

Malawi

Occupational Safety, Health and Welfare Act Chapter 55:07

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Malawi

Occupational Safety, Health and Welfare Act

Chapter 55:07

Commenced on 8 December 1997

[This is the version of this document at 31 December 2014.]

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An Act to make provision for the regulation of the conditions of employment in workplaces as regards the safety, health and welfare of persons employed therein; for the inspection of certain plant and machinery, and the prevention and regulation of accidents occurring to persons employed or authorized to go into the workplaces; and to provide for matters connected with or incidental to the foregoing

Part 1 – Preliminary

1. Short title

This Act may be cited as the Occupational Safety, Health and Welfare Act.

2. Interpretation

(1) In this Act, unless the context otherwise requires—

“**air receiver**” means—

- (a) 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;
- (b) any fixed vessel for containing compressed air or compressed exhaust gases and used for starting an internal combustion engine;
- (c) any fixed or portable vessel, not being part of a spraying pistol used for the purpose of spraying by means of compressed air any paint, varnish, lacquer or similar material, or an insecticide; and
- (d) any vessel in which oil is stored and from which it is forced by compressed air;

“**article**” includes any solid, liquid or gas, or any combination thereof;

“**Board**” means the Arbitration Board appointed under [section 79](#);

“**bodily injury**” includes injury to health;

“**building operation**” means the construction, structural alterations, repair or maintenance of a building (including repainting, redecoration and external cleaning of the structure), the demolition of a building, and the preparation for, and laying the foundation of, an intended building, but does not include any operation which is a work of engineering construction within the meaning of this Act;

“**Director**” means the Director of Occupational Health, Safety and Welfare appointed under [section 72](#);

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

“**competent person**” means a person with such practical and theoretical knowledge and actual experience of the type of machinery or plant which he or she has to examine as will enable him or her to detect defects or weaknesses which it is the purpose of the examination to discover, and to assess their importance in relation to the strength and functions of the particular machinery or plant;

“**driving belt**” means a device that transmits motion from one machinery component to another, and includes strap or rope or chain;

“**fume**” includes gas and vapour;

“**gas plant**” means an installation for generating, cleaning, storing and compressing gas in cylinders or containers;

“**general register**” means the register kept in accordance with [section 70](#);

“**hazardous substance**” means any matter which by virtue of its chemical, physical or toxicological properties constitutes a risk to safety, health or welfare of persons;

“**inspector**” means a public officer appointed as such under [section 72](#), and includes the Director;

“**machinery**” means—

- (a) any locomotive or any stationary or portable engine, boiler or other steam apparatus; and
- (b) any appliance or combination of appliances intended for developing, receiving, storing, transmitting or converting power, but does not include a vehicle;

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

“**persons employed**” means persons employed in engineering, agricultural, management, staff and skilled allied trade services in the formal and informal sector;

“**occupier**” means the person in actual occupation of a workplace, whether that person be the owner thereof or not;

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

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

“**quarry**” means any place, excavation or working, other than a mine, wherever, wherein or whereby any operation in connexion with the extraction of sand, stone, laterite or similar materials or minerals is carried on;

“**railway**” means any railway used for the purpose of public traffic, whether for passenger, goods or other traffic, and includes any works used in connexion with and for such purposes;

“**sanitary conveniences**” means urinals, water closets, earth closets, privies, ashpits, chemical closets and any similar convenience and includes washing facilities;

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

“**steam container**” means any vessel (other than a steam pipe or coil) constructed with a permanent outlet into the atmosphere or into a space where the pressure does not exceed 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;

“**substance**” means any matter of particular or definite chemical composition;

“**transmission machinery**” means every shaft, gear, drum, pulley, system of fast and loose 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;

“**work of engineering construction**” means the construction of any railway line or siding, otherwise than upon an existing railway, and the construction, structural alteration or repair (including repainting and repointing) or the demolition of any dock, harbour, inland navigation tunnel, bridge, viaduct, waterworks, reservoir, pipeline, aqueduct, sewer, road, sewage works, gasholder, and includes such other works as the Director may prescribe by notice in the *Gazette*,

“**young person**” means any person under the apparent age of eighteen years.

(2) For the purposes of this Act—

- (a) machinery or plant shall be deemed to have been constructed or reconstructed before the date of coming into operation of this Act, and a workplace or building shall be deemed to have been constructed, reconstructed, extended, added to or converted for use as a workplace, before the date of coming into operation of this Act or the coming into operation of any provision of the Act, if the construction, reconstruction, extension, addition or conversion was begun before the date of coming into operation of this Act, or the date of coming into operation of any provision of this Act, as the case may be;
- (b) an apprentice shall be deemed to be a person employed;
- (c) a person who works in a workplace, whether for wages or not, in collecting, carrying or delivering goods, carrying messages or running errands or any other legitimate purpose shall be deemed to be employed in the workplace.

3. Workplace

- (1) Subject to this section, the expression “workplace” means any premises in which, or within the close or curtilage or precincts of which, one or more persons are employed in any process for or incidental to any of the following purposes—
 - (a) the making of any article or of part of any article; or
 - (b) the altering, repairing, renovating, ornamenting, painting, spraying, polishing, finishing, cleaning, dyeing, washing or breaking up of any article;
 - (c) the adapting for sale of any article;
 - (d) the sorting, assembling or packaging, including washing or filling bottles or other containers, of any article;
 - (e) the painting, spraying, construction, reconstruction, assembling, repairing or breaking up of vehicles or parts thereof;
 - (f) the printing by letterpress, lithography, photogravure or other similar process, bookbinding, including any activity associated with the printing industry;
 - (g) the production and storage of gas in a holder of more than one hundred and fifty cubic metres storage capacity being premises in which, or within the close or curtilage or precincts of which, there is carried on by way of trade or for purposes of gain and over which the employer of the persons therein has the right of access or control.
- (2) The expression “workplace” also includes the following premises in which one or more persons are employed, whether or not they are workplaces by reason of subsection (1)—
 - (a) any yard or dry dock, including the precincts thereof, in which ships, boats or vessels are constructed, reconstructed, assembled, repaired, refitted, finished or broken up;

- (b) any premises in which the construction, reconstruction or repair of aircraft, locomotives, vehicles or other plant for use for transport purposes is carried on as ancillary to a transport undertaking or other industrial or commercial undertaking, which are not premises used for the purpose of housing aircraft, locomotives or vehicles where only cleaning, washing or minor adjustments are carried out;
 - (c) any premises in which mechanical power is used in connexion with the making or repair of articles of metal or wood incidental to any business carried on by way of trade or for the purpose of gain;
 - (d) any premises in which building operations and works of engineering construction is undertaken;
 - (e) any premises in which articles are made or prepared incidental to carrying on of building operations or works of engineering construction, not being premises in which such operations or works are carried on;
 - (f) any premises in which persons are regularly employed in, or in connexion with, the generating of electrical energy for supply by way of trade, or for supply for the purpose of any industrial or commercial undertaking or of any public building or public institution, or for supply to streets or other public places;
 - (g) any premises in which mechanical power is used for the purposes of, or in connexion with, a water supply (being premises in which such persons are regularly employed);
 - (h) any premises in which the business of sorting or grading any articles is carried on as a preliminary to the work carried on in any workplace or incidental to the purposes of any workplace;
 - (i) any laundry carried on as ancillary to another business, or incidental to the purposes of any public institution;
 - (j) any premises in which the business of making or mending nets is carried on incidental to the fishing industry;
 - (k) any sewage works in which mechanical power is used, and any pumping station used in connexion with any sewage works, regardless of location;
 - (l) any premises in which the refrigeration of any article is carried on by way of trade or for purposes of gain, other than premises in which refrigeration is only incidental to the conduct of business engaged mainly in the sale of goods by retail, or a mortuary.
- (3) Any line or siding, not being part of a railway, which is used in connexion with and for the purpose of a workplace shall be deemed to be part of the workplace and, if any such line or siding is used in connexion with more than one workplace belonging to different occupiers, the line or siding shall be deemed to be a separate workplace; and this Act shall apply as if such different occupiers were jointly the occupiers of the line or siding so deemed to be a workplace.
- (4) Any workplace in which, with the permission of or under agreement with the owner or occupier, one or more persons carry on any work which would constitute a workplace if the persons therein were in the employment of the owner or occupier, shall be deemed to be a workplace for the purposes of this Act and, in the case of any such workplace, this Act shall apply as if the owner or occupier of the workplace were the occupier and the persons working therein were persons employed in the workplace.
- (5) Any premises belonging to a quarry or a mine being premises in which the dressing, breaking down, processing or preparation for sale of sand, stone or mineral is carried on and any place, excavation or working wherever, wherein or whereby any operation in connexion with the extraction of sand, stone, mineral or similar materials, is carried on, shall be deemed to be a workplace.
- (6) Any premises in which agricultural activities such as chemical weeding, spraying, fumigation, or preservation is carried on shall be deemed to be a workplace.

- (7) Premises shall not be excluded from the definition of a workplace by reason only that they are open air premises.

4. General application

Save as is in this Act otherwise expressly provided, this Act shall apply to all workplaces as defined by this Act.

5. Application to workplaces belonging to the Government

This Act shall also apply to—

- (a) every workplace belonging to or in the occupation of the Government;
- (b) building operations and works of engineering construction undertaken by, or on behalf of the Government; and
- (c) the employment by, or under the Government, of persons engaged in demolishing, painting or renovating buildings.

Part II – Registration of workplaces

6. Register of workplaces

The Director shall keep a register of workplaces in which he shall cause to be entered such particulars in relation to every workplace required to be registered under this Act as he may consider necessary or desirable.

7. Premises not to be used as workplaces unless registered

- (1) No person shall occupy or use a workplace unless he is the holder of—
 - (a) a registration certificate issued in respect of such premises under [section 9](#) (2);
 - (b) a current provisional registration permit issued in respect of such workplace under [section 9](#) (3).
- (2) The occupier of a registered workplace shall not carry on therein any activity referred to in [section 3](#) other than that specified in the registration certificate or provisional registration permit, as the case may be.

8. Application for erection or alteration of workplaces

- (1) Every person who intends to—
 - (a) erect or cause to be erected any building for use as a workplace; or
 - (b) effect any structural or other alteration to any premises registered as a workplace under this Act; or
 - (c) alter or add to any existing building not registered as a workplace under this Act with the intention of using such building or a portion thereof as a workplace,shall submit to the Director, in duplicate in the prescribed form, plans of the site, and of the proposed building, alterations or additions, together with the prescribed particulars.
- (2) If the Director considers that—
 - (a) the proposed structural or other alterations to any premises registered as a workplace under this Act would result in such a workplace unsuitable in terms of the regulations for use as a

workplace in respect of the activity which is specified in the registration certificate for such a workplace; or

- (b) the proposed building or additions or the building altered in the manner proposed would not be suitable in terms of the regulations for use as a workplace of the nature proposed,

he shall disapprove such plans and particulars and shall give reasons for his disapproval.

- (3) Where, in accordance with any written law, application is made to a local authority or a town planning committee for the approval of any plans for the erection, rebuilding or alteration of any building used or intended to be used for a workplace, such local authority or town planning committee, as the case may be, shall submit such plans to the Director for examination by him, and shall not approve such plans unless the Director has notified the local authority or town planning committee, as the case may be, in writing that he considers the building will be suitable for use as workplace of the nature proposed.

9. Application for registration of workplaces

- (1) Application for registration of any premises as a workplace under this Act shall be made to the Director in the prescribed form by the person occupying or intending to occupy such premises as a workplace.
- (2) Every application for registration under this section shall be accompanied by plans of the proposed workplace, which shall give the following particulars—
 - (a) materials to be used in the building;
 - (b) material to be used in the roofing;
 - (c) provision for ventilation;
 - (d) provision of drainage;
 - (e) provision for natural and artificial lighting;
 - (f) provision of means of escape in case of fire;
 - (g) provision for sanitary facilities;
 - (h) provision for disposal of waste where applicable;
 - (i) provision of water supply; and
 - (j) such other additional information or drawings as the Director may require.
- (3) As soon as possible after receipt of an application, and any additional information or drawings required under subsection (2), and after consultation with the relevant local authority or town planning committee, as the case may be, the Director shall—
 - (a) register the premises in respect of which the application is made by issuing a registration certificate in the prescribed form, specifying the activity in respect of which the workplace is registered, the name of the occupier and any other particulars as may be prescribed; or
 - (b) refuse to register the premises on any of the following grounds—
 - (i) that the premises are unsuitable for use as a workplace;
 - (ii) the activity to be carried on in the workplace or the siting of the workplace would be in contravention of any approved scheme, operative regional plan, operative master plan or operative local plan as defined in any written law; or
 - (iii) that the applicant has not obtained any licence or permit required under any in respect of the operations to be carried on the premises.

- (4) After the registration of any premises as a workplace under this Act, no person shall effect or cause to be effected any structural or other alterations to such premises without the written prior approval of the Director, and if any such alteration is commenced or carried out without such approval, the Director may, by notice in writing to the occupier, cancel the registration certificate, whereupon the premises shall cease to be registered as a workplace under this Act.
- (5) If the occupier of a workplace loses a registration certificate issued to him under subsection (3) or a duplicate registration certificate issued to him under this subsection, he shall, within fifteen days after the discovery of the loss, apply for a duplicate registration certificate from the Director and the application shall be accompanied by the prescribed fee.
- (6) Application for renewal of registration of a workplace shall be made by the occupier annually as from 1st April of each financial year by sending to the Director a written application in the prescribed form.
- (7) Upon receipt of application under subsection (6) and if satisfied that the workplace to which the application relates is suitable for use as a workplace of the nature stated in the application, the Director shall renew the registration of the workplace and shall issue to the occupier a certificate of registration in the prescribed form.
- (8) Registration shall, unless sooner determined, be effective for a period of twelve months but may be renewed annually.
- (9) The occupier of a workplace shall exhibit the registration certificate issued to him in terms of this section on the premises.
- (10) Any person who, without there having been issued to him a certificate of registration occupies or uses as a workplace any premises which were not occupied or used by him at the date of coming into operation of the Act shall be guilty of an offence and liable to a fine of K10,000, and if the contravention in respect of which he is convicted continues after conviction, he shall be liable to a fine of K500 for each day that the offence continues.

10. Notification of change

If, at any time after an application has been submitted to the Director in accordance with [section 7](#) or [section 8](#), any substantial change occurs with respect to the particulars set out in the application, the occupier of the premises to which the application relates shall forthwith inform the Director in writing of such change, and every applicant who fails to do so shall be guilty of an offence.

11. Transfer of workplace

When the right to occupy any workplace has been transferred, the transferee, or person acting in his behalf, shall forthwith send notice in writing to the Director stating the name and postal address of the transferee, the situation of the workplace and the nature of the trade or business to be carried on in the workplace, together with the prescribed transfer fee.

12. Fees for registration, etc.

The Minister may make regulations prescribing fees which shall be paid in respect of registration of existing workplaces, the registration of new workplaces and renewal of registration, the transfer of a workplace and the issue of duplicate certificates of registration.

Part III – Duties and responsibilities

13. Duties of employers

- (1) It shall be the duty of every employer to ensure the safety, health and welfare at work of all his employees.

- (2) Without prejudice to the generality of an employer's duty under subsection (1), the matters to which that duty extends includes in particular—
 - (a) the provision and maintenance of plant and systems of work that are safe and without risks to health;
 - (b) arrangements for ensuring safety and absence of risks to health in connexion with the use, handling, storage and transportation of articles and substances;
 - (c) the provision of information, instruction, training and supervision in accordance with [section 65](#) to ensure the safety and health at work of his employees;
 - (d) as regards any place of work under the employer's control, the provision of maintenance in a manner that is safe and without risks to health, and the provision and maintenance of means of access to and egress from it that are safe and without such risks;
 - (e) the provision and maintenance of a working environment for his employees that is safe, without risks to health, and adequate as regards facilities and arrangements for their welfare at work.
- (3) Except in such cases as may be prescribed, it shall be the duty of every employer to prepare and as often as may be appropriate, revise a written statement of his general policy with respect to the safety and health at workplace of his employees, and the organization and arrangements for the time being in force for carrying out that policy, and to bring the statement and any revision of it to the notice of all of his employees.
- (4) The Minister may make regulations providing for—
 - (a) the appointment by trade unions of safety representatives from amongst the employees, to represent the employees in consultations with the employers under subsection (5), and the safety representative shall have such other functions as may be prescribed;
 - (b) the election by employees of safety representatives from amongst the employees, to represent employees in consultations with the employers under subsection (5), and the safety representatives may have such other functions as may be prescribed.
- (5) It shall be the duty of every employer to consult with any safety representatives with a view to the making and maintenance of arrangements which will enable the employer and his employees to co-operate effectively in promoting and developing measures to ensure the safety and health at work of the employees, and in checking the effectiveness of such measures.
- (6) In every such case as may be prescribed, it shall be the duty of every employer, if requested to do so by the safety representatives, to establish, in accordance with [section 21](#), a safety committee to review measures taken to ensure the safety and health at work of employees, and the safety committee shall have such other functions as may be prescribed.

14. General duties of employers and self-employed persons to persons other than their employees

- (1) It shall be the duty of every employer to conduct his undertaking in such away as to ensure that persons not in his employment who may be affected by the undertaking are not thereby exposed to risks to their safety or health.
- (2) It shall be the duty of every self-employed person to conduct his undertaking in such a way as to ensure that other persons (not being his employees) who may be affected by the undertaking are not thereby exposed to risks to their safety or health.
- (3) In every such case as may be prescribed, it shall be the duty of every employer and every self-employed person, in the prescribed manner, to give to persons (not being his employees) who may be affected by the way in which he conducts his undertaking prescribed information about such aspects of his undertaking as might affect their safety or health.

15. Duties of other persons

- (1) This section shall apply to non-domestic premises used as a place of work, and to any plant, equipment or substance used on such premises in connexion with any work performed thereon.
- (2) It shall be the duty of every person who has, to any extent, control of premises to which this section applies, or of the means of access thereto or egress therefrom, or of any plant, equipment or substance in such premises, to take such measures as are reasonable for a person in his position to take to ensure that the premises, or means of access thereto or egress therefrom available for use by persons using the premises, and any plant, equipment or substance on the premises or provided for use thereon, is safe and without risks to health.
- (3) Where, by virtue of any contract or tenancy, a person has an obligation of any extent in relation to —
 - (a) the maintenance or repair of any premises to which this section applies, or any means of access thereto, or egress therefrom; or
 - (b) the safety or the absence of risks to health arising from plant, equipment or substances in any such premises,that person shall be treated, for the purposes of subsection (2) as being a person who has control of the matters to which his obligation extends.
- (4) Any reference in this section to a person having control of any premises or matter is a reference to a person having control of the premises or matter in connexion with the carrying on by him of a trade, business or other undertaking, whether for profit or not.

16. General duties of persons in control of workplaces in relation to harmful emissions

- (1) It shall be the duty of every person having control of any premises to use the best practicable means for preventing the emission into the atmosphere from the premises of noxious or offensive substances, and for rendering harmless and inoffensive such substances as may be so emitted.
- (2) The Minister may, for purposes of subsection (1), by order published in the *Gazette*, prescribe any substance to be noxious or offensive.
- (3) The reference in subsection (1) to the means to be used for the purposes therein mentioned, includes reference to the manner in which the plant provided for those purposes is used, and to the supervision of any operation involving the emission of the substances to which that subsection applies.
- (4) Any reference in this section to a person having control of any premises is a reference to a person having control of the premises in connexion with the carrying on by him of a trade, business or other undertaking, whether for profit or not, and any duty imposed on any such person shall extend only to matters within his control.

17. General duties of manufacturers or suppliers as regard articles and substances used at workplaces

- (1) It shall be the duty of every employer to request from any person who designs, manufactures, imports or supplies any article for use at a workplace—
 - (a) to ensure that the article is designed and constructed to be safe and without risks to health when properly used;
 - (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 under subsection (1) (a);

- (c) to take such steps as are necessary to secure that there is available, in connexion with the use of the article at workplace, adequate information about the use for which it is designed and has been tested, and about any conditions necessary to ensure that, when put to that use, the article will be safe and without risks to health.
- (2) It shall be the duty of every person who undertakes the design or manufacture of any article for use at a workplace to carry out or arrange for the carrying out of any necessary research with a view to discover and, so far as is reasonably practicable, to eliminate or minimize any risks to safety or health to which the design or manufacture of the article may give rise.
- (3) It shall be the duty of every person who erects or installs any article for use at a workplace in any premises where that article is to be used by persons at work to ensure, so far as is reasonably practicable, that nothing about the way in which the article is erected or installed makes it unsafe or risky to health when properly used.
- (4) It shall be the duty of every person who manufactures, imports or supplies any substance for use at a workplace—
- (a) to ensure, so far as is reasonably practicable, that the substance is safe and without risks to health when properly used;
- (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 under subsection (1) (a);
- (c) to take such steps as are necessary to secure that there is available in connexion with the use of the substance at work, adequate information about the results of any relevant tests which have been carried out on, or in connexion with, the substance, and about any conditions necessary to ensure that it will be safe and without risks to health when properly used.
- (5) It shall be the duty of every person who undertakes the manufacture of any substance for use at a workplace to carry out or, arrange for the carrying out of any necessary research with a view to discover and, so far as is reasonably practicable, eliminate or minimize any risks to safety or health to which the substance may give rise.
- (6) Nothing contained in this section shall require any person to repeat any testing, examination or research which has been carried out otherwise than by him or at his instance, in so far as it is reasonable for him to rely on the results thereof for the purpose of those provisions.
- (7) Any duty imposed on any person by any of the provisions of this section shall extend only to things done in the course of a trade, business or other undertaking carried on by him, whether for profit or not, and to matters within his control.
- (8) Where a person (the “supplier”) designs, manufactures, imports or supplies an article for or to another person (the “customer”) for use at a workplace on the basis of a written undertaking by the supplier that the article is safe and without risks to health when properly used, the customer shall be relieved from the duty imposed by subsection (1) (a) to such extent as is reasonable having regard to the terms of the undertaking.
- (9) Where a person (the “ostensible supplier”) supplies any article or substance to another (the “customer”) for use at a workplace under a hire-purchase agreement, conditional sale agreement or credit sale agreement, and the ostensible supplier—
- (a) carries on the business of financing the acquisition of goods by means other than such agreements; and
- (b) in the course of that business acquires an interest in the article or substance supplied to the customer as a means of financing its acquisition by the customer from a third person (the “effective supplier”),

the effective supplier and not the ostensible supplier shall be deemed for purposes of this section as supplying the article or substance to the customer, and any duty imposed by this section on the

ostensible supplier shall accordingly be imposed on the effective supplier and not on the ostensible supplier.

- (10) For the purposes of this section, an article or substance shall not be regarded as properly used where it is used without regard to any relevant information or advice relating to its use which has been made available by a person by whom it was designed, manufactured, imported or supplied.

18. General duties of employees at workplaces

It shall be the duty of every employee while at a workplace—

- (a) to take reasonable care for the safety and health of himself and that of other persons who may be affected by his acts or omissions; and
- (b) as regards any duty or requirement imposed on an employer or any other person by this Act, to co-operate with the employer or other person so far as is necessary to enable that duty or requirement to be performed or complied with.

19. Interference with or misuse of safeguards

No person shall intentionally or recklessly interfere with or misuse anything provided in the interests of health, safety or welfare in pursuance of this Act.

20. Duty not to levy charges on employees

No employer shall levy or permit to be levied on any employee any charge in respect of anything done or provided in pursuance of this Act.

21. Safety committees

It shall be the duty of every employer to establish a safety committee in a workplace employing more than fifty employees or, having regard to the nature of the undertaking at the workplace, where the Director so directs.

Part IV – Health and welfare

22. Cleanliness

- (1) Every workplace shall be kept clean, and free from effluvia arising from any drain, sanitary convenience or nuisance.
- (2) Without prejudice to the generality of subsection (1)—
- (a) accumulations of dirt and refuse shall be removed daily by a suitable method from the floors and benches of workrooms, and from stair cases and passages;
- (b) the floor of every workroom shall be cleaned at least once every day by washing or, if it is effective and suitable, by sweeping or other method;
- (c) all inside walls and partitions, and all ceilings or tops of rooms, and all walls, sides and tops of staircases shall—
- (i) where they have a smooth and impervious surface, be washed with hot water and soap or other suitable detergent, or cleaned by any other suitable method, at least once in every period of six months;
- (ii) where they are varnished or painted with a suitable varnish or paint applied in such a manner as to produce over the whole of the treated surface a compact continuous firm capable of being washed with hot water and soap or other suitable detergent, or cleaned by any other suitable method, be revarnished or repainted at intervals of not

- more than one year, and shall at least once in every period of six months be washed with hot water and soap or other suitable detergent or cleaned by any other suitable method;
- (iii) in any other case, be kept whitewashed or colour-washed, and the whitewashing shall be repeated at least once in every period of six months;
 - (d) all outside walls shall be whitewashed or painted at least once every year;
 - (e) effective arrangements, as determined by the Director, shall be made for the treatment of wastes and effluent due to the manufacturing process carried on therein, so as to render such waste and effluent innocuous and for the safe disposal of the waste and effluent.
- (3) Where it appears to the Director that in any class or description of workplace or part thereof any of the provisions of this section are not required for the purpose of keeping the workplace in clean state, or are by reason of special circumstances inappropriate or inadequate for such purpose, the Director may by notice published in the *Gazette*, direct that those provisions shall not apply to workplaces, or parts of workplaces, of that class or description, or shall apply as varied by the notice.

23. Overcrowding

- (1) A workplace shall not, while work is carried on, be so overcrowded as to cause risk of injury to the health of the persons employed therein.
- (2) For purposes of subsection (1), a workplace shall be deemed to be overcrowded if the number of persons employed at any one time in any workroom is such that the amount of cubic space allowed for each person so employed is less than eleven cubic metres.
- (3) Every workroom shall be not less than three metres in height, as measured from the floor to the lowest point of the ceiling or, where there is no ceiling, to the lowest point of the roofing material.
- (4) Where the Director is satisfied that owing to the special conditions under which the work is carried on in any workroom the application of subsection (2) or (3) to that workroom would be inappropriate or unnecessary, he may, by certificate in writing, exempt the workroom from those subsections, subject to any conditions specified in the certificate.
- (5) If an inspector so requires, there shall be posted in the workroom a notice specifying the number of persons who may be employed in that room at any one time.
- (6) In calculating the amount of cubic space in any room for purposes of this section, no space more than four metres from the floor shall be taken into account and, where a room contains a gallery, the gallery shall be treated as if it were partitioned off from the remainder of the room and forms a separate room.
- (7) The Minister may make regulations with respect to any class or description of premises or parts thereof or any process, increasing the number of cubic metres to be allowed for every person employed in a workroom for purposes of this section.

24. Ventilation and temperature

- (1) Every workplace shall have effective and suitable provision for securing and maintaining the circulation of fresh air in each workroom, adequate ventilation of the room, and for rendering harmless, so far as practicable, all such fumes, dust and other impurities generated in the course of any process or work carried on in the workplace as may be injurious to health.
- (2) Every workplace shall have effective and suitable provision for securing and monitoring in every workroom such temperature as will secure to workers therein reasonable conditions of comfort and prevent injury to health.
- (3) Where the nature of the work carried on in the workplace involves, or is likely to involve, the production of excessively high temperatures, adequate measures shall be taken to protect

employees therein by isolating the process which produces such temperatures in the workroom or insulating the hot parts or by other effective means.

25. Lighting

- (1) Every workplace shall have effective provision for securing and maintaining sufficient and suitable lighting, whether natural or artificial, in every part of a workplace in which persons are working or passing.
- (2) All glazed windows and skylights used for the lighting of workrooms at every workplace shall, so far as practicable, be kept clean on both the inner and outer surfaces and free from obstruction:

Provided that this subsection shall not affect the whitewashing or shading of windows and skylights for the purpose of mitigating heat or glare.
- (3) The Minister may make regulations specifying a standard of suitable and sufficient lighting for purposes of this section.

26. Drainage of floor

Where any process is carried on which renders the floor at any workplace liable to be wet, and the wet is capable of being removed by drainage, effective means shall be provided and maintained for drainage and disposal of the wet.

27. Sanitary conveniences

- (1) Every occupier shall provide sufficient and suitable sanitary conveniences for persons employed in the workplace, which shall be maintained and kept clean, and effective provision shall be made for lighting the conveniences and, where persons of both sexes are or are intended to be employed (except in the case of workplaces where the only persons employed are members of the same family dwelling there), such conveniences shall afford proper separate accommodation with a distinct approach for persons of each sex.
- (2) The Minister may make regulations specifying sufficient and suitable sanitary conveniences for purposes of this section.

28. Washing facilities

- (1) Every occupier shall provide at a workplace separate washing facilities for male and female employees, easily accessible, in the proportion of at least one wash hand basin and one shower for every twenty employees, per a shift where shifts are operational.
- (2) The washing facilities referred to in subsection (1) shall be maintained in a clean and orderly condition for the use of all persons employed, and shall have separate entrances for each sex.

29. Drinking water

- (1) Every occupier shall provide at a workplace an adequate supply of clean and potable drinking water, maintained at suitable points conveniently accessible to all persons employed.
- (2) Every supply of drinking water which is not laid on shall be contained in suitable vessels, and shall be renewed at least daily, and all practicable steps shall be taken to preserve the water and vessels from contamination; and a drinking water supply whether laid on or not, shall be clearly marked "DRINKING WATER" in English and in such vernacular languages as the Director may specify.
- (3) The facilities provided for drinking water in accordance with this section shall be separated from those provided for washing in accordance with [section 28](#).

30. Change rooms

- (1) Every occupier shall provide, for the use of employees at a workplace, adequate and suitable accommodation for hanging or stowing personal clothing not worn during working hours, and where protective clothing is provided to employees in accordance with [section 58](#), a suitable place or places shall be provided for the storage of such protective clothing.
- (2) An occupier shall not store, or permit to be stored, any goods or materials connected with work processes, or waste of any description, in any change room.

31. Seats

- (1) Every occupier shall provide and maintain at a workplace a sufficient number of seats for the use of those employees whose work is ordinarily performed standing, and shall permit such employees to take advantage of any opportunities for resting which may occur in the course of their employment.
- (2) Every occupier shall supply and maintain at a workplace chairs with suitable back-rest for the use of employees who ordinarily perform their work sitting.

32. Facilities for meals

- (1) Every occupier shall provide and maintain in good condition, suitable facilities where employees may prepare and consume their meals.
- (2) No person shall be permitted to consume food or drink in any room where any poisonous or otherwise injurious substance is so used as to give rise to any dust or fume.

33. First aid

- (1) Every occupier shall provide and maintain a first aid box or cupboard of the prescribed standard which is readily accessible.
- (2) Nothing except appliances or requisites for first aid shall be kept in a first aid box or cupboard.
- (3) Each first aid box or cupboard shall be placed under the charge of a qualified first aider who shall be readily available during working hours, and a notice, in English and in such a vernacular language as the Director may specify, shall be affixed in every workroom stating the name of the person in charge of the first aid box or cupboard provided in respect of that room.
- (4) Every occupier shall make arrangements for ensuring the removal for medical attention of employees who have suffered an accident or sudden illness.
- (5) The Minister may make regulations prescribing the type and quantity of medical requisites to be available at workplaces and the establishment of clinics at workplaces.

34. Medical examination

- (1) Where, in the opinion of the Director, the nature of any process, activity or occupation in a workplace or on structural work is such as to make it necessary, in the interest of health or safety, for any person employed therein to be examined by a medical practitioner, the Director may direct that such person shall be so examined before he is engaged in the process, activity or occupation, and at such intervals thereafter as the Director may direct.
- (2) The expense of any medical examination referred to in subsection (1) shall be borne by the employer.
- (3) Every medical practitioner who, upon examination of any person in accordance with this section, is of the opinion that such person is suffering from the effects of any dangerous substance contracted

as a result of his employment in a workplace or whilst engaged on structural work, shall report the matter in writing to the Director.

Part V – Machinery safety

35. Fencing and guarding of dangerous machinery

- (1) Every dangerous part of any moving machinery or component thereof shall be securely fenced, unless it is of such construction as to be safe to every person working on the premises as it would be if securely fenced:

Provided that, in so far as the safety of a dangerous part of machinery cannot by reason of the nature of the operation be secured by means of a fixed guard, the requirements 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 every person employed or working on the premises from coming into contact with that part.

- (2) Any part of stock-bar which projects beyond the headstock of a lathe shall be securely fenced, unless it is in such a position as to be as safe to every person employed or working on the premises as it would be if securely fenced.
- (3) Every part of any transmission machinery shall be securely fenced, unless it is in such a position or of such construction as to be safe to every person employed or working on the premises as it would be if securely fenced.
- (4) The Minister may, with respect to any machine or any process in which a machine is used, make regulations requiring the fencing of materials or articles which are dangerous while in motion in the machine.

36. Provision as to unfenced machinery

In determining, for the purposes of [section 35](#), whether any part of machinery is in position or of construction to be safe to every person employed or working on the premises as it would be if securely fenced—

- (a) no account shall be taken of any person carrying out, while the part of machinery is in motion, an examination thereof or any lubrication or adjustment shown by such examination to be immediately necessary, being an examination, lubrication or adjustment which it is necessary to carry out while the part of machinery is in motion; and
- (b) in the case of any part of transmission machinery used in any process in any workplace with respect to which the Director has declared, by certificate in writing, that he is satisfied that, owing to the continuous nature of such process, the stopping of that part would seriously interfere with the progress of the process in such a workplace, no account shall be taken of any person carrying out in the workplace, by such methods and in such circumstances and subject to such conditions as may be specified in the certificate, any lubrication or any mounting or shipping of belts:

Provided that this section shall only apply where—

- (a) the examination, lubrication or other operation is carried out by a worker who—
 - (i) has attained the apparent age of eighteen years;
 - (ii) has been sufficiently trained for the purpose of the work entailed by, and is acquainted with, the dangers of moving machinery arising in connexion with such examination, lubrication or other operation;
 - (iii) has been appointed by the occupier of the workplace, by certificate attached to the general register, to carry out such examination, lubrication or other operation, and has been furnished by the occupier with a copy of such certificate signed by him;

- (iv) has been provided by the occupier with, and is wearing, a close-fitting and single-piece overall suit in good repair, which is so fastened as not to have dangling loose ends and has no external pockets other than a hip pocket;
- (b) another person, instructed as to the steps to be taken in case of emergency, is immediately available within sight or hearing of any person carrying out such examination, lubrication or other operation;
- (c) such steps as may be necessary, including where appropriate and reasonably practicable, the erection of a barrier, are taken to prevent any person, other than a person carrying out the operation, from being in a position where he is exposed to risk of injury from the machinery; and
- (d) any ladder in use for the carrying out of such examination, lubrication or other operation is securely fixed or lashed, or is firmly held by a person stationed at the foot of the ladder.

37. Construction and maintenance of fencing

All fencing and other safeguard provided in accordance with the provisions of this Part shall be substantial construction, and shall be constantly maintained and kept in a 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 and for any lubrication or adjustment shown by such examination to be immediately necessary, and all the conditions specified in [section 36](#) are complied with.

38. Hoists and lifts

- (1) Every hoist and lift at a workplace shall be of good mechanical construction, sound material and adequate strength, and shall, together with all gates, interlocking or other devices required by this section to be fitted, be properly maintained.
- (2) Every hoist or lift shall be thoroughly examined at least once in every period of six months by a competent person, and a report of the result of every such examination, in the prescribed form and containing the prescribed particulars, shall be signed by the person making the examination, and shall within fourteen days be entered in or attached to the general register and a copy sent to the Director.
- (3) Where any examination shows that the hoist or lift cannot continue to be used with safety unless certain repairs are carried out immediately or within a specified time, the person making the report shall within fourteen days of the completion of the examination send a copy of the report to the Director who may issue a prohibition notice in accordance with [section 77](#).
- (4) Every hoist way or lift way shall be efficiently protected by a substantial enclosure fitted with gates, being such an enclosure as to prevent, when the gates are shut, any person falling down the way or coming into contact with any moving part of the hoist or lift.
- (5) Every gate referred to in subsection 4 shall be fitted with efficient interlocking or other devices to ensure that the gate 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 gate is closed.
- (6) Every hoist or lift and every enclosure referred to in subsection 4 shall be so constructed as to prevent any 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.
- (7) The following information shall be displayed in a conspicuous place on every hoist or lift—
 - (a) the maximum working load; and

- (b) the maximum number of persons which the hoist or lift is designed to carry, and no load greater than the maximum working load, including goods and persons, shall be carried on any hoist or lift.
- (8) The following additional requirements shall apply to hoists or lifts used for carrying persons, whether together with goods or otherwise—
- (a) efficient automatic devices shall be provided and maintained to prevent the cage or platform overrunning;
- (b) every cage shall, on each side from which access is afforded to a landing, be fitted with a gate, and in connexion with every such gate, efficient devices shall be provided to secure that, when containing persons or goods, the cage cannot be raised or lowered unless the gate is closed, and will come to rest when the gate is opened; and
- (c) where the platform or cage is suspended by rope or chain, there shall be at least two ropes or chains separately connected with the platform or cage, each rope or chain and its attachments being capable of carrying the whole weight of the platform or cage and its maximum working load, and efficient devices shall be provided and maintained to support the platform or cage with its maximum chains or any of their attachments.
- (9) In the case of a hoist or lift not connected with mechanical power—
- (a) the reference to “six months” in subsection (2) shall be substituted by “twelve months”;
- (b) subsection (5) shall be modified to read—
“Any such gate as aforesaid shall be kept closed and fastened except when the cage or platform is at rest at the landing”; and
- (c) subsection (8) shall not apply.
- (10) The key to the motor room of every hoist or lift shall be kept readily available to fire and ambulance services for rescue or other emergency purposes.
- (11) 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 the direction of movement of which is restricted by a guide or guides.
- (12) If it is shown to the satisfaction of the Director that it would be unreasonable in the special circumstance of the case to enforce any requirement of this section in respect of any class or description of hoist or lift, hoist way or lift way, the Director may by notice published in the *Gazette* exempt from such requirements any hoist, lift, hoist way or lift way of that class or description, and any such exemption may be unqualified or may be subject to such conditions as may be contained in the notice.

39. Escalators

Every escalator in a workplace shall be examined by a competent person after every period of six months, and a report of the result of every such examination in the prescribed form and containing the prescribed particulars shall be signed by the person making the examination and shall be submitted to the Director within fourteen days of the date of examination.

40. Cranes and other lifting machines

- (1) All parts and working gear whether fixed or movable, including the anchorage and fixing appliances, of every crane or other lifting machine shall be of good construction, sound material, adequate strength and free from patent defect, and shall be properly maintained.
- (2) All parts and working gear of a crane or other lifting machine shall be thoroughly examined by a competent person at least once every twelve months and also after every substantial alteration or

repair and a report of the result of every such examination in the prescribed form and containing the prescribed particulars shall be signed by the person making the examination and submitted to the Director within fourteen days of the date of examination.

- (3) No lifting machine shall be taken into use in any workplace for the first time in that workplace unless it has been tested, and all such parts and working gear of the machine as are specified in subsection (1) have been thoroughly examined by a competent person, and that person has issued a signed certificate specifying the safe working load or loads of the machine:

Provided that this subsection shall not apply with respect to any lifting machine in respect of which there has been obtained, and kept available for inspection, a certificate of test and thorough examination issued by the manufacturer of the machine.

- (4) All rails on which a travelling crane moves and every track on which the carriage of a transporter or runway moves shall be of proper size and adequate strength, and have an even running surface; and any such rails or track shall be properly laid, adequately supported or suspended, and properly maintained.
- (5) There shall be conspicuously displayed 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 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.
- (6) No lifting machine shall, except for the purpose of a test, be loaded beyond the safe working load as marked or indicated in accordance with this section.
- (7) If any person is employed or working on or near the wheel track of a self-propelled overhead travelling crane in any place where he would be liable to be struck by the crane, effective measures shall be taken to ensure that the crane does not approach within six metres of that place.
- (8) A lifting machine shall not be operated except by a person trained and competent to operate that machine:

Provided that it shall be permissible for such machine to be operated by a person who is under the direct supervision of a qualified person for the purpose of training; and 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.

- (9) For purposes of this section the expression "lifting machine" includes crane, crab, winch, toggle, pulley block, gin wheel, transporter or runway.

41. Chains, ropes and lifting tackle

- (1) Every occupier shall comply with the following provisions in relation to every chain, rope or lifting tackle used in a workplace for the purpose of raising or lowering persons, goods or materials—
- (a) no chain, rope or lifting tackle shall be used unless it is of good construction, sound material, adequate strength and free from patent defect;
- (b) a table showing the safe working loads of every kind and size of chain, rope, or lifting tackle in use and, in the case of a multiple sling, the safe working loads at different angles of the legs shall be prominently displayed on the premises, or alternatively in relation to any lifting tackle the safe working load thereof, or in the case of multiple sling, the safe working load at different angles of the legs, shall be plainly marked upon it;
- (c) no chain, rope or lifting tackle shall be used for any load exceeding the safe working load;
- (d) all chains, ropes and lifting tackle in use shall be thoroughly examined by a competent person at least once every period of six months or at such greater intervals as the Director may direct;

- (e) no chain, rope or lifting tackle, except a fibre rope or fibre sling, shall be taken into use in any workplace for the first time unless it has been tested and thoroughly examined by a competent person, who shall determine the safe working load:

Provided that this paragraph shall not apply to any chain, rope or lifting tackle in respect of which there has been obtained and is kept available for inspection, a certificate of test and examination issued by the manufacturer of the chain, rope or lifting tackle; and
 - (f) wrought iron chains or lifting tackle in use in any workplace shall be annealed or otherwise treated by heat at such intervals as the Director may direct.
- (2) For purposes of this section the expression “lifting tackle” includes chain, slings, rope, rope slings, hooks, shackles and swivels.

42. Steam boilers

- (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—
 - (a) shall have attached to it—
 - (i) a suitable safety valve, separate from and incapable of being isolated by any stop-valve, which shall be adjusted 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;
 - (ii) a suitable stop-valve, connecting the boiler to the steam pipe;
 - (iii) a correct steam pressure gauge, connected to the steam space and easily visible by the boiler attendant, which shall indicate the pressure of steam in kilograms per square centimetre, and have marked upon it, in a distinctive colour, the maximum permissible working pressure;
 - (iv) at least one water gauge of 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 two and half kilograms per square centimetre, the gauge shall be provided with an efficient guard but not so as to obstruct the reading of the gauge;
 - (v) where it is one or two or more boilers, a plate bearing a distinctive number which shall be easily visible shall be provided;
 - (b) shall have means for attaching a test pressure gauge; and
 - (c) shall have a suitable fusible plug or an efficient low-water alarm device:

Provided that paragraph (a) (ii) shall not apply with respect to economizers, and paragraphs (a) (iii) and (v), and paragraphs (b) and (c) shall not apply with respect to either economizers or superheaters.
- (3) For the purposes of subsection (2) a lever-valve shall not be deemed a suitable safety valve unless the weight is secured on the lever in the correct position.
- (4) No person shall enter or be in any steam boiler which is one of a range of two or more steam boilers unless—
 - (a) 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 other boilers or delivering into a common

blow-off vessel or pump, 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.

- (5) No work shall be permitted in any boiler-furnace or boiler-flue until it has been sufficiently cooled, by ventilation or otherwise, to make work safe for the person employed.
- (6) Every steam boiler and all its fittings and attachments shall be thoroughly examined by an inspector at least once in every period of twelve months, and also after any extensive repair:

Provided that 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.
- (7) Any examination in accordance with subsection (6) shall consist of an examination of the boiler when it is cold and the interior and exterior have been prepared in the prescribed manner, and, except in the case of an economizer or superheater, of an examination when it is under normal steam pressure, and the two parts of the examination may be carried out by different persons.
- (8) The examination under steam pressure shall be made as soon as possible after the examination of the boiler when cold, and the person making the examination shall see that the safety valve is so adjusted as to prevent the boiler being worked at a pressure greater than the maximum permissible working pressure.
- (9) A report of the result of every examination, in the prescribed form and containing the prescribed particulars, including particulars of the maximum permissible working pressure, shall be entered in or attached to the general register.
- (10) No steam boiler which was previously been used shall be taken into use in any workplace for the first time in that workplace until it has been examined in accordance with the subsections (6), (7) and (8) and reported on in accordance with subsection (9).
- (11) No new steam boiler shall be taken into use unless—
 - (a) there has been obtained from the manufacturer of the boiler, or from a boiler-inspecting company or association, a certificate specifying the maximum permissible working pressure thereof, 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; and
 - (b) the steam boiler has been thoroughly examined by the inspector, and found to be of adequate strength and free from patent defect.
- (12) Where the report of any examination under this section specifies condition for securing the safe working of a steam boiler, the boiler shall not be used except in accordance with those conditions.
- (13) Where portable electric lights are used during the cleaning, repair or inspection of a steam boiler or auxiliary equipment, the user shall ensure that such lights are operated at a pressure not greater than 50 volts.
- (14) Every steam boiler attendant shall be properly instructed as to his duties.
- (15) For the purposes of this section—
 - (a) the examination of a boiler when it is cold and its examination when it is under steam pressure shall be treated as separate examinations;
 - (b) “maximum permissible working pressure” means, in case of a new steam boiler, that specified in the certificate referred to in subsection (10) and, in the case of a steam boiler which has been examined in accordance with this section, that specified in the report of the last examination;

- (c) “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 superheater used for heating steam.
- (16) This section shall not apply to the boiler of any locomotive used on any railway or to the boiler of any ship.

43. Notification of repairs, etc. to boiler

- (1) The user of a steam boiler shall forthwith notify the Director in writing when—
- (a) he proposes to execute major repairs such as general retubing, renewal of furnaces or flues, fixing of new plates or patches, and changing of stays and gussets;
 - (b) he ceases permanently to use a boiler;
 - (c) he transfers a boiler to any other person, in which case he shall advise the Director of the name and address of such person;
 - (d) he proposes to resite a stationary boiler; or
 - (e) a boiler is damaged.
- (2) No person shall make any modification to any part of any steam boiler or steam receiver, not in accordance with the maker’s instructions, without the prior approval of the Director.

44. Additional information on new boilers

- (1) In the case of new steam boilers, excepting those which are of welded construction, the user of the boiler shall supply the Chief Inspector with—
- (a) the maker’s complete specifications;
 - (b) dimensioned drawings of the complete boiler, showing the thickness of plates, riveting details and the strength of the materials used; and
 - (c) the maker’s certificate.
- (2) Every new boiler, whether of rivetted or fusion-welded construction, shall be constructed to conform with acceptable international specifications as may be approved by the Director, either generally or in any particular case.

45. Exemption for steam tube ovens, etc.

Section 42 (2), (3), (4) and (7) and section 43 shall not apply to steam tube ovens and steam tube hotplates used for the baking or heating of food:

Provided that—

- (a) in the case of an oven—
 - (i) a thermometer for the purpose of indicating the temperature of the oven is fitted in a suitable position where it is easily visible, and is properly maintained, and an oven having more than one furnace or more than one baking chamber shall be fitted with at least one thermometer in respect of each furnace or baking chamber;
 - (ii) the ordinary maximum working temperature of the oven is marked in a distinctive colour on each thermometer;
 - (iii) the oven is not worked at a higher temperature than the ordinary maximum working temperature, unless a certificate has been obtained from the makers, and is kept available for inspection, certifying that the oven can safely be used at a higher temperature than

the ordinary maximum working temperature and specifying the conditions, including the maximum permissible working temperature, at which it may be so used;

- (b) in the case of a hotplate—
 - (i) a correct steam pressure gauge, easily visible and properly maintained, is fitted to at least one of the tubes, and is provided with an arrangement for recording the highest pressure generated in that tube at any time, and the maximum permissible working pressure is marked in a distinctive colour on each pressure gauge;
 - (ii) the hotplate is not worked at a pressure higher than the maximum permissible pressure;
- (c) the brickwork surrounding the tubes in the furnace, whether of an oven or a hotplate, is properly maintained so as to prevent excessive exposure of tubes to the fire or flame;
- (d) accumulations of dust, soot or other deposit are removed by brushing or other effective means from the flues and tubes of each oven or hotplate, and, in the case of an oven or hotplate fired with solid fuel, such removal is carried out at intervals of not longer than three months;
- (e) every tube fitted to an oven or hotplate has been properly tested by hydraulic pressure before sealing up, and a certificate of such test specifying the test pressure applied, and signed by the person making or supervising such test, is kept available for inspection and such certificate may relate to tests of more than one tube;
- (f) instructions for working the oven or hotplate are affixed on a placard prominently displayed near the working place at the oven or hotplate.

46. Steam receivers and steam containers

- (1) Every steam receiver and all its fittings shall be of good construction, sound material, adequate strength and free from patent defect, and shall be properly maintained.
- (2) Every steam receiver which is not constructed and maintained 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 other 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 adjusted 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 soon as the safe working pressure is exceeded;
 - (c) a correct steam pressure gauge indicating the pressure of steam in the receiver in kilograms per square centimetre;
 - (d) except where only one steam receiver is in use, a plate bearing a distinctive number which is easily visible,and 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.
- (3) For purposes of subsections (2) (a), (b), (c) and (d), any set of receivers supplied with steam through a single pipe and forming part of a single machine shall be deemed as one receiver, and for purposes of subsections (2) (a), (b) and (c) any other set of receivers supplied with steam through a single pipe shall be deemed as one receiver:
Provided that this subsection shall not apply to any such set of receivers unless a reducing valve or other appliance to prevent the safe working pressure being exceeded is fitted on the single pipe.
- (4) Every steam receiver and all its fittings shall be thoroughly examined by an inspector so far as the construction of the receiver permits, at least once in every period of twenty-four months, and 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 general register.

- (5) No steam receiver which has previously been used shall be used in any workplace for the first time unless it has been examined and reported on in accordance with subsection (4).
- (6) No new steam receiver shall be used in any workplace unless—
 - (a) there has been obtained from the manufacturer of the receiver, or from a boiler-inspecting company or association, a certificate specifying the safe working pressure of the receiver, 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; and
 - (b) the receiver has been thoroughly examined by the inspector, and found to be of adequate strength and free from patent defect.
- (7) Every steam container shall be so maintained as to ensure that the outlet is at all times kept open and free from obstruction.
- (8) For purposes of this section—
 - (a) “maximum permissible working pressure” means, in the case of a new steam receiver, that specified in the certificate referred to in subsection (6), and in the case of a steam receiver which has been examined in accordance with this section, that specified in the report of the last certificate;
 - (b) “safe working pressure” means, in the case of a new steam receiver, that specified in the certificate referred to in subsection (6), and in the case of a steam receiver which has been examined in accordance with subsection (5), that specified in the report of the last examination.

47. Air receivers

- (1) Every air receiver and its fittings shall be of sound construction and conform with acceptable international specifications as may be approved by the Director, generally or in any particular case.
- (2) 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 constructed 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 a suitable safety valve adjusted to permit the air to escape as soon as the safe working pressure is exceeded;
 - (d) be fitted with a correct pressure gauge indicating the pressure in the receiver in kilograms per square centimetre;
 - (e) be fitted with a suitable appliance for draining the receiver;
 - (f) be provided with a suitable manhole, handhole or other means to allow the interior of the air receiver to be thoroughly cleaned; and

- (g) in a case where more than one receiver is in use in the workplace, bear a distinguishing mark which shall be easily visible:

Provided that paragraph (e) shall not apply to—

- (i) any fixed or portable vessel, not being part of a spraying pistol, used for the purpose of spraying by means of compressed air, any paint, varnish, lacquer or similar material, or similar material, or any insecticide;
- (ii) any vessel in which oil is stored and from which it is forced by compressed air.

- (3) For purposes of subsection (2), any set of air receivers supplied with air through a single pipe shall be deemed as one receiver:

Provided that, where a suitable reducing valve or other suitable appliance to prevent the safe working pressure being exceeded is required to be fitted, this section shall not apply unless the valve or appliance is fitted on the single pipe.

- (4) Every air receiver and all its fittings shall be properly maintained and shall be thoroughly examined by an inspector at least once in every period of twenty-four months, and a report of 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, as soon as practicable, be entered in or attached to the general register:

Provided that in the case of a receiver of solid drawn construction—

- (a) the Director may specify in writing a period exceeding twenty-four months but not exceeding forty-eight months within which the next examination is to be made; and
- (b) if 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 visual internal examination.
- (5) This section shall not apply to any air receiver forming part of a plant, machinery or equipment of any ship or to any air receiver on any locomotive, carriage, wagon or other rolling stock used on any railway for the haulage of goods or passengers.
- (6) For purposes of this section “safe working pressure” means the pressure specified in the report of the last examination carried out in accordance with this section.

48. Gas plants

- (1) Subject to subsection (2), every gas generator, cleaning plant and storage plant shall be installed in the open air.
- (2) An installation referred to subsection (1) may be protected by a shed or structure, and in respect of every such shed or structure—
- (a) as much permanent ventilation, opening directly to the open air, as is practicable shall be provided; and
- (b) the floor shall be recessed or filled so as to form a retaining space of sufficient capacity to contain at least seventy-five per cent of inflammable liquid contained therein, depending on the type of gas.
- (3) Every shed or structure housing a gas generator, cleaning plant or storage plant shall be detached from other buildings.
- (4) Every gas generator, cleaning plant and storage plant shall be so installed and maintained as to be free of leaks and to prevent unintentional opening of control valves.
- (5) Fuel oils and inflammable liquids within a shed housing a gas generator shall not exceed in requirements for one day’s production.

- (6) All structures housing a gas plant shall be protected against lightning.

49. Gas cylinders

Cylinders for compressed, dissolved or liquified gases shall be—

- (a) of sound material and good construction, and free from patent defects;
- (b) distinctively identified as to their contents;
- (c) fitted with a suitable pressure gauge;
- (d) protected against excessive variation of temperature, direct rays of sunlight and continuous dampness while in storage;
- (e) whether charged or empty, maintained in an upright position;
- (f) handled with care to avoid violent shocks; and
- (g) transported on suitably designed carriers.

50. Fees

The Minister may make regulations prescribing fees for any examination or test carried out under this Part, and such fees shall be paid in respect of each such examination or test.

Part VI – Health and safety

51. Hazardous substances

- (1) Manufacturers, importers and suppliers of hazardous substances used at workplaces, including those in the agricultural sector, shall provide sufficient information on such substances with the precautions to be taken.
- (2) In the use of all materials containing hazardous substances and in the removal and disposal of wastes; the health of the workers and of the public and the preservation of the environment shall be safeguarded.
- (3) Hazardous substances shall be clearly labelled giving their relevant characteristics and instruction on their use.
- (4) Containers of hazardous substances shall carry, or be accompanied by, instructions for the safe handling of the contents and procedures to be followed in case of spillage.
- (5) In application of hazardous substances preference shall be given to means other than spraying, such as by brush or, where feasible roller.
- (6) Where the use of toxic substances or other volatile chemical substances, including thinners and paints cannot be avoided, special control measures, including local exhaust ventilation, shall be instituted.
- (7) Where the use of hazardous chemicals is likely to penetrate the skin and cause rash, skin contact with hazardous chemical shall be avoided and personal hygiene and the type of clothing worn shall be such as to enable rapid removal of any chemical from skin contact.
- (8) Where it is necessary to deal with proven carcinogenic substances, particularly in work involving bituminous tar, asphalt, asbestos fibres, pitch, heavy oils, and aromatic solvents, strict measures shall be taken to avoid inhalation and skin contact.

52. Vessels, etc., containing dangerous substances

- (1) Every fixed vessel, structure, sump or pit of which the edge is less than one metre above the highest ground or platform from which a person might fall into, shall, if it contains any scalding, corrosive or poisonous liquid, either be securely covered or be securely fenced to at least one metre above that ground or platform, and where by reason of the nature of the work neither secure covering nor secure fencing to that height is practicable, all practicable steps shall be taken by covering, fencing or other means to prevent any person from falling into the vessel, structure, sump or pit.
- (2) Where any fixed vessel, structure, sump or pit contains any scalding, corrosive or poisonous liquid and is not securely covered, no ladder, stair or gangway shall be placed above, across or inside such vessel, structure sump or pit unless the ladder, stair or gangway is—
 - (a) at least five hundred millimetres wide; and
 - (b) securely fenced on both sides to a height of at least one metre and securely fixed.
- (3) Where any vessel, structure, sump or pit referred to in subsection (2) adjoin, and the space between them, clear of any surrounding brick or other work, is less than five hundred millimetres in width or is not securely fenced on both sides to a height of at least one metre, secure barriers shall be placed to prevent passage between them.

53. Bulk storage of dangerous substances

- (1) Bulk storage of dangerous substances shall only be located at a suitable site approved by the Director.
- (2) Every area for the bulk storage of dangerous substances shall—
 - (a) be constructed and maintained with suitable material;
 - (b) be adequately ventilated;
 - (c) have adequate storage space;
 - (d) be capable of containing not less than seventy-five per cent of spillage;
 - (e) have an inventory of the substances in storage maintained and prominently displayed.
- (3) Storage tanks for the bulk storage of dangerous substances shall—
 - (a) be constructed and maintained with suitable material according to approved standards;
 - (b) have suitable containment for spillage of not less than seventy five percentage; and
 - (c) have suitable venting facilities.

54. Precautions in relation to explosives, etc.

- (1) Where, in connexion with any grinding, sieving or other process giving rise to dust, gas or vapour there may escape into any workroom dust, gas or vapour 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—
 - (a) enclosure of any plant used in the process;
 - (b) removal or prevention of accumulation of the dust, gas or vapour; and
 - (c) exclusion or effective enclosure of possible sources of ignition.
- (2) Where, in any plant used in any process referred to in subsection (1), there is present dust, gas or vapour 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 connexion with the plant, of chokes, baffles and vents, or other equally effective appliances.

- (3) No plant, tank or vessel which contains or has contained any explosive or inflammable substance shall 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 explosive or inflammable 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, in any case where he is satisfied that compliance with the requirements of subsection (3) is unnecessary or impracticable, by certificate in writing, grant exemption from any of the requirements of subsection (3), subject to such conditions as may be specified in the certificate.

55. Precautions in relation to work in confined spaces

- (1) Where work is done inside any chamber, tank, vat, pit or other confined space in which dangerous fumes are liable to be present—
 - (a) the confined space shall be provided with adequate means of egress for persons entering or working therein; and
 - (b) no person shall enter the confined space for any purpose unless—
 - (i) all practicable steps shall have been taken to remove any fumes which may be present and to prevent any ingress of fumes, and it has been ascertained, by a suitable test, that the space is free from dangerous fumes;
 - (ii) the person entering wears a belt to which there is securely attached a rope of which the free end is held by a person outside, and the person entering shall wear a suitable breathing apparatus; and
 - (iii) a suitable permit shall have been issued by a competent person to facilitate safe completion of the work.

56. Prevention of fire

- (1) There shall be provided and maintained in every workplace, adequate and suitable means for extinguishing fire, which shall be readily accessible.
- (2) Chemical fire-extinguishers shall be freshly charged at intervals not greater than those specified by the manufacturers, or otherwise once annually, and tested by the application of such hydraulic pressure thereto as shall be suited to the type of extinguisher tested, at intervals of not more than four years; and the dates of recharging the extinguisher and the last hydraulic test shall be clearly marked on the body of the extinguisher or on a tab securely attached thereto.
- (3) All stocks of inflammable substances shall be kept in a fire resisting store or in a safe place outside any occupied building:

Provided that no such store shall be so situated as to endanger the means of escape from the workplace or from any part thereof in the event of a fire occurring in the store.
- (4) No fire, flame, open light or other agent likely to ignite volatile and inflammable substances shall be allowed or used in any part of a workplace in which volatile and inflammable substances are used.
- (5) No person shall smoke in any part of a workplace where volatile and inflammable substances are used, and a notice prohibiting smoking shall be posted in a conspicuous place in every such part of the workplace.

57. Means of escape in case of fire

- (1) Every workplace shall have adequate means of escape in case of fire for the persons employed therein.
- (2) Every means of escape in case of fire 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 that there is a free passageway for all persons employed in the room to a means of escape in case of fire.
- (4) The doors of a workplace and of any room therein, and any doors which afford a means of exit for persons employed in the workplace from any building or from any enclosure in which the workplace is situated, shall not be locked or fastened in such a manner as not to be easily and immediately opened from the inside in case of fire.
- (5) Any door in a workplace opening on to any staircase or corridor from any room in which more than ten persons are employed and, in the case of any workplace constructed or converted for use as a workplace after the coming into operation of this Act, all other doors affording a means of exit from the workplace for persons employed therein, shall, except in the case of sliding doors, be constructed to open outwards.
- (6) Doors in a workplace giving access to stairways shall not open immediately on to a flight of stairs, but on to a landing of adequate width, in no case less than the width of the door opening on to that landing.
- (7) Every window, door or other exit affording means of escape in case of fire or giving access thereto, 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.
- (8) In every workplace, 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.
- (9) Where in any workplace, more than twenty persons are employed in the same building, or where explosive or highly inflammable materials are stored or used in any building in which persons are employed, effective provision shall be made for giving warning in case of fire, and the provision of warning shall be operated without exposing any person to undue risk, and be clearly audible throughout the workplace.
- (10) Every hoist way or lift way inside a building constructed after the date of coming into operation of this Act shall be completely enclosed with fire-resisting materials, and all means of access to the hoist or lift shall be fitted with doors of fire-resisting materials.
- (11) The Director may, in any case where he is satisfied that compliance with the requirements of subsection (10) is inappropriate or undesirable, by certificate in writing grant exemption from any of the requirements of subsection (10) subject to such conditions as may be specified in the certificate.

58. Protective clothing and appliances

Where in any workplace workers are employed in any process involving excessive exposure to heat, cold, noise, wet or to any injurious or offensive substance, or any welding process, suitable protective clothing and appliances, including, where necessary suitable gloves, footwear, screens, goggles, ear muffs and head covering, shall be provided and maintained at no cost to the employee for the use of such workers as required by the Director.

59. Removal of dust and fumes

In every workplace in which, in connexion with any dust process carried on, there is given off any dust or fume or other impurity 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, all practicable measures, including

the supply of breathing masks, shall be taken to protect the persons employed against inhalation of the dust or fume or other impurity and to prevent its accumulating in any workroom, and where the nature of the process makes it practicable, exhaust appliances shall be provided and maintained, as near as possible to the point of origin of the dust or fume or other impurity, so as to prevent it entering the air of any workroom.

60. Protection of eyes

- (1) Where in any workplace workers are employed in any process involving dry grinding of metals, welding or cutting of metals by means of an electrical, oxy-acetylene or similar process or in any other process likely to entail injury to the eyes, suitable goggles or effective screens shall be provided to protect the eyes of workers.
- (2) Where in any workplace electric arc welding is carried on, effective provision shall be made, by screening or otherwise, to prevent workers (other than persons employed in the welding process) being exposed to the electric arc flash.

61. Ionizing radiation

- (1) Ionizing and laser radiation likely to jeopardize the health and safety of workers shall be reduced to practicable levels in every workplace.
- (2) In order to achieve proper containment, all work with radioactive substances or equipment shall be segregated from other works.
- (3) Where radioactive substances or equipment are used, the working environment shall be monitored from time to time to determine levels of external radiation.
- (4) A record of personal radiation doses and levels of radiation, in the working environment shall be maintained and kept readily available for inspection.
- (5) The Minister may make regulations prescribing levels of permissible radiation doses.

62. Non-ionizing radiation

- (1) All workers performing operations where they are exposed to non-ionizing radiations shall be provided with adequate protection, and in the case of welding, torch cutting and soldering operations, with eye and face protection.
- (2) For the purpose of detecting pre-cancerous lesions of the skin, workers continuously working under non-ionizing radiation exposure, including exposure to the sun, shall, where appropriate, be under medical surveillance.

63. Noise and vibration

- (1) Noise and vibrations likely to injure the health of workers shall be reduced to practicable levels in every workplace.
- (2) No person shall be exposed to sound levels exceeding—
 - (a) 85 dB(A) of reasonably constant level for eight hours continuously in any one day;
 - (b) 135 dB(A) as measured with an instrument set at “fast”, in any one day;
 - (c) 150 dB(A) in the case of impulse noise as measured with an instrument set at “fast”, in any one day:Provided that—
 - (i) if exposure is for periods other than eight hours, or if the sound level is fluctuating, an equivalent sound level shall be calculated, and this resultant value shall not exceed the equivalent of 85 dB(A);

- (ii) the non-continuous exposure at a sound level in excess of 85 dB(A) shall be regarded as exceeding 85 dB(A).
- (3) All areas where persons may be exposed to sound levels exceeding the limits set out in this section shall be identified as ear-protection areas and shall be suitably cordoned off.
- (4) Entry to ear protection areas shall be restricted to authorized persons and all such persons shall use effective ear protection.

64. Lifting and handling of weights

- (1) Where reasonable and practicable, mechanical appliances shall be provided and used for lifting and carrying loads in all workplaces.
- (2) No person should be employed to lift, carry or move any load which, by reason of its weight, is likely to injure his health or jeopardize his safety.
- (3) The Minister may make regulations prescribing load limits for purposes of subsection (2).

65. Information and training

- (1) Every worker in a workplace shall be adequately and suitably—
 - (a) informed of potential health hazards to which he may be exposed to at the workplace;
 - (b) instructed and trained in the measures available for prevention and control and protection against health hazards at the workplace.
- (2) All information, instruction and training referred to in subsection (1) shall be given in a language understood by the worker, and written, oral, visual and participative approaches shall be used to ensure that the worker assimilates the information, instruction or training, as the case may be.
- (3) Specialized instruction and training shall be given to—
 - (a) drivers and operators of lifting appliances, transport vehicles, earth moving and materials handling equipment and plant, steam boilers and machinery or equipment of specialized or dangerous nature;
 - (b) workers engaged in the erection and dismantling of scaffolds;
 - (c) workers engaged in excavations, of shafts, earthworks, underground works or tunnels;
 - (d) workers handling explosives or engaged in blasting operations;
 - (e) workers in compressed air, coffer dams and caissons;
 - (f) workers engaged in the erection of prefabricated parts or steel structural frames or tall structures;
 - (g) workers handling hazardous substances;
 - (h) such other specialized categories of workers as by the Director may designate by notice published in the *Gazette*.

Part VII – Notification and investigation of accident, dangerous occurrences and industrial diseases

66. Notification of accidents

Where any accident occurs in a workplace which either—

- (a) causes loss of life to a person employed in that workplace; or

- (b) disables or is capable of disabling any person from carrying out normal duties at which he is employed,

written notice of the accident, in the prescribed form and accompanied by the prescribed particulars, shall forthwith be sent to the Director:

Provided that in the case of death or serious injury, the written notice shall, where practicable, be preceded by a telephone notification or any fastest means of communication available to facilitate immediate investigation.

67. Dangerous occurrences

- (1) The provisions of [section 66](#) requiring notice of an accident occurring in a workplace to be given to the Director shall extend and apply to the classes of occurrences specified in the First Schedule, whether death or disablement is caused or not.

First Schedule

- (2) The Minister may, by order published in the *Gazette*, amend the First Schedule.

First Schedule

68. Notification of industrial diseases

- (1) The occupier of any workplace who believes or suspects, or has reasonable ground for believing or suspecting, that any case of industrial disease as set out in the Second Schedule has occurred in the workplace shall forthwith send written notice of such case to the Director in the prescribed form; and the provisions of [section 66](#) with respect to the notification of accidents shall apply to any such case in like manner as to any such accident as is mentioned in [section 66](#).

- (2) The Minister may by order published in the *Gazette* amend the Second Schedule.

Second Schedule

Part VIII – Records

69. Posting of abstract of the Act, etc.

There shall be kept posted in a conspicuous place in every workplace—

- (a) the prescribed abstract of this Act;
- (b) printed copies of any regulations made under Part VII which are for the time being in force in the workplace; or the prescribed abstracts of such regulations;
- (c) every other notice and document required by this Act to be posted in the workplace;
- (d) policy statement on safety and health at the workplace;
- (e) a notice of the address of the Director.

70. General Register

- (1) There shall be kept in every workplace a register, in the prescribed form (hereinafter otherwise referred to as the “general register”), and there shall be entered in or attached to the register—

- (a) every certificate issued in respect of the workplace by the Director;
- (b) the prescribed particulars as to the washing, whitewashing or colour-washings, painting or varnishing of the workplace;

- (c) the prescribed particulars of every accident and case of industrial disease occurring in the workplace of which notice is required to be sent to the Director;
 - (d) all reports and particulars required under this Act to be entered in or attached to the general register; and
 - (e) such other matters as may be prescribed.
- (2) The occupier of a workplace shall send to the Director such extracts from the general register as the Director may, from time to time, require for the purpose of the execution of his duties under this Act.

71. Preservation of registers and records

The general register and every other register or record kept in accordance with this Act shall be preserved and shall be kept available for at least two years after the date of the last entry in the register or record for inspection by any inspector.

Part IX – Administration

72. Appointment of inspectors

- (1) There shall be a Director of Occupational Safety, Health and Welfare (in this Act otherwise referred to as the “Director”) and such other number of public officers as the Minister may, by notice published in the *Gazette*, appoint as inspectors or under whatever title he may from time to time determine, for the purpose of the execution of this Act:

Provided that any public officer so appointed shall exercise such powers and duties as are conferred upon him under this Act, subject to the general and special directions of the Minister.

- (2) Every inspector appointed pursuant to subsection (1) shall be issued with an identity card and shall when visiting a workplace or place to which any of the provisions of this Act apply, if so required, produce the identity card to the occupier or other person holding a responsible position of management at the workplace; and the identity card shall constitute *prima facie* evidence that the holder thereof is an inspector appointed by the Minister under subsection (1).
- (3) No inspector shall publish or disclose to any person the details of any manufacturing or commercial or working process which may come to his knowledge in the course of his duties, except in so far as is necessary—
- (a) for the purpose of a prosecution for an offence under this Act;
 - (b) for the purpose of Coroner’s inquest;
 - (c) for the purpose of an inquiry under the Commissions of Inquiry Act in connexion with the safety of any premises, or in connexion with an accident happening therein, or in connexion with an industrial disease.

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- (4) An inspector shall treat as absolutely confidential the source of any complaint bringing to his notice a contravention of this Act, and shall give no intimation to the occupier or his representative that a visit of inspection was made in consequence of such complaint.
- (5) Every person who contravenes subsection (3) or (4) shall be guilty of an offence.

73. Powers of inspectors

- (1) An inspector shall, for the purpose of administering, monitoring, and enforcing the provisions of this Act, have power—
 - (a) to enter, inspect and examine without prior notice, at all reasonable times a workplace, and every part thereof, when he has reasonable cause to believe that any person is employed therein;
 - (b) to enter, inspect and examine at all reasonable time any place which he has reasonable cause to believe to be a workplace, and any part of any building of which a workplace forms part and in which he has reasonable cause to believe that explosives or inflammable materials are stored or used;
 - (c) to take with him a police officer if he has reasonable cause to apprehend any serious obstruction in the execution of his duty;
 - (d) to require the production of the registers, certificates, notices and documents kept in pursuance of this Act and to inspect, examine and take copies of any of them;
 - (e) to make such examination and inquiry as may be necessary to ascertain whether this Act is complied with;
 - (f) to require any person whom he finds in a workplace to give such information as it is in his power to give as to who is the occupier of the workplace;
 - (g) to interview any person, either alone or in the presence of any other person, as he thinks fit, with respect to matters under this Act, and to require every such person to sign a declaration of the truth of the matters respecting which he is so interviewed; so, however, that no one shall be required to answer any question or to give any evidence tending to incriminate himself; and
 - (h) to exercise such other powers as may be necessary for carrying this Act into effect.
- (2) The occupier of every workplace, his agent and servant shall furnish the means required by an inspector as necessary for an entry, inspection, examination, inquiry or the taking of samples, or otherwise for the exercise of his powers under this Act in relation to that workplace.
- (3) Every person who—
 - (a) fails to permit, or refuses entry to an inspector to any workplace;
 - (b) fails to comply with an order, direction or requirement of an inspector made under this Act or any regulation;
 - (c) fails to produce any register, certificate, notice or documents which he is required by or in pursuance of this Act to produce, or refuses access to any such register, certificate, notice or documents to any inspector;
 - (d) wilfully withholds any information regarding the identity of the occupier of any workplace;
 - (e) conceals or prevents, or attempts to conceal or prevent, a person from appearing before or being interviewed by an inspector;
 - (f) in any manner whatsoever obstructs an inspector in the execution of his duties under this Act,shall be guilty of an offence and liable to a fine of K10,000 and to imprisonment for six months; and where an inspector is so obstructed in a workplace the occupier of that workplace shall be guilty of an offence.
- (4) Any notice or certificate issued by the Director under this Act may be issued for a limited period or without limit of period and may be varied or revoked by the Director:

Provided that this subsection shall not apply in respect of any certificate of registration of a workplace issued by the Director under Part II.

74. Power to deal with cause of imminent danger

- (1) Where any inspector finds any article or substance in any premises or place which he has power to enter, and has cause to believe that, in the circumstances in which he finds it, the article or substance is a cause of imminent danger or serious personal injury, he may seize such article or substance and cause it to be rendered harmless, whether by destruction or otherwise.
- (2) Before any article or substance that forms part of a batch of similar articles or any substance is rendered harmless under this section the inspector shall, if it is practicable for him to do so, take a sample of the article or substance and give to the person having control of the premises where he found it, a portion of the sample marked in a manner sufficient to identify it.
- (3) As soon as an article or substance has been seized and rendered harmless under this section, the inspector shall prepare and sign a written report giving particulars of the circumstances in which the article or substance was seized and dealt with by him, and shall—
 - (a) give a signed copy of the report to the person having control of the premises where the article or substance was found by him; and
 - (b) unless the person is the owner of the article or substance, also serve a signed copy of the report to the owner.

75. Inspectors not to disclose information

- (1) An inspector shall not disclose any information obtained by him in the course of his duties and in exercise of any of the powers conferred by this Act, including any information with respect to any manufacturing process or trade secret obtained by him in any premises entered by him by virtue of any such power, except—
 - (a) for the purposes of his functions;
 - (b) for the purposes of any legal proceedings or any investigation or inquiry authorized by Government;
 - (c) with the relevant consent, that is to say, in the case of information furnished in pursuance of a requirement imposed under [section 73](#) of this Act, the consent of the person who furnished it, and, in any other case the consent of the person having control of the premises where the information was obtained.
- (2) No inspector shall divulge to any person the source of any complaint, and in particular, any information with respect to any manufacturing process or trade secret obtained by him in any premises entered by him by virtue of any such power, except—
 - (a) for the purposes of his functions; or
 - (b) for the purposes of any legal proceedings or any investigation or inquiry authorized by Government;
 - (c) with the relevant consent, that is to say, in the case of information furnished in pursuance of a requirement imposed under [section 73](#) of this Act, the consent of the person who furnished it, and, in any other case the consent of a person having responsibilities in relation to the premises where the information was obtained.
- (3) Subject to subsection (1), no inspector shall divulge to any person the source of any complaint bringing to his notice any defect or breach of any provision of this Act, and shall give no information to any owner, occupier or employer that a visit or inspection of any factory or place of work was made in consequence of the receipt of such complaint.

76. Improvement notices

- (1) If an inspector is of the opinion that a person—
 - (a) is contravening any provision of this Act or regulations made thereunder; or
 - (b) has contravened one or more of the provisions of this Act or regulations made thereunder in circumstances that make it likely that the contravention will continue or be repeated,the inspector may serve on any such person a notice (in this Part referred to as an “improvement notice”).
- (2) An improvement notice shall—
 - (a) state the opinion of the inspector;
 - (b) specify the provisions of the Act or regulations which have been or are contravened; and
 - (c) require that person to remedy the contravention or, as the case may be, the matters occasioning it within such period, ending not earlier than the period within which an appeal against the notice can be brought under [section 80](#), as may be specified in the notice.

77. Prohibition notices

- (1) This section applies to any activities which are being or are about to be carried on by or under the control of any person, being activities to or in relation to which this Act or the regulations made thereunder apply or will, if the activities are so carried on, apply.
- (2) Where in relation to any activity to which this section applies an inspector is of the opinion that, any activity carried on or about to be carried on by or under the control of any person involves or will involve a risk or serious personal injury, the inspector may serve on that person notice (in this Part referred to as a “prohibition notice”).
- (3) A prohibition notice shall—
 - (a) state the opinion of the inspector;
 - (b) specify the matters which, in the opinion of the inspector, give or, as the case may be, will give rise to the risk;
 - (c) where in the opinion of the inspector any of those matters involve or, as the case may be, will involve a contravention of any provision of this Act or the regulations made thereunder, specify the provisions or regulations made thereunder which are or will be contravened further specify reasons for that opinion; and
 - (d) direct that the activities to which the notice relates shall not be carried on by, or under the control of, the person on whom the notice is served unless the matters specified in the notice pursuant to paragraph (b) and any contravention of specified provisions or regulations in pursuance to paragraph (c) have been remedied.
- (4) A direction given under subsection (3) shall take immediate effect if the inspector is of the opinion that the risk of serious personal injury is or, as the case may be, will be imminent, and shall have effect to the end of a period specified in the notice in any other case.

78. Provisions on prohibition notices and improvement notices

- (1) An improvement notice or a prohibition notice may include directions as to the measures to be taken to remedy any contravention or matter to which the notice relates, and any such directions—
 - (a) may be framed to any extent by reference to any code of practice approved by the Director; or

- (b) may be framed so as to afford the person on which the notice is served a choice between ways of remedying the contravention or matter.
- (2) Where an inspector serves an improvement notice in relation to any building to which any provision of this Act or regulations made thereunder apply, the notice shall not direct any measures which are more onerous than those necessary to comply with written law relating to buildings to which the building is required to conform.
- (3) Where, in connexion with any premises used or about to be used as a workplace an inspector intends to serve an improvement notice or a prohibition notice requiring, or likely to lead to the taking of, measures affecting the means of escape in case of fire the inspector shall consult the fire authority of the area in which the premises are located and the views of the fire authority shall be taken into account by the inspector before the issuance of the notice.
- (4) Where an improvement notice or prohibition notice which is to take immediate effect has been served—
 - (a) the notice may be withdrawn by an inspector at any time before the end of the period specified therein in pursuance of [section 76](#) or [section 77](#) as the case may be; and
 - (b) the period so specified may be extended by an inspector at any time when an appeal against the notice is not pending.

79. Appointment of Arbitration Board

- (1) The Minister shall appoint an Arbitration Board (in this Act otherwise referred to as the “Board”) consisting of—
 - (a) a Chairman, to be appointed by the Minister and designated as such;
 - (b) one person nominated by the Employers Consultative Association of Malawi and appointed by the Minister;
 - (c) one person nominated by the Malawi Congress of Trade Unions and appointed by the Minister;
 - (d) one person nominated by the Tea Association of Malawi and appointed by the Minister;
 - (e) one person nominated by the Malawi Bureau of Standards and appointed by the Minister;
 - (f) one person nominated by the Medical Council of Malawi and appointed by the Minister;
 - (g) one person nominated by the Tobacco Association of Malawi and appointed by the Minister; and
 - (h) the following *ex officio* members—
 - (i) the Director for Research and Environmental Affairs, or his designated representative;
 - (ii) the Principal Secretary responsible for Labour and Vocational Training, or his designated representative.
- (2) A representative of an *ex officio* member referred to in subsection (1) (h) shall be designated by, or on behalf of, the *ex officio* member by notice in writing to the Board to attend the meetings thereof, and upon such designation such representative shall not attend to the business of the Board by representation.
- (3) Members of the Board, other than *ex officio* members, shall be appointed for a term of three years and shall be eligible for reappointment.
- (4) The Board shall regulate its own procedure.

80. Appeal against improvement or prohibition notice

- (1) Any person on whom an improvement notice or a prohibition notice is served may, within fourteen days from the date of service, appeal to the Board and on such appeal the Board may either cancel or affirm the improvement notice or prohibition notice and, in affirmation, the Board may do so either in the notice's original form or with such modification as the Board may deem fit in the circumstances.
- (2) Where an appeal is filed in accordance with subsection (1)—
 - (a) in the case of an improvement notice, the operation of the notice shall be suspended until the appeal is finally disposed of; and
 - (b) in the case of a prohibition notice, the notice shall have effect unless, on the application of the appellant, the Board otherwise directs.

81. Certificate by the Director to be gazetted

Whenever the Director issues any certificate approving or authorizing any person for the purpose of this Act or excepting any workplace from the requirements of this Act or revokes any such certificate, notification of the exercise of such powers shall be published in the *Gazette*.

Part X – Offences, penalties and legal proceedings

82. Offences

- (1) Every occupier or owner of a workplace who contravenes or fails to comply with any provision of this Act or regulations made hereunder shall be guilty of an offence.
- (2) Every person employed in a workplace who contravenes or fails to comply with this Act or regulations made thereunder shall be guilty of an offence, and the occupier or owner, as the case may be, shall not be guilty of an offence by reason only of the contravention or failure to comply with the provisions of this Act or regulations made under the said provisions of Part X, or the contravention of the provision thereunder by an employee unless it is proved that the occupier or owner, as the case may be, failed to take all reasonable steps to prevent such contravention or failure to comply.
- (3) Any occupier of a workplace who avails himself of any special exception allowed by or under this Act and fails to comply with any conditions attached to the exception, shall be deemed to have contravened this Act.
- (4) If any persons are employed in a workplace otherwise than in accordance with this Act there shall be deemed to be a separate contravention in respect of each person so employed.
- (5) Where an offence committed by a company, co-operative society or other body of persons under this Act 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 chairman, director, manager, secretary or other officer of the company, co-operative society or other body of persons, such chairman, director, manager, secretary or other officer, as well as the company, co-operative society or other body of persons, shall be deemed to be guilty of the offence.

83. General penalty

Any person guilty of an offence under this Act for which no express penalty is provided shall be liable to a fine of K10,000 and if the offence in respect of which he was convicted continued after the conviction he shall in addition be liable to a fine of K500 for each day the offence continues.

84. Power of court to order contravention to be remedied

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 a 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, enlarge the time so specified, and where such an order is made, 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 enlarged by subsequent order, the order is not complied with, the occupier or owner, as the case may be, shall be liable to a fine of K500 for each day non-compliance continues.

85. Penalty in case of death or bodily injury

If any person dies or suffers any bodily injury as a result of the occupier or owner of a workplace having contravened any provision of this Act, the occupier or owner of the workplace shall, without prejudice to any other penalty, be liable to a fine of K20,000 and to imprisonment for twelve months, and the whole or any part of the fine may be applied for the benefit of the family of the deceased person or the injured person, as the case may be, as the court may order.

86. Penalty on persons actually, committing offence for which occupier is liable

Where an act or default for which an occupier or owner of workplace is liable under this Act is in fact the act or default of agent, servant, worker or other person, that agent, servant, worker or other person shall be guilty of an offence and liable to the like penalty as if he were the occupier or owner, as the case may be.

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

(1) An occupier or owner of a workplace who is charged with an offence under this Act may, upon a charge duly made by him and on giving to the prosecution not less than three days' notice in writing of his intention to have any other person whom he charges as the actual offender, whether or not that person is his agent or servant, brought before the court at the time appointed for hearing the charge; and if, during the hearing, the occupier or owner of the workplace proves to the satisfaction of the court that—

- (a) he has used all due diligence to enforce the provisions of this Act; and
- (b) the other person committed the offence in question without his consent, connivance or wilful default,

that other person shall be liable to be convicted of the offence, and the occupier or owner shall not be guilty of the offence, and if such person is convicted he shall, in the discretion of the court, be also liable to pay any costs incidental to the proceedings.

(2) Whenever it appears to the satisfaction of an inspector at the time of discovering an offence—

- (a) that the occupier or owner of the workplace has used all due diligence to comply with the provisions of this Act;
- (b) by which person the offence has been committed; and
- (c) that the offence was committed without the consent, connivance or wilful default of the occupier or owner and in contravention of his orders,

the inspector may proceed against the person whom he believes to be the actual offender without first proceeding against the occupier or owner of the workplace.

88. Proceedings against persons other than occupiers or owners

Where, under this Act, any person is substituted for the occupier or owner of a workplace with respect to any provision of this Act, any order, summons, notice or proceedings which, for the purpose of any of such provision, is by or under this Act required or authorized to be served on or taken in relation to the occupier or owner, shall be required or authorized to be served on or taken in relation to that person.

89. Owner of machine liable in certain cases instead of occupier

Where in a workplace the owner or hirer of a machine or of an implement moved by mechanical power is a person other than the occupier of the workplace, the owner or hirer of such machine or implement shall be deemed to be the occupier of the workplace with respect to any offence under this Act committed in relation to a person who is employed in or about or in connexion with that machine or implement (and is in the employment or pay of the owner or hirer).

90. Special provisions as to evidence

- (1) Notwithstanding any written law to the contrary, in any proceedings under this Act it shall be sufficient to allege that the workplace is a workplace within the meaning of this Act, and to state the name of the ostensible occupier of the workplace or, where the occupier is a firm, the title of the firm, and the burden of proving that the premises are not a workplace, or that the occupier specified in the charge or information is not the occupier of the workplace, shall lie upon the person alleging such fact.
- (2) 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 a time specified by 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.
- (3) If a person is found in a workplace at any time at which work is going on or the machinery is in motion, except during the intervals for meals or rest, he shall, until the contrary is proved, be deemed for the purpose of this Act to have been then employed in the workplace:

Provided that this subsection shall not apply to a workplace in which the only persons employed are members of the same family living on the premises.
- (4) Where in any proceedings under this Act with respect to a young person it appears to the court that such a young person is apparently of or below such age the burden of proving that the person is not of or below such age shall lie on the person alleging such fact.
- (5) 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 a workplace or on his behalf shall, as against him, 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 admissible as evidence that provision has not been observed.

91. Service of documents

- (1) Any document, including any summons or order, required or authorized to be served under this Act may be served—
 - (a) on any person by delivering it to him, or by leaving it at or sending it by post to his residence or place of business;
 - (b) on any firm by delivering it to any partner of the firm, or by leaving it at, or sending it by post to the office of the firm;

- (c) on the owner or occupier of a workplace, including any such owner or occupier being a company or a co-operative society (in any such a manner as aforesaid), or by delivering it, or a true copy thereof, to any responsible person who is not a young person.
- (2) Any document referred to in subsection (1) may be addressed, for the purpose of the service thereof on the occupier of a workplace, to “the occupier” at the proper address of the workplace, without further name or description.
- (3) This section shall apply, *mutatis mutandis*, to documents required or authorized under this Act to be sent to occupier, owner or person, and to the sending, addressing and delivery of such documents.

92. Power to modify agreements

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 owner or occupier is prevented from carrying out any structural or other alterations in the premises which are necessary to enable him to comply with this Act or in order to conform with any standard or requirement imposed by or under this Act, the owner or occupier, as the case may be, may apply to the High Court for the terms of the agreement to be set aside or modified; and the High Court, after hearing the parties and any witnesses whom they may desire to call, may make such an order setting aside or modifying the terms of the agreement as it considers just and equitable in the circumstances of the case.

93. Power to apportion expenses

Where in any premises the whole or any part of which has been let as a workplace, any structural or other alterations are required in order to comply with this Act, or in order to conform with any standard or requirement imposed by or under this Act, and the owner or the 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 or owner, the owner or the occupier, as the case may be, may apply to the High Court for the expenses of the alterations to be apportioned between them; and the High Court, after hearing the parties and any witnesses whom they may desire to call—

- (a) may make such an order concerning the apportionment of their expenses as it considers just and equitable in the circumstances of the case, regard being had to the terms of any contract between the parties or, in the alternative;
- (b) at the request of the owner or occupier, determine the lease.

Part XI – Miscellaneous provisions

94. Indemnity

The Director or any other inspector shall not be held liable in damages or otherwise to any person by reason of the exercise or non exercise in good faith of the powers conferred under this Act.

95. Regulations

The Minister may make Regulations for the better carrying out of the objects and purposes of this Act and for prescribing things and matters required to be prescribed under this Act.

96. Repeal and savings

- (1) Subject to subsection (2), the Factories Act is repealed.

- (2) Any subsidiary legislation made under the Factories Act repealed by subsection (1) in force immediately before the commencement of this Act—
- (a) shall remain in force unless in conflict with this Act, and shall be deemed to be subsidiary legislation made under this Act;
- [Cap: 55:07]*
- (b) may be replaced, amended or repealed by subsidiary legislation made under this Act.

First Schedule (Section 67)

Dangerous occurrences

Section 67 requiring notice of an accident shall extend and apply to the classes of occurrences specified herein, whether death or disablement is caused or not—

- (a) in a workplace; or
- (b) in any premises, places or operations to which this Act applies.

Occurrences

1. Bursting of a revolving vessel, wheel, grindstone or grinding wheel, moved by mechanical power.
2. Collapse or failure of a crane, derrick, winch, hoist or other appliance used in raising or lowering persons or goods, or any part thereof, or the overturning of a crane.
3. Explosion or fire causing damage to the structure of any room or place in which persons are employed, or to any machine or plant contained therein, and resulting in the complete suspension of ordinary work in such room or place or stoppage of machinery or plant for not less than 24 hours.
4. Electrical short circuit or failure of electrical machinery, plant or apparatus, attended by explosion or fire and causing structural damage thereto, and involving its stoppage or disuse for not less than 24 hours.
5. Explosion of a receiver or container used for the storage at a pressure greater than atmospheric pressure of any gas or gases (including air), or any liquid or solid resulting from the compression of gas.
6. Explosion from a steam boiler, steam receiver or air receiver.

Second Schedule (Section 68)

Industrial diseases

1. Lead poisoning, including poisoning by any preparation or compound of lead;
2. Phosphorus poisoning by phosphorus or its compounds;
3. Mercurial poisoning;
4. Manganese poisoning;
5. Arsenical poisoning by arsenic or its compounds;
6. Aniline poisoning;
7. Carbon bisulphide poisoning;
8. Benzene poisoning, including poisoning by any of its homologous, or their intro or amido derivatives;
9. Chrome ulceration due to chromic acid or bichromate of potassium, sodium or ammonium, or any preparation of these substances;
10. Anthrax;

11. Silicosis;
12. Pathological manifestations due to—
 - (a) radium or other radioactive substances; and
 - (b) X-rays;
13. Toxic anaemia;
14. Primary epitheliomatous ulceration of the skin, due to the handling or use of tar, pitch, bitumen, mineral oil or paraffin, or any compound, product or residue of any of these substances;
15. Compressed air illness;
16. Asbestosis;
17. Byssinosis;
18. Bagassosis;
19. Tobacosis;