includes any building, vehicle, aircraft or vessel other than a merchant shipping vessel;

“prescribed institution” means any department, organization, institute or other body prescribed by the Minister by statutory instrument;

“President” means the President of Zanzibar and Chairman of the Revolutionary Council;

“prime mover” means every engine motor or other appliance which provides mechanical energy derived from steam, water, wind, electricity, the combustion of fuel or other source;

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

“radiation” means all frequencies of electro-magnetic wave spectrum including in particular microwaves, infra-red, visible and ultra-violet, X-rays and includes ionizing radiation which results from emission from radioactive isotopes;

“register” means a register of workplaces established under section 20 of this Act, and includes any other register kept in every workplace;

“risk” means the probability that injury of or damage to person, property or environment will occur;

“sanitary conveniences” include urinals, water-closets, earth-closets, privies, ash pits and any similar conveniences;

“safe working load” means either that load specified in the certificate of test obtained from the manufacturer or issued by an authorized person;

“safe working pressure” means in the case of a new steam receiver, that pressure as specified in the manufacturer’s certificate or issued by an authorized person;

“steam boiler” means any closed vessel in which for any purpose, steam is generated under pressure greater than atmospheric pressure, and includes any economizer used to heat water being fed to any such vessel and any super heater used for heating steam;

“steam container” means any vessel other than a steam pipe or coil constructed with a permanent outlet into the atmospheric pressure, and through which steam is passed at atmospheric pressure or at approximately that pressure for the purpose of heating, boiling, drying evaporating or other similar purpose;

“steam receiver” means any vessel or apparatus other than a steam boiler, steam container, a steam pipe or coil, or part of a prime mover used for containing steam under pressure greater than atmospheric pressure;

“transmission machinery” means every shaft, wheel, drum, pulleys, coupling, clutch, driving-belt or other device by

which the motion of a prime mover is transmitted to or received by any machine or appliance;

“user” in relation to plant or machinery, means the person who uses plant or machinery for 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;

“vessel” means any sea-going vessel other than a merchant shipping vessel;

“vibration” means any vibration which is transmitted to the human body through solid structures and is harmful to health or otherwise dangerous;

“worker” means an employee;

“working environment” means all places of work as well as all sites and areas where work is carried out including not only the permanent, indoor, stationary places of work which immediately come to mind, such as factories, offices and shops but also temporary places of work such as civil engineering sites, open-air places such as fields, forests, roads and mobile places of work such as cabs of trucks, seats of tractors and excavators, ships, galleys, freight decks of aircraft, and so on without exception; places where workers are found as consequence of their work;

“workplace” has the same meaning as “working environment”.

PART II

ADMINISTRATION AND ENFORCEMENT

Occupational Safety
and Health
Directorate.

4. There is hereby established the Occupational Safety and Health Directorate under the Labour Commission.

Appointment and powers of Director.

5.(1) The President shall appoint the Director from amongst persons who possess the necessary qualifications, experience and competence to perform the functions under this Act.

(2) The functions of the Director shall be -

- (a) to administer the functions of the Safety and Health Department;
- (b) to perform and supervise safety and health inspection in the workplaces;
- (c) to keep and maintain register of workplaces.
- (d) to keep records and other register of any other matters which need to be registered under this Act;
- (e) to make available for inspection by interested persons any register or extract therefrom;
- (f) to keep record of publication on safety and health standards which are incorporated in the Regulations;
- (g) to keep record of amendments or substitution of any safety and health standard so published.
- (h) to do such other functions as may be required under this Act.

(3) The Director may delegate any power conferred by this Act to any officer or authorize any such officer to perform any duty assigned to him or her by this Act.

(4) No delegation of a power under subsection (3) of this section shall prevent the exercise of that power by the Director himself or herself.

Appointment of Inspectors.

6.(1) The Minister may designate any person as an Inspector to perform, subject to the control and directions of the Director, any or all of the functions assigned to an Inspector by this Act.

(2) Every inspector shall be furnished with an identity card and when visiting any workplace to which any of the provisions of this Act applies shall, if so required, produce the identity card to the occupier or other person holding a responsible management position at a workplace.

(3) Where an Inspector is designated under subsection (1) of this section and performs any function under this Act in the presence of any person affected thereby, the inspector shall on demand by that person produce to that person the identity card referred to in subsection (2) of this section.

Confidentiality.

7.(1) No Inspector shall publish or disclose to any person the details of any manufacturing, commercial, working process or any information concerning the affair of any other person, which may come to his or her knowledge in the course of the Inspector's duties under this Act, except -

- (a) in so far as is necessary for the purpose or prosecution for an offence;
- (b) to the extent to which it may be necessary for the proper administration of this Act; or
- (c) at the request of a health and safety representative or a health and safety committee entitled thereto.

(2) An Inspector shall treat as absolutely confidential the source of any complaint bringing to his or her notice a contravention of the provisions of this Act, and shall give no intimation to the occupier or his or her representative that a visit of inspection was made in consequence of that complaint.

Interested person not to be Inspector.

8. Any person who -

- (a) is the occupier of a workplace; or
- (b) is directly interested in a workplace or in any processor business carried therein or in a patent connected therewith; or
- (c) is employed in a workplace;

shall not act as an Inspector.

Power of
Inspectors.

9.(1) An Inspector shall, for the purpose of the performance of this Act, have powers to do all or any of the following -

- (a) to enter, inspect and examine in any workplace in accordance of this Act;
- (b) without prior notice, to enter, inspect and examine, by day or night, a workplace, and every part thereof, when the Inspector has reasonable cause to believe that any person is employed therein;
- (c) to enter, inspect, and examine, any place which the inspector has reasonable cause to believe to be a workplace and any part of any building of which a workplace forms part and in which the Inspector has reasonable cause to believe that explosive or highly inflammable materials are stored or used;
- (d) to exercise such other powers as may be necessary to inspect and examine any machinery, plant, or appliance, in a workplace;
- (e) to take any assistant or a police officer if the Inspector has reasonable cause to apprehend any serious obstruction in the execution of his or her duty;
- (f) to require the production of a register, certificate, notice, document, article, any substance, plant or machinery, or a part or a sample in pursuance of this Act;

- (g) to inspect, examine and copy any of the documents mentioned under paragraph (e) of this section;
- (h) to seize and document or article mentioned in paragraph (e) of this section if, in the opinion of the Inspector, the seizure may serve as evidence at the trial of any person charged with an offence under this Act;
- (i) to make such examination and inquiry as may be necessary to ascertain whether the provisions of this Act are complied with;
- (j) to require any person whom the Inspector finds in a workplace to give such information as it in his or her powers to give as to who is the occupier of the workplace;
- (k) to direct any employer, employee or user or any former employer, employee or user, to appear at such time and place as may be determined by the Inspector and question that employer, employee or user either alone or in the presence of any other person on any matter to which this Act relates;
- (l) to examine any person either alone or in the presence of any other person, as the inspector thinks fit, with respect to matters under this Act, and to require every such person to sign a declaration of the truth of the matter to which he or she is so examined. Provided that no person shall be required under this provision to answer any question or give any evidence intended or likely to incriminate himself or herself;
- (m) in the case of an Inspector who is a registered medical practitioner, to carry out such medical examination as may be necessary for the purpose of his or her duties under this Act;
- (n) to exercise such other powers as may be necessary for carrying this Act into effect;

(o) to carry out investigation on any matter under this Act and to prepare the relevant report.

(2) The occupier of every workplace, his or her agent and servant shall furnish the means required by an Inspector as necessary for an entry, inspection, examination, inquiry, the taking of samples, biological monitoring or for the exercise of the Inspector's powers under this Act in relation to that workplace.

(3) Any person who -

(a) willfully delays an Inspector in the exercise of any power under this section; or

(b) fails to comply with the requirements of an Inspector under this section; or

(c) obstruct an Inspector in the execution of his or her duties,

commits an offence and is liable upon conviction to a fine of not less than one million shillings, or to imprisonment for a term of not less than three months or to both such fine and imprisonment.

Investigation.

10.(1) An Inspector may investigate the circumstances of any incident which has occurred at or originated from a workplace or in connection with the use of a plant or machinery which resulted, or in the opinion of the Inspector could have resulted in the injury, illness or death of any person in order to determine whether it is necessary to hold a formal investigation.

(2) After completing the investigation under subsection (1) of this section, the Inspector shall submit a written report, together with all relevant statements, documents and information gathered by him or her, to the Director for further action.

(3) A prescribed fee and all other related expenses for the investigation shall be borne by the owner or occupier of the workplace.

Formal inquiries.

11.(1) The Director, upon receipt of a complaint may, direct an Inspector to conduct a formal inquiry into any incident which has occurred at or originated from a workplace or in connection with the use of plant or machinery which has resulted, or in the opinion of the Director could have resulted, in the injury, illness or death of any person.

(2) The Inspector shall after the conclusion of an inquiry under this section prepare and submit a report on inquiry to the Director for further action.

(3) The Director may after considering the report under subsection (2) of this section:

- (a) advise accordingly;
- (b) issue improvement notice;
- (c) issue prohibition notice; or
- (d) refer the matter to court.

(4) The Minister shall upon consultation with the Director make rules prescribing procedures for conducting inquiry under this section.

Complaints against decision of the Director.

12. Any person aggrieved by a decision of the Director under this Act may submit his/her complaints to the Occupational Safety and Health Committee.

Occupational Safety and Health Committee.

13.(1) There is hereby established the Occupational Safety and Health Committee which shall hear and determine any complaints from decisions of the Director.

(2) The Occupational Safety and Health Committee shall consist of a chairperson and three other persons, one from each of the employers associations, trade unions, and the Government.

(3) The chairperson and members shall all be appointed by the Minister in consultation with the appropriate organizations.

(4) Members of the Committee shall hold office for a term of three years and may be appointed for a second term of three years.

- Quorum. 14.(1) The quorum for transacting any business of the Committee, shall be three of the members of the Committee.
- (2) In the absence of the chairperson, the members present shall appoint one of their numbers to be a temporary chairperson for the purpose of that meeting only.
- Procedure. 15. The Minister may make rules regulating the procedure of the Committee and until such time when the rules are made, the Committee shall regulate its own procedure.
- Limitations of complaints. 16.(1) Any person aggrieved by the decision of the Director under section 11 or in the exercise of any power under this Act, may within thirty days submit complaints against that decision to the Occupational Safety and Health Committee.
- (2) Where the Occupational Safety and Health Committee has received an appeal, it shall, within thirty days, determine the complaint.
- (3) In determining the appeal, the Occupational Safety and Health Committee may vary, confirm or otherwise direct the Director on the manner in which the matter complained of be treated.
- Power of Inspector to proceedings before a Court. 17.(1) An Inspector may, with the consent of the Director of Public Prosecutions, prosecute, conduct, or defend before a court any charge, complaint, or any other proceeding arising under this Act, or in the discharge of his or her duty as an Inspector.
- (2) It shall not be an objection to the competence of an Inspector to give evidence as a witness in any prosecution brought at his or her instance or conducted by him or her.
- Safety and Health representatives. 18.(1) Subject to the provisions of subsections (2) and (3) of this section, every employer who has more than ten employees in his or her workplace shall -
- (a) within four months after the commencement of this Act; or
- (b) after commencing business; or

(c) from such time as the number of employees exceeds ten;

designate in writing for a specified period, safety and health representatives for that workplace, or for the different sections thereof.

(2) Any employer and his or her employees or their representatives shall make their own arrangements and procedures for the nomination or election, the term of office and subsequent designation of safety and health representatives in terms of subsection (1) of this section:

Provided that, where such consultation fails, the matter shall be referred to the Occupational Safety and Health Committee for arbitration and decision.

(3) Every employee employed in a full-time capacity at a specific workplace and is acquainted with conditions and activities at that workplace or section thereof, shall be eligible for designation as a health and safety representative for that workplace or section.

(4) Where employees are performing work at a workplace other than that where they ordinarily report for duty, they shall be deemed to be working at the workplace where they so report for duty.

(5) Where an inspector is of the opinion that the number of health and safety representatives for any workplace or section thereof including a workplace or a section thereof with four or fewer employees, is inadequate, he or she may by notice in writing direct the employer to designate such number of employees as health and safety representatives for that workplace or section thereof as the inspector may determine in accordance with the arrangement and procedures referred to in subsection (2) of this section.

(6) All activities in connection with the designation, functions and training of health and safety representatives shall be performed during ordinary working hours, and anytime reasonably spent by any employee in this regard shall for all purposes be deemed to be time spent in the carrying out of his or her duties as an employee.

Functions of Safety and Health Representatives.

19.(1) The functions of a Safety and Health representative appointed for the workplace under this Act shall include -

- (a) to review the effectiveness of health and safety measures;
- (b) to identify potential hazards and major incidents at a workplace;
- (c) to collaborate with the employer, examine the causes of incidents at the workplace;
- (d) to investigate complaints by any employee relating to that employee's health or safety at work;
- (e) to make representations to the employer or where such representations are unsuccessful, to an inspector;
- (f) to inspect any document which the employer is required to keep in terms of this Act in so far as is reasonably necessary to perform his or her functions;
- (g) to accompany an inspector on any inspection;
- (h) to participate in any internal health or safety audit;
- (i) to report accidents, near misses, injuries, illnesses, deaths and non-compliance to the inspector.

(2) An employer shall provide such facilities, assistance and training as a health and safety representative may reasonably require for the carrying out of his or her functions.

PART III **REGISTRATION OF WORKPLACES**

Register of workplaces.

20.(1) There shall be a register of workplaces in which the Director shall enter such particulars of every workplace registered under this Act.

(2) The employer is required to register his/her place or work to the Director in accordance with this Act before commencement of operation of the work place

(3) The particulars required before any workplace may be registered are set out in the First Schedule of this Act.

Particulars
of a workplace.

21.(1) A person shall not more than one month before he or she begins to occupy, or use any premises as a workplace, serve on the Director, a written notice containing the particulars set out in the First Schedule except that a person may begin to occupy or use any premises as a workplace less than one month after the notice required by this subsection has been served where -

- (a) the Director issues in his or her name the certificate of registration mentioned in section 22 of this Act; or
- (b) before serving the notice, if he or she takes over from another person without changing the nature of the work and such notice is served as soon as practicable and in any case within one month of his or her taking over.

(2) A person who contravenes the provisions of subsection (1) of this section commits an offence and shall be liable on conviction to a fine of not less than five hundred thousand shillings or to imprisonment for a term of not less than three months or to both such fine and imprisonment and to a further fine not less than ten thousand shillings or to imprisonment for not less than three days or to both for each day during which such contravention continues after conviction.

Certificate of
Registration.

22.(1) Upon receipt of the notice in accordance with the provisions of section 21 of this Act, the Director shall cause the workplace to be registered and issue to the occupier a certificate of registration in his or her name in the form set out in the Second Schedule to this Act.

(2) All certificates issued in accordance with subsection (1) of this section shall bear an embossed stamp of the Director and shall be renewable after every two years after the Director is satisfied with the

performance.

(3) On the commencement of this Act, all occupiers of already registered workplaces shall return all certificates of registration issued to them, and new certificates bearing the embossed stamp referred to in subsection (2) of this section shall be issued.

Any construction on workplaces to be approved by Director.

23. Subject to the relevant provisions of the Zanzibar Investment and Protection Act 2004, all plans and architectural drawings of new workplaces and of alterations of existing workplaces shall be submitted to the Director for approval before the actual construction of buildings of workplaces or alterations of existing buildings of workplaces begins.

Director may vary the register.

24. The Director may vary or delete an entry in the register of workplaces in relation to any premises where he or she is satisfied that such variation or deletion has become necessary to maintain the accuracy of records, and may in the same instance vary any certificate of registration issued to any person under the provisions of section 22 (1) of this Act in respect of the premises.

Director to be notified on use of mechanical power.

25. The occupier shall notify, in writing, the Director of the full particulars of any mechanical power being used not less than one month before the date upon which such mechanical power is first used in any workplace.

Appeals.

26.(1) Any owner or occupier or other person aggrieved by any decision of the Director under this Part may, within one month, lodge his or her appeal to the Occupational Safety and Health Committee.

(2) The Committee shall hear and determine the appeal within one month from the date it was lodged.

(3) An appeal shall lie to the Court for any decision of the Occupational Safety and Health Committee.

PART IV
SAFETY, HEALTH AND WELFARE PROVISIONS

Buildings at workplace to be of sound construction.

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

(2) Every building used as a workplace shall -

(a) be so designed as to protect workers from the weather;

(b) have a water-tight roof;

(c) be free from any significant amount of dampness as is liable to affect the safety of the building or the health of the workers; and

(d) be in the form which allows easily accessibility of the peoples with disabilities.

(3) Where any process is carried out which renders the floor of a building liable to be wet to such an extent that the wetness is capable of being removed by drainage, there shall be provided and maintained drainage system.

(4) All practical measures shall be taken to prevent as much as possible the workers not to be affected by noise of sound.

Supply of drinking water.

28.(1) The employer shall ensure that adequate supply of clean, safe and wholesome drinking water is provided and maintained and is readily accessible to all persons employed on the premises.

(2) A supply of drinking water which is not laid on shall be contained in suitably covered vessels and shall be renewed daily.

(3) All practical measures shall be taken to prevent the water and vessels from contamination; and the drinking water supply,

whether laid on or not, shall, in such case as an inspector may direct, be clearly indicated in Kiswahili and English.

(4) All containers or vessels containing harmful liquids or which are used to contain harmful liquids shall not be used for storing drinking water.

Sanitary
convenience.

29.(1) Sufficient and suitable sanitary conveniences shall be provided for persons employed in a workplace and shall be maintained and kept clean and effective provision shall be made for lighting the sanitary convenience.

(2) Where persons of both sexes are or are intended to be employed, the sanitary conveniences shall afford separate accommodation for persons of each sex.

(3) For every number of females or males the provision of sanitary conveniences shall be one toilet for every twenty five persons or part thereof.

(4) Sanitary conveniences shall be made accessible for workers with disability.

Washing facilities.

30.(1) Subject to the type of the workplace, there shall be provided and maintained for the use of all persons employed, adequate and suitable facilities for washing which shall be kept in a clean and orderly condition.

(2) At least one washbasin, including hot water where necessary, shall be provided together with soap and means of drying for every fifteen persons employed.

Accommodation for
clothing.

31.(1) There shall be provided and maintained for the use of all persons employed adequate and suitable accommodation for clothing not worn during working hours.

(2) Separate changing rooms for each sex equipped with individual clogging clothes facilities shall be provided and properly

maintained.

First aid
box.

32.(1) There shall be provided and maintained a first aid box or cupboard to the prescribed standard and the first aid box or cupboard shall be distinctively marked "FIRST AID" having only appliances or stocks of first aid equipment.

(2) Each first aid box or cupboard shall be placed under the charge of a responsible person who has received first aid training from a recognized institute and who shall always be readily available during working hours.

(3) A notice shall be affixed in every workroom stating the name of the person in charge of the first aid box or cupboard provided in that section of the works.

(4) Where an injured person requires further medical attention, as the case may be, a reliable and suitable means of transport shall be provided to transfer the injured person to the nearest medical facility.

Seats for employees
who work while
standing.

33. There shall be provided and maintained for the use of all workers whose work is carried while standing, suitable seats to enable them to take advantage of any rest period which may occur in the course of their employment.

Risk assessment
by employer.

34. Every workplace where activities carried out involve hazardous processes or hazardous equipment or use of hazardous chemicals substances likely to result in adverse health effects to people or serious damage to property or environment in case of accidents, the employer shall ensure that -

- (a) risk assessment annually or any other time when the need for the risk assessment is deemed necessary is done by an approved inspection authority;
- (b) evidence of the risk assessment is furnished to the Director within one month after its completion.

Removal of dusts or fumes.

35.(1) In any workplace which, in connection with any process carried on, there are given off any dusts or fumes or other impurities of such a character and to such extent as to be likely to be injurious or offensive to the persons employed or any substantial quantity of dust of any kind, the employer shall ensure that -

- (a) all practicable measures are taken to protect the persons employed against inhalation of the dust or fumes or other impurities to prevent them accumulating in any workroom;
- (b) exhaust appliance is provided and maintained, as near as possible to the point of origin of the dust or fume or other impurities, to prevent them entering the air of the workroom;
- (c) no stationary internal combustion engine is used in a workplace unless provision is made on conducting the exhaust gases from the engine outside the workplace and above roof level;
- (d) no person is allowed to feed or drink in any workroom where poisonous or injurious substances used are capable of giving rise to dusts and fumes.

(2) The Minister may, make rules and regulations prescribing standards for the emission level.

Provision of protective equipment.

36. Where in any workplace, workers are employed in any process involving exposure to any injurious or offensive substance or environment, effective protective equipment shall be provided and maintained by employer for the use of the persons employed.

Protection of eyes in certain processes.

37. In the case of any of the processes specified in the Third Schedule to this Act, the employer shall -

- (a) ensure that suitable goggles or effective screens are provided to protect the eyes of the persons employed in the process;

- (b) where electric arc welding is carried on, ensure effective measures are taken, by screening or otherwise, to prevent all persons employed or other persons being exposed to the electric arc flash.

Power to take samples and measurements.

38.(1) An Inspector may, at any time after informing the employer of the undertaking –

- (a) take for analysis biological samples of workers exposed to hazardous substances or samples of any substance used or intended to be used in a workplace, being a substance in respect of which the inspector suspects is in contravention of any regulation made under this Act or which the inspector thinks may prove on analysis to be likely to cause adverse health effects to persons employed;
- (b) take measurements and photographs of any substance, machinery, material, building, or any process by video shooting which the inspector thinks may be useful in subsequent legal proceedings under this Act.

(2) The employer or any other responsible person may at the time when a sample is taken, and on providing the necessary appliances, require the inspector to divide the sample into three parts, to mark and seal or fasten up each part in such a manner as its nature permits and -

- (a) deliver one part to the occupier or any other responsible person of the workplace;
- (b) retain one part for future comparison;
- (c) submit one part to the Government Chemist whose analysis shall be final.

(3) A certificate signed by the Government Chemist as to the result of an analysis of a sample shall in any proceedings under this Act be admissible as evidence of the matters stated therein, but either party

may require the person by whom the analysis is made to be called as a witness before the court.

(4) No person shall publish or disclose to any person the results of an analysis made under this section except in so far as is necessary for the purpose of a prosecution for an offence under this Act.

Safety and health of agricultural activities. 39.(1) Every person who employs persons in agricultural activities shall be under the obligation to ensure that no worker is exposed to -

- (a) hazardous machinery and equipment; or
- (b) harmful animals and insects; or
- (c) infectious agents or allergens; or
- (d) hazardous chemicals; or
- (e) hazardous environments while doing work as agricultural worker.

(2) Any person who contravenes the provisions of subsection (1) of this section shall be guilty of an offence.

PART V
GENERAL DUTIES OF THE SELF-EMPLOYED
AND EMPLOYERS

Employer's Duty to persons other than employees.

40.(1) It shall be the duty of every employer to conduct his or her undertaking in such a way as to ensure, so far as is reasonably practicable, that persons not in his or her employment who may be affected by his or her undertaking are not exposed to risks of their safety and health.

(2) Where two or more employers undertake activities simultaneously at one workplace, they shall have the duty to collaborate in order to comply with the prescribed measures without prejudice to the responsibility of each employer for his or her workers.

Self-employed duty.

41. Every self-employed person shall conduct his or her undertaking in such a way as to ensure, so far as is reasonably practicable, that he or she and other persons who may be affected

thereby are not exposed to risks to their safety or health.

Employer to display
guide safety
precautions.

42. Every employer, including the self-employed shall display or provide guide safety precautions to all persons whether or not those persons are his or her workers, who may be affected by the manner in which the employer conducts the undertaking, and all information in the employer's possession or control concerning the way in which the employer conducts the undertaking which may affect those persons' health and safety.

Duty to provide safe
premises.

43.(1) It shall be the duty of each person who has, to any extent, control of premises to which this Act applies, to provide the means of access to them or exit from them or any plan or substances in such premises and to take such measures as are reasonable for a person in his or her position to ensure, so far as is reasonably practicable that the premises remain safe and without risk to health.

(2) Where a person has, by virtue of any contract or tenancy, an obligation in relation to -

- (a) the maintenance or repair of any premises to which this section applies or any means of access thereto or exit from;
or
- (b) the safety of or the absence of risk to health arising from plant or substances in any premises;

that person shall be treated, for the purposes of subsection (1) of this section as being a person who has control of the matters to which his or her obligation extends.

Duty of controller of
premises to keep air
free of pollutants.

44. It shall be the duty of the person having control of premises under this Act to use the best practicable means for preventing the emissions into the atmosphere from the premises of toxic or offensive substances and for rendering harmless and inoffensive such substances such as may be so emitted.

PART VI
GENERAL DUTIES OF MANUFACTURERS, SUPPLIERS AND
TRANSPORTERS

General duties of manufacturers, employers and transporters.

45.(1) It shall be the duty of a person who designs, manufactures, imports or supplies any article or chemical substance or mixture of chemical substances for use at work-

- (a) to ensure, so far as is reasonably practicable, that the article or chemical substance or mixture of chemical substances is so designed or constructed or formulated as to be safe and without risk to health when used properly and for the purpose it was intended;
- (b) to carry out or arrange for the carrying out of such testing and examination as may be necessary for the performance of the duty imposed on him or her by this section and for the purpose it was meant;
- (c) to take such steps as are necessary to ensure that there shall be available in connection with the use of the article or chemical substance or mixture of chemicals at work, adequate and clear information about the use for which it is designed and has been tested, and any conditions necessary to ensure that, when put to use, it will be safe and without risks to health.

(2) A duty imposed on any person by any section of this Act shall extend only to things done in the course of a trade, business, or other undertaking carried on by him or her whether for profit or not and to matters within his or her control.

Joint and several liabilities of Receivers and Suppliers.

46.(1) Where a person hereinafter referred to as "the supplier", designs, manufactures, imports or supplies any article, or a chemical substance, or mixture of chemical substances, for or to another person hereinafter referred as the "the receiver"; the receiver and the supplier shall be jointly and severally liable to ensuring the safety of the above mentioned article, chemical substance or mixture of chemical substances.

(2) Notwithstanding the provisions of subsection (1) of this section the receiver shall not be liable for any losses or injuries arising from any inherent defect of any article, or chemical substance or mixture of chemical substance.

Duty of the effective supplier.

47. Where a person hereinafter referred to as "the ostensible supplier", supplies any article for use at work or chemical substance for use at work to another person hereinafter referred to as "the customer" under a hire-purchase agreement or conditional sale agreement or credit-sale agreement and the ostensible supplier carries on the business of financing the acquisition of goods by others by means of such agreement, and in the course of that business acquires his or her interest in the article or substance supplied to the customer as means of financing its acquisition by the customer from a third person hereinafter referred to as the "effective supplier", the effective supplier and not the ostensible supplier shall be treated for the purpose of this section as supplying the article or substance to the customer, and any duty imposed by the provisions of this Part of the Act on a supplier shall accordingly fall on the effective supplier and not on the ostensible supplier except in cases of inherent defects in the article or substance supplied.

Duty of designer or manufacturer to protect the respective article.

48. It shall be the duty of any person who undertakes the design or manufacture of any article for use at work, to carry out or arrange for the carrying out of any necessary research with a view to the discovery and, so far as is reasonably practicable, the elimination or minimization of any risk to health or safety to which the design or article may give rise.

Already approved research or examinations may not be repeated.

49. Nothing in this Act shall be taken to require a person to repeat any approved testing, examination or research which has been carried out otherwise than by him or her instance, so far as it is reasonable for him or her to rely on results of the above examinations, tests or research for the purpose of these provisions.

Importers to get all relevant information.

50. In circumstances to be prescribed by the Government Chemist, it shall be the duty of a person who imports any article or chemical substance for use at work to obtain adequate research information of its toxicity and harmful effects to the health of persons at

work and to avail this information to all concerned, with a view to eliminate or minimize any risks to health or safety to which the article or chemical substance may give rise.

Pre-authorization in cases of highly toxic chemical substances.

51. Where the manufacture, supply, transport or use in the working environment or disposal of chemical substances which the Government Chemist or any other authority mandated by law considers highly toxic, or dangerous or capable of causing grave harm to health, or environment, such undertaking shall be subject to specific authorization by the said authorities after measures have been taken to ensure adequate protection.

PART VII
DUTIES, RIGHTS AND RESPONSIBILITIES
OF EMPLOYEES

Duty of employees to take care.

52.(1) It shall be the duty of every worker while at work –

- (a) to take reasonable care for the health and safety of himself or herself and of other persons who may be affected by his or her acts or omissions at work; and
- (b) as regards any duty or requirement imposed on the employer or any other person by or under any of the relevant statutory provisions, to cooperate with him or her so far as is necessary to enable that duty or requirement to be performed or complied with.

(2) It shall be the duty of the representatives of the workers in the undertaking to cooperate with the employer in all measures set out in this Act and any other law with a view to eliminate or minimize any risks to safety and health at work.

Duty to report to immediate supervisor of any dangerous situation.

53. It shall be the duty of the worker to report immediately to the supervisor any situation which the worker has reasonable grounds to believe presents an imminent or serious danger to his or her life or health or that of others in the same premises; and until the employer has taken remedial action, if necessary, the employer shall not require

the workers to return to a work situation where there is continuing imminent or serious danger to life or health.

Worker's right to move away from a dangerous situation.

54. Any worker who has removed himself or herself from a work situation which he or she has reasonable justification to believe presents an imminent and serious danger to his or her life or health shall not be punished or subjected to undue consequences, provided the danger is confirmed by the Director.

Reckless or intentional interfering with safety measures.

55. A person who intentionally or recklessly interferes with or misuses anything provided in the interests of health, safety or welfare in pursuance of any of the relevant statutory provisions commits an offence.

Worker not to be penalized for complying with the provisions of this Act.

56. An employer shall not levy or permit to be levied on any employee any penalty in respect of anything done or provided in pursuance of any specific requirements of the relevant statutory provisions of this Act.

Penalty.

57. Any person who contravenes the provisions of this Part shall be guilty of an offence and is liable to a fine of not less than one hundred thousand shillings or imprisonment for a term of not less than one month or both.

PART VIII **SAFETY PROVISIONS**

Medical examination.

58.(1) A thorough periodic occupational medical examination for fitness for continued employment for employees shall be carried out by a qualified medical practitioner as may be authorized by the Director.

(2) There shall be an exit medical examination carried out by a qualified medical practitioner.

(3) In carrying out medical examination under this section, a prescribed fee and all other related expenses should be borne by the employer.

(4) Any medical practitioner carrying out medical examination and the employer shall maintain the confidentiality of the results of the medical examination.

Duty to fence prime movers and transmission machinery.

59. The employer in the workplace shall have the duty to ensure that:

- (a) every fly wheel directly connected to a prime mover and every moving part of a prime mover, other than the prime mover mentioned in paragraph (b) of this section, is securely fenced;
- (b) every head and tailrace of water wheels, turbines and every part of electric generators, motor or rotary converter, fly wheels or transmission machinery are securely fenced unless they are safe by position or construction.

Other machinery.

60.(1) Every dangerous part of all other machinery other than those specified under section 59 of this Act shall be securely fenced unless they are safe by position or construction:

Provided that, in so far as the safety of a dangerous part of any machinery cannot by reason of the nature of the operation performed be securely fenced by means of a fixed guard.

(2) The requirement of subsection (1) of this section shall be deemed to have been complied with if a device is provided which in the opinion of the Director satisfactorily protects the operator from coming into contact with that part.

(3) Other parts which shall be securely fenced when they are being processed in lathe or other similar machine include:

- (a) stock bar projecting beyond the head stock; and
- (b) tube stock in similar circumstance or when being threaded in a screwing.

Safety devices.

61.(1) Efficient devices or appliances shall be provided and maintained in every workplace by which power can promptly be cut off from the transmission machinery.

(2) Every machine driven by mechanical power shall be provided with a starting and stopping device the control of which shall be conveniently situated to the person operating the machine.

(3) Driving belts when not in use shall be allowed to rest or ride on a revolving shaft, which form part of the transmission machinery.

(4) Suitable striking gear or other efficient mechanical appliances shall be provided and maintained and be used to move driving belts to and from fast and loose pulleys which form part of the transmission machinery, and any such gear or appliances shall be so constructed, placed and maintained so as to prevent the driving-belt from creeping back on the fast pulley.

Provision as to unfenced machinery.

62.(1) In determining whether any part of a machinery is safe by position or by construction to persons employed in the premises -

- (a) account shall not be taken of any person carrying out, while part of the machinery is in motion, an examination or lubrication or adjustment shown by examination to be immediately necessary and being an examination, lubrication or adjustment which is necessary to carry out while the part of the machinery is in motion; or
- (b) no account shall be taken of any person carrying out any lubrication or mounting or shifting of belts or any part of transmission machinery used in any process being a process where owing to its continuous nature, the stopping of that part would seriously interfere with the carrying on of the process.

(2) The provision of subsection (1) of this section shall apply where examination, lubrication or other operation is carried out by an adult person approved by the management of a workplace who has

received adequate training and has been provided with a close fitting overall having no external pockets.

(3) No person shall be appointed as a machinery attendant unless that person has been sufficiently trained in the work entailed and is fully aware of the dangers involved in the operations.

(4) Where any operations under this section are being carried out, another person shall assist the operator and shall ensure that all equipment and other fixtures used are securely fixed in position so as to prevent them from slipping.

Construction and maintenance of fencing.

63. Every fencing or safety guard shall be of substantial construction, properly maintained and kept in position while the parts required to be fenced or safeguarded are in motion or in use, except when any such parts are necessarily exposed for examination, lubrication or adjustment which are immediately necessary and all the conditions specified in section 64 of this Act are complied with.

Cleaning of machinery.

64. No person shall clean any part of a prime mover, transmission machinery or any dangerous part of any machinery while in motion, where the cleaning would expose the person to a risk of injury from any moving part of that machine or an adjacent machine.

Construction and disposal of new machinery.

65.(1) In the case of any machine in a workplace intended to be driven by mechanical power -

- (a) every setscrew, bolt or key on any revolving shaft, spindle wheel or pinion, shall be so sunk, encased or otherwise effectively guarded to prevent danger;
- (b) all spur and other toothed friction gearing which does not require frequent adjustment while in motion shall be encased, unless it is safe by position or construction.

(2) Any person who sells or lets on hire for use in a workplace any machine to be driven by mechanical power which does not comply with the requirements of subsection (1) of this section, commits an offence and upon conviction shall be liable to a fine of not less than

one hundred thousand shillings or a term of imprisonment of not less than one month or both.

Vessel containing dangerous liquids.

66.(1) Every fixed vessel, sump or pit of which the edge is level with less than one meter above the adjoining ground or platform shall, if it contains any scalding, corrosive or poisonous liquids, either be securely covered or fenced to at least that height or where by reason of the nature of the work neither secure covering nor secure fencing to that height is reasonable, all practicable measures shall be taken to prevent any person from falling into the vessel, sump or pit.

(2) A warning notice indicating danger in respect of the plant mentioned in subsection (1) of this section shall be marked on or attached to the plant or otherwise posted close by.

Self-acting machine.

67.(1) No traversing part of a self-acting machine and no material carried in there shall, if the space on which it runs is a space over which persons are liable to pass, whether in the course of their work or otherwise, be allowed on their inward or outward traverse to run within one meter from any fixed structure not being part of the machine.

(2) All practicable measures shall be taken by the occupier or otherwise by the person in charge of the machine to ensure that no person employed shall be in the space between any traversing part of self-acting machine and any fixed part of the machine towards which the traversing part moves on the inward run, except when the machine is stopped with the traversing part on the outward run.

Training, supervision and research.

68.(1) No person shall be employed at any machine or at any process, being a machine or process liable to cause bodily injury or injury to health, unless he or she has been fully instructed as to the dangers likely to arise in connection with the process or machine and -

- (a) has received sufficient training in the operation of the machine or in the process;
- (b) is under adequate supervision by a person who has a thorough knowledge and experience of the machine or process.

(2) It shall be the responsibility of the employer upon consultation with the Director to ensure that -

- (a) all exposed workers are instructed on the hazards prevailing in their workplace;
- (b) safety measures are taken to avoid injury; and
- (c) training is provided at least once in every two years.

(3) The Director shall, subject to the general direction of the Minister, undertake or promote studies and research to identify hazards in the working environment and develop innovative ways of dealing with occupational safety and health problems.

(4) The results of the studies or research carried out under subsection (3) of this section shall be made public and be used for promoting occupational safety and health.

Hoists and lifts.

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

(2) Every hoist or lift shall be thoroughly examined at least once in every period of six months by a person authorized by the Director by a certificate in writing and a report of the result of every examination shall be made on a prescribed form containing prescribed particulars signed by the authorized plant inspector and within fourteen days shall be entered in or attached to the register.

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

(4) The cage of a hoist or lift shall be lifted with efficient interlocking or other devices to ensure that the cage cannot be opened except when the cage or platform is at the landing and that the cage or

platform cannot be moved away from the landing until the cage is closed.

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

Maximum load of a hoist or lift.

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

(2) A person owning a hoist or lift used for carrying person whether with goods or otherwise shall comply with the requirements, that -

- (a) provision and maintenance of efficient automatic devices to prevent over running of the cage or platform;
- (b) every cage is on each side from which access is afforded to a landing be lifted with a gate and every such gate shall be provided with efficient devices to secure it, when persons or goods are in the cage, the cage cannot be raised or lowered unless the gate is closed and will come to rest when the gate is opened;
- (c) in the case of a hoist or lift constructed or reconstructed after the passing of this Act, where the platform or cage is suspended by rope or chain, there shall be at least two ropes or chains separately connected with the cage or platform; and each chain or rope and its attachment shall be capable of carrying the whole weight of the platform or cage and its maximum working load;
- (d) provision and maintenance of efficient devices which will support the platform or cage with its maximum working load in the event of the breakage of the rope or chains or any of their attachments.

(3) The provisions of subsection (2) of this section shall not apply where a hoist or lift is not operated by mechanical power.

(4) Every hoist way or lift way inside a building constructed after the coming into operation of this Act, and which passes through two or more floors shall be completely enclosed with fire fighting resisting material and all means of access to the hoist or lift shall be fitted with fire resisting doors.

(5) For the purposes of this section, no lifting machine or appliance shall be deemed to be a hoist or lift unless it has a platform or cage and its direction of movement is restricted by a guide.

Chain, ropes and lifting tackles.

71.(1) Chain, ropes and any other lifting tackle, shall not be used unless it is of good construction, of sound and suitable material, adequate strength for the work intended to do, free from patent defect and shall be properly maintained.

(2) A table showing the safe working loads of every kind and size of chain, rope or any other lifting tackle in use, and, in the case of a multiple sling, the safe working load at different angles of the legs, shall be posted in the store in which the gear is kept, or in other prominent position.

(3) No chain, rope or any other lifting tackle not shown in the table mentioned under subsection (2) of this section shall be used.

(4) The provisions of subsections (1), (2) and (3) shall not apply in relation to any lifting gear if the safe working load or in the case of multiple slings the safe working load at different angles of the legs is plainly marked on it.

Examination of chain: ropes and lifting tackles.

72.(1) All chains, ropes and other lifting tackle in use shall be thoroughly examined by an authorised plant inspector at least once in every period of six months or at such greater intervals as the Director may authorise.

(2) The report of the result of every examination shall –

- (a) be made on the prescribed form, and contain the prescribed particulars including particulars of the safe working load;
- (b) be entered in or attached to the register within fourteen days of the completion of the examination;
- (c) be signed by the authorized plant inspector.

(3) No chain, rope, or any other lifting gear, except a fiber rope or fiber rope sling, shall be taken into use in any place where this Act applies for the first time in that place unless it has been tested and thoroughly examined by authorised plant inspector and a certificate of that test and examination specifying the safe working load and signed by the inspector, has been obtained and is available for inspection.

(4) Every chain and any other lifting tackle except a rope sling shall be annealed at least once in every twelve months, or in the case of chains or slings of 12mm or smaller, or chains used in connection with molten metal or molten slag, once in every six months, unless it is of a class or description exempted by the Director on the ground that it is of such material or so constructed that it cannot be subjected to heat treatment without risk of damage.

(5) No chain, rope or lifting tackle of any type and description shall be loaded beyond the safe working load shown under section 74(2) except by authorised plant inspector for the purpose of testing.

Cranes and other lifting machines.

73.(1) No person shall use a crane or any other lifting machine unless –

- (a) all working parts of the gear whether fixed or movable including the anchoring or fixing appliances of every lifting machine, is of good mechanical construction, sound material and adequate strength for the work it is required to do;
- (b) unless the crane or lifting machine has been properly maintained, tested and thoroughly examined by the

manufacturers or by an authorised Plant Inspector in respect of a new lifting machine and thereafter periodically tested and examined by an authorised Plant Inspector and a certificate or report in prescribed forms of such tests and examinations specifying the safe working loads and signed by the manufacturers or by the authorised Plant Inspector has been obtained and kept available for inspection.

(2) All parts of a crane or any other lifting machine shall be thoroughly examined at least once in every period of twelve months by an authorised Plant Inspector.

(3) All rails on which a traveling crane moves and every track on which a carriage of a transport runway moves, shall be of proper size and adequate strength and shall have an even running surface and those rails or track shall be properly laid, adequately supported or suspended, and properly maintained.

Maximum working load.

74.(1) There shall be plainly marked on every lifting machine the safe working load or loads thereof, except that in the case of a jib crane so constructed that the safe working load may be varied by the raising or lowering of the jib, there shall be attached thereto either an automatic indicator of safe working loads or a table indicating the safe working loads at corresponding inclinations of the jib or corresponding radii of the load.

(2) No person shall load a crane or other lifting machine beyond the safe working load as marked or indicated under subsection (1) of this section, except for the purpose of a test.

(3) Where any person is employed or working at or near the wheel track of an overhead travelling crane in any place where the person would be liable to be struck by the crane, effective measures shall be taken to ensure that the crane does not approach within six meters from the place where the person is working or employed.

(4) No lifting machine shall be operated except by a trained and competent person, except that it shall be permissible for that machine to be operated by a person who is under the direct supervision

of a qualified person for the purpose of training.

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

Register of chains, ropes other lift tackles, cranes and other lifting machines.

75. A register, containing the particulars set out in the Fourth Schedule to this Act, shall be kept in every workplace with respect to all chains, ropes or any other lifting tackle, except fiber rope slings to which sections 69, 71 and 73 apply and with respect to all lifting machines to which section 74 applies.

Reporting on plants due for inspection.

76.(1) The owner of hoists or lifts, cranes and other lifting machines, chains, ropes and other lifting tackles shall within thirty days before the next examination of the lifting machines and lifting tackles notify the Director of the plants due for inspection.

(2) The Director shall upon payment of prescribed fee, instruct the authorised plant Inspector to carry out the examination and tests, as may be required.

(3) The owner of hoists or lifts, cranes and other lifting machines, chains, ropes and other lifting tackles, shall after major maintenance or alterations, notify the Director for the examination of the same before operation or being used again.

Director not liable.

77. The Director or any authorized person shall not be liable for any damage to any lifting appliance or lifting machine in the course of any test by the Director or that other authorized person.

Steam Boilers.

78.(1) Every steam boiler and all its fittings and attachments shall be of good construction, sound material, adequate strength and free from patent defect, and shall be properly maintained.

(2) Every steam boiler, whether separate or one of a range shall have attached to it -

(a) a suitable safety valve separate from and incapable of being isolated by any stop-valve, which shall be so adjusted

as to prevent the boiler being worked at a pressure greater than the maximum permissible working pressure and shall be fixed directly to, or as close as practicable to, the boiler;

- (b) a suitable stop-valve connecting the boiler to the steam pipe;
- (c) suitable steam pressure gauge connected to the steam space and easily visible by the boiler attendant, which shall indicate the pressure of steam in the boiler in kilogrammes per square centimetre and have marked upon it in a distinctive colour, the maximum permissible working pressure;
- (d) at least one water gauge, of a transparent material or other type approved by the Director to show the water level in the boiler, and if the gauge is of the glass tubular type and the working pressure in the boiler normally exceeds seven kilogrammes per square centimetre, the gauge shall be provided with an efficient guard but not so as to obstruct the reading of the gauge;
- (e) where it is one of two or more boilers, a plate bearing a distinctive number which shall be easily visible –
 - (i) shall be provided with means for attaching a test pressure gauge; and
 - (ii) shall be provided with a suitable fusible plug or an efficient low water alarm device.

(3) Notwithstanding the generality of the provisions of subsection (2) of this section, paragraph (a) of subsection (2) of this section shall not apply with respect to economisers, and paragraphs (b), (c) (d) and (e) of subsection (2) shall not apply with respect to either economisers or super heaters.

(4) For the purposes of subsection (3) of this section, a lever-valve shall not be deemed as a suitable safety valve unless the weight is

secured on the lever to prevent the boiler being worked at a pressure greater than the maximum permissible working pressure.

(5) A person attending a steam boiler shall be properly instructed as to his or her duties and -

- (a) no person shall be allowed to attend to a boiler as a boiler attendant unless he or she possesses a certificate of competence for boiler attendants issued by the Director; and
- (b) the certificate of competence shall be displayed in the boiler house so as to be readily available for inspection by an inspector or an authorized person whenever the recipient is on duty; and
- (c) the Director may at any time cancel any such certificate where its recipient shows such negligence or incompetence as might cause the boiler accidents.

(6) A person shall not enter or be in any steam boiler which is one of a range of two or more steam boilers unless -

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

(7) Work shall not be permitted in any boiler-furnace or boiler-fuel until it has been sufficiently cooled by ventilation or otherwise to make work safe for the person employed.

Examination of
Steam Boiler.

79.(1) Every steam boiler and all its fittings and attachment shall be thoroughly examined by an authorized person at least once in every twelve months or such longer periods as the Director may, by notice in the gazette, direct and after any extensive repairs.

(2) Notwithstanding the provisions of subsection (1) of this section, the person making any such examination may specify in writing a period exceeding twelve months but not exceeding eighteen months within which the next examination is to be made.

(3) The following provisions shall apply to an examination under subsection (1) of this section -

- (a) the boiler shall be examined when it is cold and the interior and the exterior have been prepared in the prescribed manner except that the person making the examination may, in addition to examination when cold, require the boiler to be examined by an authorized person when it is under normal steam pressure;
- (b) whether or not an examination by an authorized person has been carried out, when the boiler is under normal steam pressure as required in accordance with the provisions of paragraph (a) of this subsection, on the first occasion when the boiler is cold and cold steam is raised after such an examination, a competent person shall inspect such fittings and attachments as shall have been required to be so inspected by the authorized person at the time of his or her carrying out the examination when and in such latter examination the boiler was cold shall satisfy himself or herself, so far as is reasonably practicable, that they are in good working order and condition and that the safety valve is so adjusted as to prevent the boiler being worked at a greater pressure; and
- (c) a certificate in the prescribed form, stating the fittings and attachments required to be inspected in accordance with the provisions of paragraph (b) of this subsection and that they were so inspected and that the safety valve was so

adjusted as to prevent the boiler being worked at a pressure greater than the maximum permissible working pressure, shall be signed and dated by such person and entered into or attached to the general register before the boiler is again taken into use.

(4) A report of the result of every such examination, in the prescribed form and containing the prescribed particulars including particulars of the maximum permissible working pressure and such other conditions as may be necessary for the safe working pressure and such other conditions as may be necessary for the safe working of the boiler, shall, as soon as practicable and in any case within twenty-eight days of the completion of the report, be signed by the person making the examination.

(5) For the purposes of this subsection and the succeeding provisions of this section relating to reports of examinations, the examination of a boiler when it is cold and its examination when it is under steam pressure shall be treated as separate examinations.

(6) No steam boiler which has previously been used shall be used in any workplace for the first time in that workplace until it has been examined and reported on in accordance with the provisions of this section.

(7) A new steam boiler shall not be used unless there has been obtained from an authorized person a certificate specifying the maximum permissible working pressure of the boiler and stating the nature of the tests to which the boiler and fittings have been submitted and the certificate is kept available for inspection, and the boiler is so marked as to enable it to be identified as the boiler to which the certificate relates.

(8) Where the report of any examination under this section specifies conditions for securing the safe working of a steam boiler, the boiler shall not be used except in accordance with those condition.

(9) In this Part of the Act, the expression "maximum permissible working pressure" means in the case of a new steam boiler,

that pressure specified in the certificate referred to in subsection (7) of this section, and, in case of a steam boiler which has been examined in accordance with the provisions of this section, that pressure specified in the report of that boiler in the last examination.

Steam receivers.

80.(1) Every steam receiver and all its fittings shall be of good construction, sound materials, adequate strength, and free from patent defect and shall be properly maintained.

(2) Every steam receiver, not so constructed and maintained as to withstand with safety the maximum permissible working pressure of the boiler or the maximum pressure which can be obtained in the pipe connecting the receiver with any source of supply, shall be fitted with -

- (a) a suitable reducing valve or other suitable automatic appliance to prevent the safe working pressure of the receiver being exceeded;
- (b) a suitable safety valve or other so adjusted as to permit the steam to escape as soon as the safe working pressure is exceeded, or a suitable appliance for cutting off automatically the supply of steam as the safe working pressure is exceeded;
- (c) a steam pressure gauge, which shall correctly indicate the pressure of steam in the receiver in kilogrammes per square centimetre;
- (d) a suitable stop-valve;
- (e) except where only one steam receiver is in use, a plate bearing distinctive number, which shall be easily visible.

(3) The safety valve and pressure gauge shall be fitted either on the steam receiver or on the supply pipe between the receiver and the reducing valve or other appliance to prevent the safe working pressure being exceeded.

(4) For the purposes of the provisions of subsection (2) of this section, except for paragraph (e), any set of receiver supplied with steam through a single pipe forming part of a single machine -

- (a) may be treated as one receiver, and for the purpose of the provisions of subsection (2) of this section, except paragraphs (d) and (e), any other set of receivers supplied with steam through a single pipe may be treated as one receiver; and
- (b) this subsection shall not apply to any such set of receivers unless the reducing valve or other appliance to prevent the safe working pressure being exceeded is fitted on the said single pipe.

Examination of
steam receivers.

81.(1) Every steam receiver and all its fittings shall be thoroughly examined by an authorized person, so far as the construction of the receiver permits, at least once in every period of twelve months or such longer period as the Director may, by statutory instrument, direct.

(2) A report of the result of every such examination in the prescribed form and containing the prescribed particulars including particulars of the safe working pressure, shall be entered in or attached to the register, and the report shall be signed by the person making the examination.

(3) A steam receiver which has previously been used shall not be taken into use in a working place for the first time until it has been examined and reported on in accordance with the last two foregoing subsections; and no new steam receiver shall be taken into use unless there has been obtained from an authorized person, a certificate specifying the safe working pressure of the receiver and stating the nature of the tests to which the receiver and fitting have been submitted, and the certificate is kept available for inspection, and the receiver is so marked as to enable it to be identified as the receiver to which the certificate relates.

(4) Every steam container shall be so maintained as to ensure that the outlet is at all times kept open and free from obstruction.

Air receivers.

82.(1) Every air receiver shall –

- (a) have marked upon it, so as to be plainly visible, the safe working pressure;
- (b) in the case of a receiver connected with an air compressing plant, either be so constructed as to withstand with safety the maximum pressure which can be obtained in the compressor, or be fitted with a suitable reducing valve or other suitable appliance to prevent the safe working pressure of the receiver being exceeded;
- (c) be fitted with an accurate pressure gauge indicating the pressure in the receiver in kilogrammes per square centimetre;
- (d) be fitted with a suitable safety valve so adjusted as to permit air to escape as the safe working pressure is exceeded;
- (e) be fitted with a suitable appliance for draining the receiver;
- (f) be provided with a suitable manhole, handhole, or other means which will allow the interior to be thoroughly cleaned;
- (g) in a case where more than one receiver is in use in the workplace, each receiver shall bear a distinguishing mark which shall be easily visible.

(2) For the purposes of those provisions of subsection (1) of this section relating to safety valves and pressure gauges, any set of air receivers supplied with air through a single pipe may be treated as one receiver except that, in a case where a suitable reducing valve or other suitable appliance to prevent the safe working pressure being exceeded is required to be fitted, this subsection shall not apply unless the valve or appliance is fitted on the above mentioned single pipe.

(3) Every air receiver and its fittings shall be of sound construction and properly maintained.

(4) Every air receiver shall be thoroughly cleaned and examined at least once in every period of twelve months or such longer period as the Director may, by statutory instrument, direct.

(5) Where it is a receiver of solid drawn construction that is being examined -

(a) the person making any such examination may specify in writing a period exceeding twelve months but not exceeding twenty four months within which the next examination is to be made; and

(b) it is so constructed that the internal surface cannot be thoroughly examined, a suitable hydraulic test of the receiver shall be carried out in lieu of the internal examination.

(6) Every examination and test of an air receiver shall be carried out by an authorized person, and a report or the result of every such examination and test, in the prescribed form and containing the prescribed particulars including particulars of the safe working pressure shall be entered in or attached to the register, and the report shall be signed by the person making the examination or test.

(7) An air receiver which has previously been used shall not be taken into use in any workplace for the first time in the premises until it has been examined and reported on in accordance with the provisions of this Act and no new air receiver shall be taken into use unless there has been obtained from an authorized person a certificate specifying the safe working pressure of the receiver and stating the nature of the tests to which the receiver and fittings have been subjected, and the certificate is kept available for inspection and the receiver is so marked as to enable it to be identified as the receiver to which the certificate refers.

Director power to make an exemption.

83. The Director may, by notice in the Gazette exempt from any of the provisions of sections 79, 80, 81, and 82 any class or type of steam boiler, steam receiver, steam container or air receiver of which he or she is satisfied that such provision cannot be reasonably applied and any such exception may be unqualified or may be subject to such conditions as may be contained in the instrument.

PART IX **FIRE PREPAREDNESS**

Means of escape in case of a fire.

84.(1) All premises to which this Act applies shall have such means of escape from fire for workers as may be reasonably required in the circumstances, and in determining what is required by way of escape, regard shall be paid both to the number of persons who may be expected to be working at any one time and to the number of persons other than employed persons who may also be expected to be in the premises at the same time.

(2) All such means of escape as stated in subsection (1) shall be properly maintained and kept free from obstruction.

(3) The contents of any room in which persons are employed shall be so arranged or disposed so as to provide a free passage way for all persons employed in the room as a means of escape in case of fire.

(4) While any person is within the workplace for the purpose of employment or meals, the doors of the building of the workplace and of any room in it in which there is a person and any doors which afford a means of exit for persons employed in the workplace shall not be locked or fastened in such a manner that they cannot be easily and immediately opened from inside.

(5) In the case of any workplace constructed or converted for use as a workplace after the commencement of this Act, all doors affording means of exit from any building of the workplace for the persons employed in it, shall, except in the case of sliding doors, be constructed to open outwards.

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

(7) In every workplace to which this Act applies, effective steps shall be taken to ensure that all the persons employed are familiar with the means of escape in case of fire, and with the routine to be followed in case of fire.

Fire extinguishing gadgets.

85. In all workplaces subject to this Act, there shall be provided and maintained, so as to be readily accessible, means of extinguishing fire, which shall be adequate and suitable having regard to the circumstances of each case.

Safe keeping of inflammable substances.

86. All stocks of highly inflammable substances shall be kept either in a fire-resisting store or in a safe place outside any occupied buildings; provided that no such store as aforesaid shall be so situated as to endanger the means of escape from the workplace or from any part thereof by persons employed therein in the event of fire occurring in any part of the workplace.

Occupier's duty to ensure adequate fire response.

87. It shall be the responsibility of the occupier to ensure adequate preparedness and response to any fire incidents in his or her premises.

PART X
HAZARDOUS MATERIALS AND PROCESSES

Handling of hazardous materials.

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

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

(3) Any plant, tank or vessel which contains or has contained any explosive or inflammable substance shall not be subjected to any welding, brazing or soldering operation or to any cutting operation which involves the application of heat until all practicable steps have been taken to remove the substance and any fumes arising therefrom or to render them non-explosive or non-inflammable; and if any plant, tank or vessel has been subjected to any such operation as aforesaid, no explosive or inflammable substance shall be allowed to enter the plant, tank or vessel until the metal has cooled sufficiently to prevent any risk of igniting the substance.

(4) The Director may by certificate in writing grant exemption from the provisions of subsection (3) of this section, subject to any conditions, in any case where he or she is satisfied that compliance with the requirement is unnecessary or impracticable.

Safety of electrical installations and apparatus.

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

Toxic materials to be used as a last resort.

90.(1) Toxic materials or substances shall only be used where the use of a non-toxic material or substance is not reasonably practicable.

(2) Without prejudice to subsection (1) of this section, where toxic materials or substances are present or used, the number of employees exposed to risk shall be kept to a minimum and where there is a recognized anti-dote, supplies shall be kept readily available.

(3) In any premises where operations to which the provisions of this Act apply, nothing shall be done to or in connection with toxic

materials except, under an efficient exhaust draught system and it shall be so constructed, placed and maintained as to prevent the escape into the air of toxic materials of such character and to such an extent as to be liable to be a danger to the health of employed persons.

(4) Where there is a risk that a toxic material or substance may be ingested, no employee shall eat, drink or smoke in any workroom or other place where the material or substance is being handled.

(5) Without prejudice to any other requirement for washing facilities, where there is a risk to health from contamination of the surface of the body, facilities shall be provided and maintained for such washing facilities to be conveniently situated near the place where the toxic material or substance is used.

(6) In cases where toxic materials or substances are manufactured, handled, used or stored, the Director may serve upon the occupier, or employer a notice requiring him or her to -

- (a) provide additional bathing facilities including showers where practicable; or
- (b) arrange for periodical medical examination by a recognized health institution; or
- (c) provide additional protective clothing.

Drenching facilities for emergency cases.

91. Where dangerous or corrosive liquids are used, there shall be provided and maintained for use, in case of an emergency -

- (a) adequate and readily accessible means of drenching with water for any employee who becomes splashed with such liquids; and
- (b) sufficient and suitable means of flushing or irrigating the eyes conveniently situated and clearly indicated by a distinctive sign which is visible at all times.

Protection of workers from exposure to asphyxian or irritants.

92.(1) Where ammonia, chlorine, carbon dioxide or other asphyxian or irritant gas or vapour is present or liable to be present, then the owner or occupier of a workplace shall take all practicable measures to ensure that the gas or vapour does not present a danger to the health of the workers either by locating the plant elsewhere or by ventilation or otherwise.

(2) Breathing apparatus or other equipment of a type approved by the Director shall be provided and maintained and kept readily available for use to effect a rescue or to make the premises or operations safe.

Workers not to be exposed to ionizing, radiations, etc.

93.(1) Effective measures shall be taken, so far as practicable, to restrict the extent to which workers may be exposed to ionizing or non ionizing radiations in the course of their employment.

(2) No worker shall be exposed to ionizing or non ionizing radiations for more duration than reasonably necessary for the purpose of work and in any case everything practicable shall be done to minimize the exposure.

(3) The provisions of subsection (2) of this section shall apply to cases where workers are subject to vibrations including ultrasonic vibrations.

Prohibition of work not adapted to workers.

94. No employer shall cause his or her workers to carry out work that is not adapted to their physical and cognitive capabilities and limitations.

Medical examination or supervision in certain processes.

95. Where it appears to the Minister that in any workplace -

(a) cases of illness have occurred of which there is reason to believe that the illness may be due to the nature of a process or other conditions of works; or

(b) there may be risk of injury to the health of the workers in the workplace by reason of any process from any substance or material used or handled,

the Minister may require the medical supervision or medical examination of the persons or any class of persons employed.

PART XI **CHEMICAL PROVISIONS**

General precautions
in handling
chemicals.

96.(1) Every employer shall ensure that preventive, administrative and technical measures are taken to prevent or reduce the contamination of the workplace and the environment to the lowest possible level and whenever possible, hazardous substances shall be replaced by harmless or less harmful substances.

(2) Operations likely to result in contamination of the workplace environment by hazardous substances shall be isolated from the remainder of the premises so as to reduce the number of people exposed.

(3) Any process involving a significant risk of exposure to very hazardous substances shall, as far as is reasonably practicable, be performed within an enclosed system so as to prevent any contact between the hazardous substance and persons.

(4) Any direct contact with hazardous substances shall as far as is reasonably practicable be avoided by the use of automatic processes or by remote control systems.

(5) Only duly authorized and adequately trained workers shall participate in dangerous operations and their training shall be upgraded at suitable intervals.

(6) Where circumstances make it necessary for a worker to enter an atmosphere contaminated by a harmful concentration of a hazardous substance, the worker shall be made fully aware of the hazards and be provided with and wear appropriate protective equipment.

(7) The employer shall have the duty to ensure proper disposal of all chemical containers and chemical residues in such a way that it shall not cause harm to human health and environment.

Provision of chemical data sheets.

97.(1) It shall be the duty of the manufacturer or importer of a chemical to provide to the employer in respect of hazardous chemicals, chemical safety data sheets containing detailed essential information regarding their identity, supplier, classification, hazards, safety precautions and emergency procedures.

(2) A copy of the chemical safety data sheet for each product shall be forwarded to the Director.

Labelling of hazardous chemicals.

98.(1) Every employer shall ensure that:

- (a) the packages of a hazardous chemical when delivered are labelled and that an appropriate chemical safety data sheet for the chemical has been delivered to the workplace;
- (b) a list or register of these data sheets is kept at the workplace prior to the handling of chemicals;
- (c) prior to the handling of chemicals, copies of chemical safety data sheets and of the list of data sheets are given to the workers concerned or their representatives who shall be available for consultation at any time.

(2) The employer shall have the duty to ensure that all chemical containers maintain their original labels and quality in terms of colour, text and graphics.

Duty of suppliers, manufacturers as regards equipment.

99.(1) Every supplier, manufacturer and importer of equipment shall ensure that machines, process plants, instruments and vehicles are designed and supplied to the user in such a manner and with such information that their operation and use contribute as little as possible to the contamination of the work environment, and that they present as far as is reasonably practicable, no health hazard to workers during production operations, maintenance work and other activities.

(2) Every supplier of hazardous substance, whether a manufacturer, importer or distributor of hazardous substances shall ensure that:-

- (a) all chemicals are classified based on their characteristics including toxic, chemical or physical, corrosive and irritant properties; and allergenic and sensitizing, carcinogenic, teratogenic and mutagenic effects as well as their effects on the reproductive system;
- (b) the containers of all hazardous substances are marked to indicate the identity to enable persons handling or using them to recognize and distinguish them when receiving and when using them so that they can be used safely;
- (c) the containers of all hazardous substances are labelled in a uniform manner with a legible durable label, easily understandable by workers and other persons.

PART XII **OFFENCES AND PENALTIES**

Penalty in case of death or injury.

100.(1) Where any person dies or suffers any bodily injury in consequence of the occupier or owner of a workplace having contravened any of the provisions of this Act, the occupier or owner of the workplace shall be liable to a fine of not less than one million five hundred thousand shillings or to imprisonment for a term of not less than one year or to both such penalties; and the whole or any part of the fine may be applied for the benefit of the injured person or his or her family or otherwise as the court may determine.

(2) Where permanent total incapacity results from injury as a consequence of the occupier or owner of a workplace having contravened any provisions of this Act, the occupier or owner of the workplace shall be liable to a fine of not less than one million shillings or to imprisonment for a term of not less than one year or to both such penalties and the whole or any part of the fine may be applied for the benefit of the injured or otherwise as the court may determine.

(3) Where permanent partial incapacity or temporary incapacity results from the injury as a consequence of the occupier or owner of a workplace having contravened any provisions of this Act, the occupier or owner of the workplace shall be liable to a fine of not than one million shillings or to imprisonment for a term of not less than six months or to both and the whole or any part of the fine may be applied for the benefit of the injured his or her family or otherwise as the court may determine.

Worker not to endanger premises or working environment.

101. It shall be an offence for any worker to willfully or recklessly do anything which he or she knows or ought to have known to be likely to endanger the safety of the premises or working environment, or operations or the safety or health of himself or herself or other persons in the premises or involved in operation.

Misuse of appliances, etc.

102.(1) It shall be an offence for any person employed in any workplace to which any provisions of this Act apply to wilfully interfere with, or misuse any means, appliance, convenience or other things provided in pursuance of this Act for securing health, safety or welfare of the persons employed in the workplace, and where any means or appliance for securing health or safety is provided for the use of any such person under this Act, he or she shall use the means or appliance.

(2) Where any means or appliance for securing the health or safety of workers is provided for the use of any such worker under this Act he or she shall be guilty of an offence if he or she refuses to use the means or appliance provided.

Act or omissions by employees or agents.

103.(1) Where an employee does or omits to do any act which it would be an offence for the employer or a user in terms of this Act, unless it is proved that in doing or omitting to do that act the employee was acting without the connivance or permission of the employer or any such user; the employer or any such user shall be presumed to have done or omitted to do that act and shall be liable to be convicted and sentenced in respect thereof, and the fact that he or she issued instructions forbidding any act or omission of the kind in question shall not, in itself, be accepted as sufficient proof that the employer took all reasonable steps to prevent the act or omission.

(2) The provisions of subsection (1) of this section shall apply *mutatis mutandis* in the case of an agent of any employer or user, except if the parties have agreed in writing to the arrangements and procedures between them to ensure compliance by the agent of the provisions of this Act.

(3) Where any employee or agent of any employer or user does or omits to do an act which it would be an offence in terms of this Act for the employer or any such user to do or omit to do, he or she shall be liable to be convicted and sentenced in respect thereof as if he or she were the employer or user.

(4) Where any employee or agent of the Government commits or omits to do an act which would be an offence in terms of this Act had he or she been the employee or agent of an employer other than the Government and had such employer committed or omitted to do that act, he or she shall be liable to be convicted and sentenced in respect thereof as if he or she were such an employer.

(5) Any employee or agent referred to in subsection (3) may be so convicted and sentenced in addition to the employer or user.

(6) Where the employee or agent of an employer is convicted of an offence consisting of a contravention of section 55, the court shall, when making an order under section 112(1), make such an order against the employer and not against that employee or agent.

Forgery of certificates, false entries, etc.

104. Any person who -

- (a) forges any certificate required by this Act or any regulation, order or rule made under this Act; or
- (b) gives or signs any such certificate knowing it to be false in any material particular; or
- (c) knowingly utters or makes use of any such certificate so forged, or false; or

- (d) knowingly utters or makes use of, as applying to any person, any such certificate which does not so apply; or
- (e) impersonates any person named in any such certificate; or
- (f) falsely pretends to be an inspector; or
- (g) wilfully connives at any forging, counterfeiting, giving, signing, uttering, making use, impersonating or pretending as; or
- (h) wilfully makes a false entry in any register, notice, certificate, or document required by, under, or for the purpose of this Act or any regulation, rule or order made under this Act to be kept or served or sent; or
- (i) wilfully makes or signs a false declaration required by, under or for the purpose of this Act or any regulation, rule or order made under this Act; or
- (j) knowingly makes use of any such false entry or declaration;

commits an offence under this Act, and shall be liable upon conviction to a fine of not less than one hundred thousand shillings or to imprisonment for a term of not less than one month or to both such fine and imprisonment.

Trade secrets.

105.(1) A person having any official duty under or being employed in the administration of this Act shall treat as secret and confidential any manufacturing or commercial secret which may come to his or her knowledge in the course of his or her duty.

(2) A person who discloses to any person any matter in contravention of the provisions of subsection (1) of this section whether having still any official duty under or being employed in the administration of this Act or not, shall, unless such disclosure was made in the performance of his or her duty, be guilty of an offence and shall be liable on conviction to a fine of not less than two hundred thousand

shillings or to a period of imprisonment not less than two months or to both such fine and imprisonment.

Third Party liability.

106. Where an act or default for which an occupier or owner of a workplace is liable under this Act is the act or default of some agent, servant, worker or other person, that agent, servant worker or other person commits an offence and is liable to the same penalty as if he or she were the occupier or owner, as the case may be.

Owner of machine to be deemed occupier.

107. Where in a workplace a person being a person other than the occupier of the workplace or a person employed uses for the purposes of construction, repair, installation or other work, any machine, appliance, equipment or plant which is owned or hired by him or her, that person shall, in respect of any contravention of this Act in relation to such machine, appliance, equipment or plant, be deemed to be the occupier.

Penalty on person actually committing offences for which occupier is liable.

108. Where an act or default for which an occupier or owner of a workplace is liable under this Act is caused by the act or default of some agent, servant, worker or other person, the agent, servant, worker or other person as the case may be, commits an offence and is liable to the like penalty as if he or she were the occupier or owner.

Power of occupier or owner to exempt himself or herself from liability on conviction of actual offender.

109.(1) Where the occupier or owner of a workplace is charged with an offence under this Act, he or she shall be entitled, upon a charge duly made by him or her and on giving to the prosecution not less than three days notice in writing of his or her intention to have any other person whom he or she charges as the actual offender, whether or not that person is his or her agent or servant brought before the court at the time appointed for hearing the charge; and if, after the commission of the offence has been proved, the occupier or owner of the factory or workplace proves to the satisfaction of the court that:

- (a) he or she has used all due diligence to enforce compliance with this Act and of any relevant regulation, order or rule made under this Act; and
- (b) the other person had committed the offence in question without his or her consent, convenience or wilful default;

- (c) the other person shall be convicted of the offence, and the person so convicted shall, in the discretion of the court, be liable to pay any costs incidental to the proceedings.
- (2) Where it is made to appear to the satisfaction of an Inspector at the time of discovering an offence that:
 - (a) the occupier or owner of the workplace has used all due diligence to enforce compliance with this Act and of any relevant regulation, order or rule made under this Act; and
 - (b) it has been committed without the consent, connivance, or wilful default of the occupier or owner of the workplace and in contravention of his or her orders;
 - (c) the Inspector shall proceed against the person whom the Inspector believes to be the actual offender without first proceeding against the occupier or owner of the workplace.

General Offences.

110.(1) In the event of any contravention in relation to a workplace of the provisions of this Act, the occupier, or if the contravention is one in respect of which the owner is under this Act made responsible, the owner of the workplace as the case may be, shall be liable for the offence.

(2) Where the occupier of a workplace avails himself or herself of any special exception under this Act and fails to comply with any of the conditions attached to the exception, he or she shall be deemed to have contravened the provisions of this Act.

(3) Where an offence under this Act is committed by a company, cooperative society or other body of persons and is proved to have been committed with the consent or connivance of, or to have been facilitated by any neglect on the part of any director, chairman, manager, secretary or other officer of the company, cooperative society or other body of persons, he or she, as well as the company, shall be deemed to be guilty of an offence.

(4) Where an employer is convicted of an offence consisting of a contravention of a provision of section 125, the court convicting him or her shall inquire into and determine the amount which contrary to the said provision was deducted from the sum contracted to be paid by him or her to an employee concerned.

Penalty for offences for which no express penalty is provided. 111.(1) Any person who commits an offence under this Act for which no express penalty is provided shall be liable to a fine of not less than five hundred thousand shillings or to imprisonment for a term of not less than six months or to both such fine and imprisonment.

(2) Where the contravention in respect of which a person was so convicted is continued after the conviction, that person shall be guilty of a further offence and shall be liable to a fine of not less than ten thousand shillings or imprisonment for three days or both for each day on which the contravention is continued.

Power of Court to order cause of contravention to be remedied. 112.(1) Where the occupier or owner of a workplace is convicted of an offence under this Act, the court may in addition to or instead of imposing any penalty, order the occupier or owner within the time specified in the order, to take such steps as may be so specified for remedying the matters in respect of which the contravention occurred, and may, on application extend the time so specified.

(2) Where an order is made under subsection (1), the occupier or owner shall not be liable under this Act in respect of the continuation of the contravention during the time allowed by the court, but if, after the expiration of that time as originally specified or extended by a subsequent order, and the order is not complied with, the occupier or owner upon conviction shall be liable to a fine of not less than ten thousand shillings or imprisonment for three days or both for each day on which the non-compliance continues.

Proceedings against third parties. 113. Where under this Act, a person is substituted for the occupier or owner of a workplace with respect to any provisions of this Act, any order, summons, notice or proceedings, which, for the purposes of any of those provisions, is under this Act required or authorised to be served on the occupier or owner, shall be served to that person.

Proof of certain facts.

114.(1) Where in any legal proceedings under this Act it is proved that any person was present on or in any premises, that person shall, unless the contrary is proved, be presumed to be an employee.

(2) In the absence of satisfactory proof of age, the age of any person shall, in any legal proceedings in terms of this Act, be presumed to be that stated by an inspector to be in his opinion the probable age of the person.

(3) In any legal proceedings under this Act, any entry contained in any book or document kept by any employer or user or by his or her employee or found on or in any premises occupied or used by that employer or user or and any copy or reproduction of any such statement or entry shall be admissible in evidence against him or her as an admission of the facts set forth in that statement or entry, unless it is proved that the statement or entry was not made by that employer or user or by any employee of that employer or user within the scope of his or her authority.

(4) Where in any legal proceedings under this Act, it is proved that any untrue statement or entry is contained in any record kept by any person, he or she shall be presumed, until the contrary is proved, to have willfully falsified that record.

(6) Where at any trial any document purporting to be a certificate or statement by an approved inspection authority and in which it is alleged that the article, substance, plant, machinery or health and safety equipment forming the subject of the charge complies with the requirements prescribed in respect thereof or with any particular standard shall, on its mere production by any person at any legal proceedings be admissible as evidence of the fact stated therein.

Prosecution of offences.

115.(1) Every offence under this Act shall be prosecuted in a Regional Magistrate's Court.

(2) In any proceedings under this Act, it shall be sufficient in the charge to allege that the workplace is a workplace within the meaning of this Act and to state the name of the ostensible occupier or, where the occupier is a firm the title of the firm.

(3) The burden of proving that the premises is not a workplace or that the occupier specified in the charge is not the occupier of the workplace shall lie upon the person alleging such fact.

(4) Where any offence is committed under this Act by reason of a failure to make an examination, enter a report, or do any other thing, at or within the time specified by this Act, or regulation, or rule, or order made under this Act, the offence shall be deemed to continue until the examination is made, or the report entered, or the other thing done, as the case may be.

Powers to compound offences.

116.(1) The Director may, if satisfied that any person has committed an offence under this Act or under any regulations made under this Act, by order, compound such offences by requiring such person to make payment of a sum of money not exceeding one hundred thousand shillings, and the Director shall issue receipt for such payment.

(2) The Director may by order published in the Gazette delegate to any Inspector the powers under subsection (1) of this section and the provisions of this section shall apply in the same way to the performance by any other inspector of the function so delegated to him or her.

(3) Any person who is aggrieved by any order made under subsection (1) of this section, may, within thirty days of that order appeal to the Regional Magistrates' Court.

PART XIII **MISCELLANEOUS PROVISIONS**

Examination where authorised person is not available.

117.(1) In respect of any periodical examination required by this Act to be carried out by an authorised person and in the event of that examination not having been done within the specified period by reason of the occupier or owner not having been able to arrange for an authorised person to carry out that examination, he or she shall immediately notify the Director by the quickest means available of the circumstances and shall give particulars of the machinery or plant

concerned and of the date of the last examination carried out as required by this Act.

(2) Where any occupier or owner has been unable to arrange for an authorised person to carry out any examination required to be done under this Act in respect of any new steam boiler, steam receiver or air receiver he or she shall notify the Director of the circumstances and shall send with such notification any certificate furnished by the manufacturer of the steam boiler, steam receiver or air receiver as the case may be.

(3) On receipt of such notification in subsection (2) of this section and the manufacturer's certificate, if any, and after such further inquiry as he or she may direct, the Director may, by notice in writing in the prescribed form, permit the use of the steam boiler, steam receiver or air receiver, subject to such conditions as he or she may specify in the notice and such notice shall be entered into or attached to the general register.

General Register.

118.(1) There shall be kept available for inspection in every workplace, in the prescribed form, a register, called the General Register and there shall be entered in or attached to that register:

- (a) the certificate of registration of the workplace;
- (b) every other certificate issued in respect of the workplace by the Director under the provisions of this Act;
- (c) the prescribed particulars as to every accident and case of occupational disease(s) occurring in the workplace of which notice is required to be sent under the provisions of this Act; and
- (d) copies of any rules made under this Act.

(2) The occupier of a workplace shall send to an inspector such extracts from the general register as the inspector may from time to time require for the purposes of the execution of his or her duties under this Act.

(3) Notwithstanding the provisions of this section, in the case of temporary workplaces or description where it appears to the Minister that it is inappropriate or unnecessary to require compliance with any of the provisions of subsection (1) of this section, he or she may by statutory order direct that any of such provisions shall not apply to temporary workplaces or of workplaces of that class or description.

Entries in the
General Register or
other records.

119.(1) Where any entry is required by this Act to be made in the General Register or in any other register or record, the entry made by the occupier of the workplace or on his or her behalf shall, as against the occupier be admissible as evidence of the facts therein stated, and the fact that any entry so required with respect to the observance of any provision of this Act has not been made, shall be as evidence that the provision has not been observed.

(2) Without prejudice to the provisions of the Criminal Procedure Act and the Evidence Decree, where any article or any specimen or sample of any article is submitted for examination or analysis to a prescribed institution, any document purporting to be a report of such examination or analysis made on behalf of such institution, may be used as evidence in any trial or other proceedings under this Act and the court may presume that the signature to such document is genuine and that the person signing the document acted on behalf of the prescribed institution for which he or she professed to act at the time when he or she signed it.

Preservation of
registers and record.

120. The General Register and every other register or record kept in pursuance of this Act shall be preserved and shall be kept available for inspection by an Inspector for at least ten years or such other period as may be prescribed for any class or description of register or record, after the date of the last entry in the registers of record.

Serving and sending
of documents.

121.(1) Any document including any summons or order required or authorised to be served under this Act may be served to:

- (a) on any person by delivering the document to him or her, or by leaving it at, or sending the document by registered post to his or her residence;

- (b) any firm by delivering it to any partner of the firm, or by leaving it at, or sending it by registered post to, an office of the firm; and
- (c) the occupier or owner of a workplace by sending it by registered post or by delivering it, or true copy of the document, to the manager, foreman, or any other responsible person at the workplace.

(2) Any such document as mentioned in sub-section (1) of this section may be addressed, for the purpose of the service on the occupier of a workplace to "The Occupier" followed by a description of the workplace sufficient to identify it without further name or description.

Posting of abstract of Act, Rules and Notices.

122.(1) There shall be kept or posted in a prominent position in every workplace -

- (a) the prescribed abstract of this Act;
- (b) a notice of the address of the Director and of the labour office;
- (c) printed copies of any rules made under this Act which are in force in the workplace, or the prescribed abstracts of such rules;
- (d) every other notice and document required by this Act to be posted in the workplace.

(2) All documents referred to under subsection (1) of this section shall be in English and Kiswahili languages and if a form has been prescribed for any document it shall be posted in that form.

Periodical return of Persons employed or any other matters.

123. The occupier of any workplace to which any of the provisions of this Act applies, shall, if so required send to the Director, at such intervals as required, a correct return showing the number of persons employed in the workplace and shall give other particulars as to such other matters as may be required.

Victimization
forbidden.

124. No employer shall dismiss an employee or reduce the remuneration or alter the employee's terms of employment or his or her position by reason that the employer suspects or believes that the employee -

- (a) has given information to the Minister, the Director or any person charged with the administration of this Act which he or she is required to give under this Act; or
- (b) has given evidence before a court of law; or
- (c) has done anything required by or refused to do anything prohibited by this Act.

Prohibition of wage
deductions.

125. The occupier of a workplace shall not make any deduction from wages or other benefits of any worker in respect of anything to be done by the occupier in pursuance of this Act.

Chief
Executive Officer
charged with certain
duties.

126.(1) Every Chief Executive Officer shall ensure that the duties of his or her employer as contemplated in this Act are properly discharged.

(2) Without derogating from his or her responsibility or liability in term of subsection (1) of this section, a Chief Executive Officer may assign any duty contemplated in subsection (1) of this section to any person under his or her control, who shall act subject to the control and directions of the Chief Executive Officer.

(3) For the purposes of subsection (1) of this section, the head of any Ministry, Department or Corporation shall be deemed to be the Chief Executive Officer of that Ministry, Department or Corporation.

Delegation of
powers and
assignment
of functions.

127.(1) The Minister may delegate any power conferred upon him or her under this Act to an officer except the power to make Regulations and Rules under this Act.

(2) A delegation made under subsection (1) of this section shall not prevent the exercise of the relevant power by the Minister himself or herself.

Notification of incidents or occupational diseases.

128.(1) Each incident occurring at the workplace or arising out of or in connection with the activities of persons at a workplace or in connection with the use of a plant or machinery, in which, or in consequence of which:

- (a) any person dies, becomes unconscious, suffers the loss of a limb or part of a limb or is otherwise injured or becomes ill from occupational diseases to such a degree that he or she is likely either to die or to suffer a permanent physical defect or is likely to be unable either to work or to continue with the activity for which he or she was employed or is usually employed for a period of at least fourteen days;
- (b) a major incident occurred; or
- (c) the health or safety of any person was endangered and where :
 - (i) a dangerous substance was spilled;
 - (ii) the uncontrolled release of any substance under pressure took place;
 - (iii) a machinery or any part thereof fractured or failed resulting in flying, falling or uncontrolled moving objects; or
 - (iv) machinery ran out of control,

shall, within twenty-four hours and in the prescribed manner be reported to the Director by the employer or the user of the plant or machinery concerned, and thereafter send a duly completed prescribed form to be studied within seven days.

(2) Any medical practitioner who examines or treats a person for a disease which he or she believes to be an occupational disease or any other disease which he or she believes arose out of that person's employment, shall within fourteen days from the day of examination or

treatment and in the prescribed manner report the case to the employer of that person and to the Director.

(3) In the event of an incident in which a person dies, or was injured to such an extent that he or she is likely to die, or suffered the loss of a limb or part of a limb, no person shall without the consent of an inspector disturb the site at which the incident occurred or remove any article or substance involved in the incident therefrom:

Provided that such action may be taken as is necessary to prevent a further incident or to remove the injured or dead, or to rescue persons from danger.

(4) The provisions of subsections (1) and (2) shall not apply in respect of -

(a) a traffic accident on a public road; or

(b) an incident occurring in a private household, provided the house-holder forthwith reports the incident to a police officer.

Power to modify agreements.

129. If by reason of an agreement between the owner and the occupier of premises the whole or any part of which has been let as a workplace, the said owner or occupier is prevented from carrying out any structure or other alterations in the premises which are necessary to enable him or her to comply with the provision of this Act or to conform with any standard or requirement imposed by or under this Act, the occupier may apply to a Judge in chambers for the terms of the agreement to be set aside or modified and the Judge, after hearing the parties and any witness who they may desire to call, may make such an order setting aside or modifying the terms of the agreement as the Judge may consider just and equitable under the circumstances.

Power to apportion expenses.

130. Where in any premises the whole or any part of which has been let as workplace, any structural or other alterations are required in order to comply with the provisions of this Act, and the owner or occupier as the case may be, alleges that the whole or part of the expenses of the alterations ought to be borne by the occupier, he or she

may apply to a Judge in chambers for the expenses of the alterations to be apportioned between them; and the Judge, after hearing the parties and any witness whom they may desire to call, may make such an order concerning the expenses of their apportionment as he or she considers just and equitable in the circumstances of the case, regard being taken to the terms of any contract between the parties, or in the alternative the Judge may, at the request of the owner or occupier, determine the lease.

Protection provisions.

131. Any person exercising the powers or performing functions conferred upon him or her under this Act shall not incur any criminal or civil liability as a result of exercising that power in good faith.

Repeal of Cap. 63 and savings.

132.(1) The Factories (Safety and Supervision) Decree, Chapter 63 is hereby repealed.

(2) Notwithstanding the repeal of the Factories (Safety and Supervision) Decree, any regulations, rules or order made under the repealed Decree which were in force prior to the commencement of this Act shall be deemed to have been made under this Act until revoked or replaced.

Regulations.

133. The Minister may, in consultation with the Occupational Safety and Health Board, make regulations for the better carrying into effect any of the provisions of this Act.

**FIRST SCHEDULE
{ Under Section 21 }**

THE OCCUPATIONAL SAFETY AND HEALTH ACT, 2005

**PARTICULARS TO BE SUBMITTED WHEN APPLYING FOR THE
REGISTRATION OF A WORKPLACE OR A CHANGE IN THE
REGISTERED OCCUPIER**

1. The name of the occupier or intending occupier of a workplace in case of a firm which is not a limited company, the full name of each particular should be given together with the registered trading name, if any.

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2. The precise location of the workplace should be given. If outside a town, sufficient information to enable the workplace to be found readily should be given.

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3. Postal address, telephone and fax number, e-mail (if any) of the occupier or intending occupier:

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.....
.....

4. Nature of work carried on or proposed to be carried on in the workplace.

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.....

5. Whether mechanical power is used or intended to be used, if so, its nature (e.g steam, electric motors, oil engine, etc).

.....
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.....
.....

6. Whether steam boilers are used or intended to be used, if so the following particulars in respect of each boiler –

(a) Type, description and distinctive number:

.....
.....
.....

(b) Country and year of manufacture (where possible):

.....
.....
.....

(c) Date of the last thorough examination and name of authorized person by whom the examination was made:

.....
.....
.....

(d) The maximum permissible working pressure in kilogrammes per square centimetre:

.....
.....
.....

7. Whether you use or intend to use any of the following:-

- (i) Lifts;
- (ii) Cranes, winches, forklifts, etc;
- (iii) Block and tackle, chain blocks;
- (iv) Air Receivers; and
- (v) Gas plant.

8. Whether you use or intend to use hazardous chemicals:

- (i) (a) Toxicity
- (b) Chemical properties
- (c) Physical properties
- (d) Irritant properties
- (e) Corrosive properties
- (f) Allergic and sensitizing effects
- (g) Carcinogenic effects
- (h) Teratogenic effects
- (i) Mutagenic effects

(ii) Their effects on reproductive system:

.....
.....
.....

(iii) Whether hazardous substances are distinctively labelled and an appropriate chemical safety data sheets available.

.....
.....
.....

9.(i) Whether you use or intend to use industrial waste treatment plant.

.....
.....
.....

(ii) Method of handling effluents:

(iii) Whether you have made provisions for:

- (a) Sanitary installations
- (b) Washing facilities
- (c) Facilities for changing and storing clothes
- (d) Supply of drinking water
- (e) First aid treatment
- (f) Emergency plans

10. The date on which you expect to begin to operate the workplace or to change the occupier.

.....
.....
.....

11.(a) Total number of persons of each sex employed, or intended to be employed in the workplace.

..... males females

(b) Where persons are employed in shifts, the maximum number employed at any one time.

..... males Females

Date

.....
Signature of occupier
Or intending occupier

SECOND SCHEDULE
{ Under section 22(1) }

THE OCCUPATIONAL SAFETY AND HEALTH ACT, 2005

CERTIFICATE OF REGISTRATION OF A WORKPLACE

No. of Certificate

Date of Issue

I hereby certify that the premises named below has been duly registered in pursuance of section 22(1) of the Occupational Safety and Health Act, 2005

Name of the occupier:
.....
.....

Location of the Workplace:
.....
.....
.....

Postal address, telephone and fax number (if any):
.....
.....
.....

Nature of the work:
.....
.....

.....
Director, Occupational Safety and Health

THIRD SCHEDULE
{ Under section 37 }

THE OCCUPATIONAL SAFETY AND HEALTH ACT, 2005

**PROCESSES REQUIRING PROVISION OF SUITABLE
GOGGLES OR REFLECTIVE SCREEN**

1. Dry grinding of metals, or articles or metal, by a revolving wheel or disc driven by mechanical power at which a person or persons is or are regularly employed.
2. Turning (external or internal) of non-ferrous metals or of cast iron, or of articles of such metals or such iron, where the work is done dry, other than precision turning where the use of goggles or a screen would seriously interfere with the work, or turning by means of hand tools.
3. Welding or cutting of metals by means of an electrical, oxy-acetylene or similar process.
4. The following processes when carried on by means of hand tools or other portable tools:-
 - (a) Fetting of metal castings involving the removal of metal;
 - (b) Cutting out or cutting off (not including drilling or punching back) of cold rivets or bolts from steam boilers or other plant or from ships.
 - (c) Chipping or scaling of boilers or ship's plates;
 - (d) Breaking or dressing of stone, concrete or slag.

**FOURTH SCHEDULE
(Under section 75)**

THE OCCUPATIONAL SAFETY AND HEALTH ACT, 2005

**REGISTER OF CHAIN, ROPES, LIFTING TACKLE
AND LIFTING MACHINE**

1. Name of the occupier:

.....
.....

2. A precise location of the workplace:

.....
.....

3. Postal address, telephone, fax and e-mail (if any), of the workplace:

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.....
.....

4. Type of premises (factory, office, shop, etc):

.....
.....

5. Distinguishing number or mark or description sufficient to identify the chain, rope or lifting tackle, or the lifting machine:

.....
.....

6. Date when the chain, rope or lifting tackle, or the lifting machine was first taken into use in the workplace:

.....
.....

7. Date of each examination made under section or section , as the case may be, and the name of person by whom it was carried out:

.....
.....

8. Particulars of any defect found at any such examination and affecting the safe working load, and of the steps taken to remedy such defect:

.....
.....

9. Date and number of certificate relating to any test and examination made under section or section , as the case may be, together with the name and address of the person who issued the certificate:

.....
.....

10. In the case of chains and lifting tackle (except rope slings), dates of annealing or other treatment:

.....
.....

Date:

Signature of the Occupier:

FIFTH SCHEDULE
{ Under Section 11(3)(b)}

THE OCCUPATIONAL SAFETY AND HEALTH ACT, 2005
IMPROVEMENT NOTICE

I, the Director appointed under section 5 of the Occupational Safety and Health Act, 2005 and entitled to issue this notice, I, hereby give you notice that I am of the opinion that at you, as an employer / a self employed person / a person wholly or partly in control of the premises / other* are contravening / have contravened in circumstances that make it likely that the contravention will continue or to be repeated* the following statutory provisions:- and I hereby direct you to remedy the said contraventions or, as the case may be, the matters occasioning them and I direct that the measures specified in the inspection report be complied with on or before the

Signature and Stamp.....

Date

* Delete what is not applicable

SIXTH SCHEDULE
{ Under Section 11(3)(c) }

THE OCCUPATIONAL SAFETY AND HEALTH ACT, 2005

PROHIBITION NOTICE

I, the Director appointed under section 5 of the Occupational Safety and Health Act No. .. of 2005 and entitled to issue this notice, I hereby give you notice that I am of the opinion that, the following activities namely:

....., which are being carried on by you / likely to be carried on by you / under your control* at, involve, or will involve, a risk of serious personal injury, and that the matters which give rise / will give rise* to the said risk(s) are:- And I further direct that the said activities shall not be carried on by you or under your control, immediately / after* unless the said contravention(s)* and matters have been remedied. I further direct that the measures specified in the inspection report which forms part of this notice shall be taken to remedy the said contravention(s)* or matters.*

Signature and Stamp.....

Date

* Delete what is not applicable.

PASSED in the House of Representatives of Zanzibar on the 13th day of April, 2005.

KHAMIS JUMA CHANDE
CLERK OF THE HOUSE OF REPRESENTATIVES