

FINAL REPORT

LEGAL RESEARCH GROUP ON LABOUR LAW OCCUPATIONAL SAFETY & HEALTH LEGISLATION

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The European Law Students' Association



The European Law Students' Association

INTERNATIONAL LEGAL RESEARCH GROUP ON LABOUR LAW

Occupational Safety and Health Legislation

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FOREWORD

1. WHAT IS ELSA?

ELSA is a non-political, non-governmental, non-profit making, independent organisation which is run by and for students. ELSA has 43 Member and Observer countries with more than 375 Local Groups and 50,000 students. It was founded in 1981 by 5 law students from Poland, Austria, West Germany and Hungary. Since then, ELSA has aimed to unite students from all around Europe, provide a channel for the exchange of ideas and opportunities for law students and young lawyers to become internationally minded and professionally skilled. Our focus is to encourage individuals to act for the good of society in order to realise our vision: “*A just world in which there is respect for human dignity and cultural diversity*”. You can find more information on www.elsa.org.

2. LEGAL RESEARCH GROUPS IN ELSA

A Legal Research Group (LRG) is a group of law students and young lawyers carrying out research on a specified topic of law with the aim to make their conclusions publicly accessible. Legal research was one of the main aims of ELSA during our early years. When ELSA was created as a platform for European cooperation between law students in the 1980s, sharing experience and knowledge was the main purpose of our organisation. In the 1990s, our predecessors made huge strides and built a strong association with a special focus on international exchange. In the 2000s, young students from Western to Eastern Europe were facing immense changes in their legal

systems. Our members were part of such giant legal developments such as the EU expansion and the implementation of EU Law. To illustrate, the outcome of the ELSA PINIL (Project on International Criminal Court National Implementation Legislation) has been the largest international criminal law research in Europe. In fact, the final country reports have been used as a basis for establishing new legislation in many European countries.

The results of our more recent LRGs are available electronically. [ELSA for Children](#) (2012) was published on [Council of Europe's web pages](#) and resulted in a [follow up LRG](#) (2014) together with, among others, Missing Children Europe. In 2013, ELSA was involved in Council of Europe's 'No Hate Speech Movement'. [The final report](#) resulted in a concluding conference in Oslo that same year and has received a lot of interest from academics and activists in the field of discrimination and freedom of speech. The [results of the LRG conference](#), a guideline, have even been translated into Japanese and were presented in the Council of Europe and UNESCO!

3. WHAT IS THE LEGAL RESEARCH GROUP ON LABOUR LAW?

The International Legal Research Group on Labour Law is a cooperation between ELSA and the International Labour Organisation (ILO). The cooperation derived from a need to expand the Global Database on Occupational Safety and Health Legislation (LEGOSH) to cover information about missing national legislative requirements in Europe. The LRG can be seen as another significant step towards ensuring safe and healthy workplaces around the globe as the LEGOSH database is used to support law and policy makers in the field of occupational safety and health (OSH) by providing them the opportunity to compare and learn about advanced legal OSH frameworks.

In order to conduct the research, ILO provided ELSA a foundation for the Academic Framework and ILO LEGOSH guidelines to ensure that researching and uploading the relevant national legislation would go smoothly. Based on those materials 7 ELSA National Groups analysed their national OSH legislation and compiled a through-rough report.

ACKNOWLEDGEMENTS

The achievements of the International Legal Research Group on Social Rights would not have been possible without the kind support and help from many individuals.

The International Coordination Team would first and foremost like to thank and congratulate the National Research Groups for their extraordinary effort. More than 75 students and academics from more than 13 countries have participated as Researchers, Coordinators, Linguistic Editors and Supervisors. Thanks to your great work, this project has put labour law on the agenda of many law students and you have provided a valuable source of information for readers who seek to learn more about the occupational health and safety measures around Europe.

Academic and institutional support is crucial for a student initiative. We are very grateful for the assistance we received from Tzvetomira Radoslavova, the Technical Officer on OSH legislation in the LABADMIN/OSH Branch in ILO. Without you, we would not have been able to guarantee the success of the project.

Thankfully yours,

Antonia, Jake, Kerli, Bruno, Marilena and Sofia

International Coordination Team of the International Legal Research Group on Social Rights

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ACADEMIC FRAMEWORK

1. INTRODUCTION

The ILO Global database on occupational safety and health legislation, LEGOSH¹, provides an overview and analysis of the current national occupational safety and health (OSH) regulatory frameworks worldwide and compiles the wealth of legislation related to this topic. Data displayed in LEGOSH is embodied in a classification structure which is based on a comprehensive set of themes following and capturing the main provisions of the key ILO standards on OSH such as the Occupational Safety and Health Convention, 1981 (No. 155), and its accompanying Recommendation (No. 164), the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187), the Labour Inspection Convention, 1947 (No. 81), and other technical Conventions as benchmarks.² The classification structure in LEGOSH consists of 11 main themes. The National Research Groups are asked to identify the relevant laws and regulations and the specific provisions of their countries corresponding to the sub items of the 11 main themes.

¹ <http://www.ilo.org/legosh>

² For a more thorough introduction to International Labour Standards, please see:

http://www.ilo.org/global/standards/information-resources-andpublications/publications/WCMS_318141/lang--en/index.htm

2. QUESTIONNAIRE

Considering that the aim of this LRG is to assist ILO in completing the LEGOSH database, in regard to the themes and topics below please:

- a. Collect and analyse the national OSH legislation in your country and identify the relevant provisions;
- b. Provide a complete English translation of the identified provisions;
- c. Cite, or summarize when necessary³, the relevant provisions referred to in the previous points;
 - I. Please ensure that your answers are adequate and in line with the structure of LEGOSH. You are strongly encouraged to consult the database and its methodology before answering the questionnaire.⁴
 - II. Please use the following structure when answering each topic:⁵
 - Summary/Citation:
 - Translation:
 - III. Provide your answers in the table below;⁶

³ Please consider summarizing the information if the answer provided goes over 10 lines of text.

⁴ Please find Legosh's methodology at: http://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---safework/documents/genericdocument/wcms_234820.pdf

⁵ We require both a complete English translation of the identified provisions (as requested in 1 b.) and a summary of its content for 1 c. (when applicable). The translation is necessary for revision and assessment purposes, the summary/citation will be included in the LEGOSH database.

⁶ It is not required to follow the ELSA Technical Guidelines regarding the headings. For any questions regarding the technical guidelines please contact the International Coordination Team.

- d. Check if gathered laws are present on NATLEX.⁷ If missing and/or misnamed, please identify their ISN codes,⁸ download and save analysed laws in pdf format,⁹ and send them to the ELSA International Coordination Team.¹⁰
- e. Contact the relevant stakeholders in the Ministry of Labour and other Institutions with competency in OSH, if needed, to get the latest OSH pieces of legislation, request any additional information, and validate data.

3. MAIN THEMES

1. Description of national OSH regulatory framework
2. Scope, coverage and exclusions
3. Institutions and programmes relating to OSH administration and/or enforcement of OSH legislation
4. Employers' duties and responsibilities to protect the safety and health of workers and others
5. Employers' duty to organize prevention formally in accordance with generally accepted OSH management principles and practices
6. Employers' duty to ensure availability of expertise and competence in health and safety
7. Workers' rights and duties
8. Consultation, collaboration and cooperation with workers and their representatives
9. Specific hazards or risks
10. Recording, notification and investigation of work related accidents and occupational diseases
11. OSH inspection and enforcement of OSH legislation.

⁷ <http://www.ilo.org/dyn/natlex>

⁸ More information about the ISN code will be provided by the ILO in due time.

⁹ All legislation has to be retrieved from your country's official journal. Please contact ELSA International Coordination Team if this is not possible.

¹⁰ Please identify each file in the same manner as in LEGOSH. Also, please add at the end of each file name the corresponding question number as provided in the LEGOSH Classification Structure.

4. SUB ITEMS OF THE MAIN THEMES

1. Description of national OSH regulatory framework
 - 1.1. Description of national OSH regulatory framework
2. Scope, coverage and exclusions
 - 2.1. Health and safety covers physical and psychological health
 - 2.2. Definition of worker
 - 2.2.1. Coverage of particular categories of workers
 - 2.2.1.1. Migrant workers
 - 2.2.1.2. Domestic workers
 - 2.2.1.3. Home workers
 - 2.2.1.4. Self-employed persons
 - 2.3. Definition of employer
 - 2.4. Exclusion of branches of economic activity
 - 2.4.1. Agriculture
 - 2.4.2. Construction
 - 2.4.3. Services
 - 2.4.4. Public sector
 - 2.4.5. Other
 - 2.5. Definition of occupational accident
 - 2.6. Definition of occupational disease
 - 2.6.1. List of occupational diseases
 - 2.6.2. Mechanism for compensating other diseases as occupational ones
3. Institutions and programmes relating to OSH administration and/or enforcement
 - 3.1. Competent national authority for safety and health at work
 - 3.1.1. Objectives, roles and/or functions
 - 3.1.2. Chairpersons and composition

- 3.2. National OSH research programme or institute
 - 3.2.1. Objectives, roles and/or functions
 - 3.2.2. Governance board constitution and chairmanship
 - 3.2.3. Source of funding
- 3.3. National OSH programme
 - 3.3.1. Consultation on the national OSH programme
4. Employers' duties and responsibilities to protect the safety and health of workers and others
 - 4.1. Duty to ensure the health and safety of employees
 - 4.2. Duty to protect the health and safety of people other than their own employees
 - 4.3. Collaboration among two or more employers at the same workplace
 - 4.4. Surveillance of the workers' health in relation to work
 - 4.4.1. Specific hazards for which surveillance is required
 - 4.5. Surveillance of the working environment and working practices
 - 4.6. Duty to provide personal protective equipment
 - 4.7. Duty to ensure the usage of personal protective equipment
 - 4.8. Duty to provide first-aid and welfare facilities
 - 4.8.1. Arrangements for first-aid
 - 4.8.2. Sanitary installations
 - 4.8.3. Drinking water
 - 4.8.4. Rest and eating areas
5. Employers' duty to organize prevention formally in accordance with generally accepted OSH management principles and practices
 - 5.1. Elements of an OSH management system
 - 5.1.1. Policy or plan specifying responsibilities and arrangements for health and safety
 - 5.1.2. Appointment of a person for health and safety
 - 5.1.3. Written risk assessment
 - 5.1.4. Safe operating work systems and procedures

- 5.1.5. Training and information on the risks
- 5.1.6. Review and assessment of the results of preventive measures
- 5.1.7. Consultation with workers in health and safety
- 5.2. Obligation to implement a specific OSH management system or standard
- 6. Employers' duty to ensure availability of expertise and competence in health and safety
 - 6.1. OSH competence
 - 6.1.1. Requirement to access expert advice and/or support in health and safety
 - 6.1.1.1. Qualifications of experts or professional services
- 7. Workers' rights and duties
 - 7.1. Duty to take reasonable steps to protect their own safety and health
 - 7.2. Duty to take reasonable steps to protect the safety and health of others
 - 7.3. Supervisors' duty to take reasonable steps to protect the safety and health of others
 - 7.4. Senior officers' duty to take reasonable steps to protect the safety and health of others
 - 7.5. Self-employed persons' duty to take reasonable steps to protect their own and other peoples' safety and health
 - 7.6. Duty to comply with OSH-related requirements
 - 7.7. Right to enquire about risks and preventive measures
 - 7.8. Right to remove themselves from a dangerous situation
 - 7.9. Rights to be reassigned to non-hazard work
 - 7.9.1. Right to withdraw with compensation when workers are not reassigned to non-hazard work
- 8. Consultation, collaboration and cooperation with workers and their representatives
 - 8.1. National OSH committee, commission, council or similar body
 - 8.1.1. Objectives, roles and/or functions
 - 8.1.2. Constitution and chairmanship modalities
 - 8.2. Employers' duty to consult workers on risks
 - 8.3. Workers' right to select their representatives for health and safety matters

- 8.3.1. Workforce size conditions for workers' representation in health and safety
- 8.3.2. Conditions of eligibility to represent workers in health and safety
- 8.4. OSH representatives' functions, rights and powers
 - 8.4.1. Right to inspect the workplace
 - 8.4.2. Right to access OSH information
 - 8.4.3. Right to be present at interviews
 - 8.4.4. Right to receive professional assistance from OSH experts
 - 8.4.5. Right to accompany inspectors
 - 8.4.6. Right to use facilities
 - 8.4.7. Right to have time off work with pay to perform duties
 - 8.4.8. Right to issue remedial notices
 - 8.4.9. Right to resolve OSH issues in consultation with employers
 - 8.4.10. Right to direct that dangerous work cease
- 8.5. Right of workers' representatives from outside the undertaking to address OSH issues at the workplace
 - 8.5.1. Right to enter the workplace
 - 8.5.2. Right to investigate suspected non-compliance with OSH legislation
 - 8.5.3. Right to consult with workers
 - 8.5.4. Right to advise workers
 - 8.5.5. Right to initiate enforcement action
- 8.6. Joint OSH Committee
 - 8.6.1. Participation of workers' representatives in joint OSH committee
 - 8.6.2. Conditions for establishing a joint OSH committee
 - 8.6.3. Objectives, roles and/or functions of joint OSH committees
 - 8.6.4. Keeping record of the work of joint OSH committees
 - 8.6.5. Sharing the minutes of joint OSH committees meetings
- 8.7. Mandatory training for members of joint OSH committee(s)

- 8.8. Protection against reprisals
- 8.9. Immunity from civil and criminal liability for exercising OSH related rights and duties
- 9. Specific hazards or risks
 - 9.1. Biological hazards
 - 9.2. Chemical hazards
 - 9.2.1. Handling, storage, labelling and use
 - 9.2.2. Duty of manufacturers, suppliers and importers of chemicals in relation to the safety and health of users
 - 9.3. Ergonomic hazards
 - 9.4. Physical hazards
 - 9.4.1. Pesticides
 - 9.4.2. Ionising radiations
 - 9.4.3. Vibration and noise
 - 9.4.4. Working at height
 - 9.4.5. Working in confined spaces
 - 9.4.6. Risks arising from poor maintenance of workplace facilities
 - 9.4.7. Exposure to extreme temperatures
 - 9.4.8. Fire risks
 - 9.4.9. Tobacco
 - 9.4.10. Asbestos
 - 9.4.11. Risks related to nanotechnology
 - 9.4.12. Contracttion of HIV in the workplace
 - 9.5. Psychosocial hazards
 - 9.5.1. Psychosocial risks
 - 9.5.2. Occupational violence
 - 9.6. Other hazardous substances
 - 9.7. Machineries

- 9.7.1. Risks related to machinery and tool
- 9.7.2. Duty of designers and/or manufactures of machineries in relation to the occupational safe and health of operators' machineries
- 9.7.3. Duty of designers, manufacturers, importers or suppliers of machineries to provide machineries information
- 9.7.4. Duty purchase machineries from authorised/certificated suppliers or only if approved/certified
- 9.7.5. Maintenance of machinery and equioment
 - 9.7.5.1. List of equipment where applicable
- 9.8. Provisions to protect workers in specific conditions of vulnerability
 - 9.8.1. Protection of pregnancy at work
 - 9.8.2. Protection of lactating women at work
 - 9.8.3. Limits to womens' access to specific occupations, undertakings or shifts
 - 9.8.4. Limits workers' access to specific occupations, undertakings or shifts by reason of age
- 10. Recording, notification and investigation of work related accidents and occupational diseases
 - 10.1. Duty to record and/or investigate the causes of work accidents, near misses incidents and cases of occupational diseases
 - 10.1.1. Work-related accidents
 - 10.1.2. Near miss incidents
 - 10.1.3. Occupational diseases
 - 10.2. Employers duty to notify OSH authorities of work related death and/or injuries to health
- 11. OSH inspection and enforcement of OSH legislation.
 - 11.1. Appointment of OSH inspectors
 - 11.2. OSH inspectors' powers
 - 11.2.1. Power to enter workplaces

- 11.2.2. Power to inspect and carry out any examination, test or enquiry
- 11.2.3. Power to investigate
- 11.2.4. Duty to provide advice on OSH
- 11.3. OSH inspectors' enforcement power
 - 11.3.1. Power to issue orders or notices
 - 11.3.2. Power to impose financial penalties
 - 11.3.3. Power to revoke or suspend licences or authorisations
 - 11.3.4. Power to require the cessation of dangerous work
 - 11.3.5. Power to initiate prosecutions
 - 11.3.6. Power to conduct prosecutions
 - 11.3.7. Other enforcement powers
- 11.4. Application of sanctions by courts
 - 11.4.1. Financial penalties for legal persons
 - 11.4.2. Financial penalties for natural persons
 - 11.4.3. Non-financial sanctions
 - 11.4.4. Criminal liability
 - 11.4.5. Terms of imprisonment for natural persons



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| NATIONAL REPORTS

NATIONAL REPORTS

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1. Description of national regulatory framework

1.1. Description of national regulatory framework

Summary/citation: General provisions as regard the government obligations to protect health and provide safety at work are established in Chapter IV and V of the Constitution of the Republic of Albania. The Code of Labour of the Republic of Albania provides with the main legislation on occupational safety and health in Chapter VIII entitled “Safety and Health Protection”. It establishes provisions related to employer’s responsibilities and general measures to be taken, rules in the workplace and work environment, protection from dangerous machines and prevention of fire accidents and explosions.

The legislation on safety and health protection at work is complemented by Law No. 10237, dated 18.02.2010, on safety and health at work, which includes provisions related to general and specific definitions as regard to work relations; employer’s and worker’s obligations; health surveillance; notification, investigation, registration and reporting of events and accidents at work; special protection for sensitive risk groups, relevant state authorities’ obligations.

In the OSH area, the Ministry of Social Welfare and Youth is the leading institution in ensuring the right application of law according to the national OSH legal framework and European Union

Directives regulating OSH areas. Also, the Council of Ministers, and other ministries as well are a source of health and safety legislation through their decisions and decrees.

The legislation in power for OSH covers the activity of public and private entities in all the Albanian territory.

Internal remarks/comments: Bipartite social dialogue and collective bargaining in the private sector remain not fully accepted.

References:

- Occupational Safety and Health Policy Document (2016-2020) “on the road to a safer and healthier culture at work” (Supported by the Working Group created to elaborate the OSH policy document and Action Plan, Ministry of Social Welfare and Youth of Albania, 2016). 201603
- Loi n° 10237 du 18 février 2010 sur la sécurité et la santé au travail.
- National Profile of Occupational Safety and Health in Albania 20070301
- Constitution de la République d'Albanie du 21 octobre 1998.

2. Scope, coverage and exclusions

2.1. Health and safety covers physical and psychological health

Summary/citation: Occupational health includes all the physical and mental elements affecting worker's health which are directly related to safety and hygiene at work. Health and safety at work covers all the measures that should be taken in order to ensure the best conditions for carrying out the work process, life protection, health integrity, and physical and mental protection in the work process.

References:

- Loi n° 10237 du 18 février 2010 sur la sécurité et la santé au travail. (- Article 5, Para. 21 and 22)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2015

2.2. Definition of Worker

Summary/citation: A worker is any person employed by an employer, including apprentices, for vocational training or for entering the labour market, but excluding domestic servants.

Remarks / comments: Under the Code of Labour of the Republic of Albania there is no clear definition of “employee”, but it can be derived by Article 12 of it. However, the above definition is made according to Article 5/18 of Law No. 10237, dated 18.02.2010, On Safety and Health at work (Ligj nr. 10237, datë 18.02.2010, Për Sigurinë dhe Shëndetin në Punë).

References

- Loi n° 136/2015 du 5 décembre 2015 portant modification de la loi modifiée n° 7961 du 12 juillet 1995 portant Code de travail. (- Article 12)
- Loi n° 10237 du 18 février 2010 sur la sécurité et la santé au travail. (- Article 5/18)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2015

2.2.1. Coverage of Particular Categories of Workers

Summary/citation: Pregnant women, breastfeeding women, young people as well as persons with disabilities must be protected by dangers which specifically affect them. Employers shall organize workplaces taking into account the presence of sensitive groups. The protection of safety and health of sensitive risk groups must not cause for unfavorable situations for women in the labour market.

Remarks/comments: Law No. 10237, dated 18.02.2010, On Safety and Health at work (Ligj nr. 10237, datë 18.02.2010, Për Sigurinë dhe Shëndetin në Punë) under Chapter VI provides for special protections as regards to dangers in the workplace for sensitive risk groups, such as breastfeeding women, young people and persons with disabilities.

Moreover, the Code of Labour of the Republic of Albania specifies some types of individual contracts, which fall under the scope of the law, such as part-time contract, trade agent contract, occupational training and education contract.

Also persons looking after the paraplegic or tetraplegia disabled people are to be considered employees.

From the application scope of the Code of Labour of the Republic of Albania are excluded all persons whose employment is regulated by specific laws, such as civil servants, state police and armed forces employees and tax administration employees.

References:

- Loi n° 10237 du 18 février 2010 sur la sécurité et la santé au travail. (- Article 31)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No.Â 155) Direct Request 2015

2.2.1.1. Migrant Workers

Summary/citation: The contract of employment is regulated by the law of the state where the employee usually carries out his/her job even when he/she is temporarily sent to work in another State. Temporary employment of foreign employees in Albania shall be regulated according to the provisions of the Law No. 7961, dated 12.07.1995 Code of Labour of the Republic of Albania (Ligj nr. 7961, datë 12.07.1995 Kodi i Punës i Republikës së Shqipërisë). Migrant workers are not excluded from the scope of the Code of Labour of the Republic of Albania, covered by Article 3 and 3/1 of this Code, falling under the general regulations of the OSH legislation.

- Loi n° 136/2015 du 5 décembre 2015 portant modification de la loi modifiée n° 7961 du 12 juillet 1995 portant Code de travail. (- Article 3/1)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No.Â 155) Direct Request 2015

2.2.1.2. Domestic Workers

No.

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No.Â 155) Direct Request 2015

2.2.1.3. Home Workers

Summary/citation: Home workers are those who perform their work at home, or in any other place designated in agreement with the employer. This category of employee falls under the scope of the Law No. 7961, dated 12.07.1995 Code of Labour of the Republic of Albania (Ligj nr. 7961, datë 12.07.1995 Kodi i Punës i Republikës së Shqipërisë). This category of workers is regulated by a special contract that provides them rights the same as any other worker and the opportunity to benefit from the OSH framework. This contract enlist the obligation of the employer to inform his employee about conditions of work and how to use specific means of work, also the obligation of the employee to only work in accordance with the instructions and always use the protective measures. Means and materials of work should be in compliance with safety and health at work requirements.

References:

- Loi n° 136/2015 du 5 décembre 2015 portant modification de la loi modifiée n° 7961 du 12 juillet 1995 portant Code de travail. (- Article 15/3)
- Decision of Council of Ministers No. 255, dated 25.03.1996 "On home workers contract"

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No.Â 155) Direct Request 2015
- Home Work Convention, 1996 (No.Â 177) Direct Request 2013

2.2.1.4. Self-employed Persons

Summary/citation: Self-employed persons is to be considered the person that is carrying out an authorized activity, as provided under the Albanian legislation on this field, on his/her account, in turn of payment or another remuneration manner. The special regulation for employees working on construction sites includes the definition of self employed persons and holds the obligation of the employer to survey their working conditions and make sure they use the Personal Protection Equipment.

References:

- Arrêté n° 312 du 5 mai 2010 sur l'adoption du règlement relatif à la sécurité dans les chantiers. (- Articles 2, 7)
- No. 7995, dated 29.09.1995 On Promotion of Employment

2.3. Definition of Employer

Summary/citation: An employer is any natural or legal person who has an employment relationship with the worker and has responsibility for the undertaking/establishment.

References:

- Loi n° 10237 du 18 février 2010 sur la sécurité et la santé au travail. (- Article 5/19)

Related CEACR Comments

- Private Employment Agencies Convention, 1997 (No.Â 181) Direct Request 2015

2.4. Exclusion of Branches of Economic Activity

2.4.1. Agriculture

Summary/citation: OSH legislation covers all sectors of activity, both public and private.

References:

- Loi n° 10237 du 18 février 2010 sur la sécurité et la santé au travail. (- Article 3)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No.Â 155) Direct Request 2015

2.4.2. Construction

Summary/citation: OSH legislation covers all sectors of activity, both public and private.

References:

- Loi n° 10237 du 18 février 2010 sur la sécurité et la santé au travail. (- Article 3)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No.Â 155) Direct Request 2015

2.4.3. Services

Summary/citation: OSH legislation covers all sectors of activity, both public and private.

References:

- Loi n° 10237 du 18 février 2010 sur la sécurité et la santé au travail. (- Article 3)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2015

2.4.4. Public Sector

Summary/citation: OSH legislation covers all sectors of activity, both public and private. From the application scope of the Code of Labour of the Republic of Albania are excluded all persons whose employment is regulated by specific laws, such as civil servants, state police and armed forces employees and tax administration employees.

References:

- Loi n° 10237 du 18 février 2010 sur la sécurité et la santé au travail. (- Article 3)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2015

2.4.5. Other

Summary/citation: OSH legislation covers all sectors of activity, both public and private.

References:

- Loi n° 10237 du 18 février 2010 sur la sécurité et la santé au travail. (- Article 3)

Related CEACR Comments

- Safety and Health in Mines Convention, 1995 (No. 176) Direct Request 2015

2.5. Definition of Occupational Accident

Summary/citation: Accident at work or due to work is to be considered as any unexpected event, which causes immediate bodily injuries, and which occurs during the performance of the work or a service related to it. Moreover, the employer must keep a list of occupational accidents resulting in a worker being unfit for work for more than three working days and draw reports on occupational accidents suffered by his employees.

References:

- Loi n° 10237 du 18 février 2010 sur la sécurité et la santé au travail. (Article 5/1 and Article 9/1)

2.6. Definition of Occupational Diseases

Summary/citation: Occupational disease is to be considered any disease caused as a result of the exposure to hazards, deriving from the work activity. In compliance to it, a specific definition for hazard is provided by the law, including all characteristic of an equipment, machinery product, material, working method, environment, or a way of work organization, that present the potential for the employee to cause an injury, illness, or immediate health problem, either short-term or long-term, that is a result of exposure to them during the work activity.

References:

- Loi n° 10237 du 18 février 2010 sur la sécurité et la santé au travail. (- Article 5/20 and Article 5/24)

2.6.1. List of Occupational Diseases

Summary/citation: A list of the occupational diseases is provided by the Decree No. 594, dated 01.07.2015 on the approval of the list of occupational diseases and to be entered into force by 01.09.2016. In this list are included occupational diseases caused by chemical, physical, biological agents; occupational diseases related to affected organ; and cancerous diseases of an occupational origin.

References:

- Decree No. 594 dated 01.07.2015 On the approval of the list of occupational diseases

2.6.2. Mechanism for Compensating Other Diseases as Occupational Ones

Summary/citation: The Ministry of Health is in charge for the implementation of the Decree No. 594, dated 01.07.2015 on the approval of the list of occupational diseases. Moreover, Law No. 10237, dated 18.02.2010, on safety and health at work charges the Social Insurance Institute as the state authority responsible in the field of social insurance at work and occupational diseases. The Social Insurance Institute shall have the following duties: (a) to take measures for the payment of the incomes, in case of an accident at work/occupational disease, the payment of the invalidity pension or family pension of the persons injured by accidents at work and occupational diseases, according to the applicable legislation on social security; (b) to cooperate with the ministry

responsible for occupational safety and health matters, concerning special circumstances, which need the improvement of the regulations in the area of occupational safety and health.

References:

- Loi n° 10237 du 18 février 2010 sur la sécurité et la santé au travail. (- Article 41)

3. Institutions and Programmes Relating to OSH Administration and/or Enforcement

3.1. Competent National Authority for Safety and Health at Work

Summary/citation: The State Labour Inspectorate, Minister responsible for health and the State Health Inspectorate as some of the competent national authorities for safety and health at work. Other Institutions and bodies responsible for safety and health at work in accordance with Article 36 is the Inter-ministerial Council for Occupational Safety and Health Issues, with Article 40 is the State Labour Inspectorate and with Article 41 the Social Insurance Institute. Article 42 explicitly extends the list of other Institutions with The Ministry of Defence, the Ministry of Interior, the Ministry of Justice, the Ministry of Economy, Trade and Energy, the Ministry of Public Works, Transport and Telecommunications.

References:

- Loi n° 10237 du 18 février 2010 sur la sécurité et la santé au travail. (- Article 5)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2015

3.1.1. Objectives, Roles and/or Functions

Summary/citation: The Inter-ministerial Council for Occupational Safety and Health has the following duties: to advise the Council of Ministers with regard to the determination of directions of state policies on issues of occupational safety and health. The State Labour Inspectorate is the responsible body for the enforcement of the occupational safety and health legislation, by all natural persons and legal entities, either public or private. The Minister responsible for occupational safety and health matters shall be the responsible authority for policies in this field.

The Social Insurance Institute shall be the state authority responsible in the field of social insurance of accidents at work and occupational diseases. The Social Insurance Institute shall take measures for the payment of the incomes, in case of an accident at work/occupational disease, the payment of the invalidity pension or family pension of the persons injured by accidents at work and occupational diseases, according to the applicable legislation on social security.

References:

- Loi n° 10237 du 18 février 2010 sur la sécurité et la santé au travail. (- Articles 36, 37, 38, 39, 40, 41, 42)

3.1.2 Chairperson and composition

Summary/citation: In the OSH area, the Ministry of Social Welfare and Youth is the leading institution and responsible for the protection of constitutional rights in the area of employment, for ensuring decent employment and social security, strengthening cooperation with the social partners for the development and implementation of general policies in the field of occupational safety and health, labour relations, and inspection.

References:

- Occupational Safety and Health Policy Document (2016-2020) “on the road to a safer and healthier culture at work” (Supported by the Working Group created to elaborate the OSH policy document and Action Plan, Ministry of Social Welfare and Youth of Albania, 2016). 201603
- Loi n° 10237 du 18 février 2010 sur la sécurité et la santé au travail. (- Article 38)

3.2. National OSH Research Programme or Institute

Summary/citation: The Institute of Public Health (IPH) activity is regulated by Law on Public Health, according to which, one of the basic services of the public health is occupational health. By this law, the Public Health Institute is given the authority for research, control, and identification of harmful factors to the health of the employees and consequences deriving from such factors.

3.2.1. Objectives, Roles And Or Functions

Summary/citation: The IPH is a reference Centre of occupational health. It operates through the network of local structures of public health in the country. Furthermore, IPH is responsible for the continuous education of professionals in the field of occupational health. The mission of the IPH, as the national Centre in the public health area, consists in development and application of prevention and control of diseases, injuries, disabilities, and harmful environmental factors on health, and development and application of health promotion, in close cooperation with national and international agencies/bodies/organizations.

References:

- Occupational Safety and Health Policy Document (2016-2020) “on the road to a safer and healthier culture at work” (Supported by the Working Group created to elaborate the OSH policy document and Action Plan, Ministry of Social Welfare and Youth of Albania, 2016). 201603
- Law No.1038, dated 11.05.2009 on Public Health (article 5/ë and 17)

3.2.2. Governance Board Constitution and Chairmanship

Summary/citation: The Institute for Public Health is a public institution depending from the Minister of Health. The governing bodies are the director and the scientific council. The appointment and dismissal of the Director of PHI made by the Minister of Health. Conditions and criteria for the appointment or dismissal shall be determined by order of the Minister of Health. The Scientific Council is an advisory body of PHI. The establishment, organization and functioning of the scientific council is determined by the Council of Ministers.

References:

- Law No.1038, dated 11.05.2009 on Public Health (Article 8 and 11)

3.2.3. Source of Funding

Summary/Citation: The Public Health Institute is funded by the state budget, income from scientific and educational activities, grants, funds for scientific activities and development programs, donations, other legal sources.

- [Law No.1038, dated 11.05.2009 on Public Health \(Article 16\)](#)

3.3. National OSH Programme

Summary/citation: The Strategic Policy Document on Occupational Safety and Health 2016-2020, has opened a clear path for the development of occupational safety and health and implementation of OSH standards. In the context of that strategy, its Action Plan had designated measures, required actions, which had to be realized for achieving the identified objectives. The Document stated also measures for monitoring and evaluation, by establishment of a cross-ministerial group and its technical secretariat at the Ministry of Labour. Line institutions have to report every 3 months on the tasks of the Action plan which have been implemented.

References:

- Occupational Safety and Health Policy Document (2016-2020) “on the road to a safer and healthier culture at work” (Supported by the Working Group created to elaborate the OSH policy document and Action Plan, Ministry of Social Welfare and Youth of Albania, 2016). 201603

3.3.1. Consultation on the National OSH Programme

No data available.

References:

- Occupational Safety and Health Policy Document (2016-2020) “on the road to a safer and healthier culture at work” (Supported by the Working Group created to elaborate the OSH policy document and Action Plan, Ministry of Social Welfare and Youth of Albania, 2016). 201603

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2015

4. Employers' Duties and Responsibilities to Protect the Safety and Health of Workers and Others.

4.1. Duty to Ensure the Health and Safety of Employees

Summary/citation: In order to ensure the protection of workers in every aspect related to safety and health at work, the employer must take measures on preventing risks, providing information and ensuring all the necessary means at the workplace. He must also follow general principles of prevention of risks taking into account the nature of the activities of the enterprise / establishment; evaluate the risks to the safety and health of workers. The employer shall consult with workers and their representatives on the planning and introduction of new technologies, as regards the consequences of the choice of equipment, the working conditions and the working environment for the safety and health of workers and take appropriate steps to ensure that only workers who have received adequate instructions may have access to areas where there is serious and specific danger.

References:

- Loi n° 10237 du 18 février 2010 sur la sécurité et la santé au travail. (- Article 6)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2015

4.2. Duty to Protect the Health and Safety of People other than their Own Employees

Summary/citation: The employer shall ensure that any employee in case of danger to his/her own safety, and that of other persons, as well as in case of inability to contact the responsible hierarchical supervisor, based on his knowledge and technical means that he possesses, is able to take the right measures to avoid the consequences of such a danger.

References:

- Loi n° 10237 du 18 février 2010 sur la sécurité et la santé au travail. (- Article 8)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2015

4.3. Collaboration among Two or More Employers at the Same Workplace

Summary/citation: Where workers of several enterprises share a work place , the employers shall cooperate on implementing the safety, health and occupational hygiene provisions, coordinate their actions and exchange information with one another.

References:

- Loi n° 136/2015 du 5 décembre 2015 portant modification de la loi modifiée n° 7961 du 12 juillet 1995 portant Code de travail. (- Article 6)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No.Â 155) Direct Request 2015

4.4. Surveillance of Workers' Health in Relation to Work

Summary / Citation: In order to ensure the implementation of measures for the prevention of accidents at work and occupational diseases, the employer has the following obligation towards every worker who has to be hired following a medical examination, according to the job position. Any employer, public or private, domestic or foreign, must provide health surveillance appropriate to the health risks at work through the occupational physician.

References:

- Loi n° 10237 du 18 février 2010 sur la sécurité et la santé au travail. (Articles 22,23)
- Loi n° 10237 du 18 février 2010 sur la sécurité et la santé au travail. (Article 11/dh)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No.Â 155) Direct Request 2015

4.4.1. Specific Hazards for Which Surveillance is Required

Summary / Citation: In order to ensure the implementation of measures for the prevention of accidents at work and occupational diseases, the employer has the following obligation towards every worker who has to be hired following a medical examination, according to the job position. The employer shall take protective measures against special hazards presented by poisoning substances and agents, machines, transportation of heavy weights, air pollution, noise and vibrations, as well as against the hazards related to several branches of economy such as

construction, civil engineering, mines and chemical industries also put signals, which can be clearly identified, at any workplace hazarding the employees' life and health.

Remarks / comments: There is no legal disposition on whether workers have to undergo regular medical examinations when they are exposed to these hazards.

References:

- Loi n° 136/2015 du 5 décembre 2015 portant modification de la loi modifiée n° 7961 du 12 juillet 1995 portant Code de travail. (- Article 40)
- Loi n° 10237 du 18 février 2010 sur la sécurité et la santé au travail. (Article 11/dh)

4.5. Surveillance of the Working Environment and Working Practices

Summary/Citation: The employer must take the right preventive measures when arranging the workplace considering that the work environment must have enough air, isolation for the noise and vibration that might damage employees' health. Moreover, the employer must create the right facilities to use passages, exits, scaffolds, trestles and ladders. The employer must also ensure that the construction of hoods, water holes, reservoirs are adequate enough to prevent from falling in or sliding. The lightening of environment, workplace or their respective entrances must be sufficient so that normal performance of work is secured.

References:

- Loi n° 136/2015 du 5 décembre 2015 portant modification de la loi modifiée n° 7961 du 12 juillet 1995 portant Code de travail. (- Articles 45, 49, 50, 56, 57, 58, 59, 60, 61, 62)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2015

4.6. Duty to Provide Personal Protective Equipment

Summary/Citation: Personal Protective Equipment are any equipment kept wearing by one person to protect himself/herself against one or more risks that could possibly harm his/her safety or health during the process of work. The employer must put at the disposal of the employees individual protective equipment designed for protection against fire, which must be tested and cleaned before handing to them.

References:

- Loi n° 136/2015 du 5 décembre 2015 portant modification de la loi modifiée n° 7961 du 12 juillet 1995 portant Code de travail. (- Article 68)
- DCM No.1096 date 04.11.2009 “On approval of the technical rules on the substantial requirements and assessment of the conformity on personal protective measures”

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2015

4.7. Duty to Ensure the Usage of Personal Protective Equipment

Summary / Citation: When the measures of the collective protection are insufficient to protect the employees, the employer, free of charge, must put at the disposal of the employees individual protective equipment designed for protection against fire. Priority is given to the collective protective measures at construction sites in order to fully eliminate the risks or reduce them at a minimum level. If such measures will not be able to fully eliminate the risk at work, the individual protective equipment will be used instead.

Placing at the disposal of the employees of these tools is one of the obligations of the employer. According to the legislation, the employer is obliged not only to supply the employees with protective equipment, but he should also control them time after time in order to be in good state. All the equipment should be tested and cleaned before they are handed over to the employees. Such equipment should be kept always in good state, ready for use and be placed in safe environments protected against dust and polluting agents.

References:

- Loi n° 136/2015 du 5 décembre 2015 portant modification de la loi modifiée n° 7961 du 12 juillet 1995 portant Code de travail. (- Article 68)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2015

4.8. Duty to Provide First-Aid and Welfare Facilities

Yes.

References :

- Loi n° 10237 du 18 février 2010 sur la sécurité et la santé au travail. (- Article 8)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2015

4.8.1. Arrangements For First-Aid

Summary/Citation: It is the employer's obligation to equip his enterprise, or workplace with the necessary means and instructions to give first aid for emergency cases in order to protect their health. In every work environment, there must be the first aid kit regularly equipped with the necessary materials and means.

References:

- Loi n° 136/2015 du 5 décembre 2015 portant modification de la loi modifiée n° 7961 du 12 juillet 1995 portant Code de travail. (- Article 75)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2015

4.8.2. Sanitary Installations

Summary/Citation: The employer must make sure to put at the disposal of the employee all the sanitary equipment and facilities to secure personal hygiene, also take care for their maintenance and sustainability and cleanliness of the working environment.

References:

- Loi n° 136/2015 du 5 décembre 2015 portant modification de la loi modifiée n° 7961 du 12 juillet 1995 portant Code de travail. (- Articles 46, 72, 74)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2015

4.8.3. Drinking Water

Summary/Citation: The Employer has the duty to provide to his employees drinkable water, at least 6 liters a day per person.

References:

- Loi n° 136/2015 du 5 décembre 2015 portant modification de la loi modifiée n° 7961 du 12 juillet 1995 portant Code de travail. (- Article 69)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2015

4.8.4. Rest And Eating Areas

Summary / Citation: The employer must put at the disposal of the employees a special space for eating with all the hygienic standards.

References:

- Loi n° 136/2015 du 5 décembre 2015 portant modification de la loi modifiée n° 7961 du 12 juillet 1995 portant Code de travail. (- Article 70)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2015

5. Employers' Duty To Organize Prevention Formally Along Generally Accepted OSH Management Principles And Practices

5.1. Elements of an OSH management system

Yes.

References:

- Loi n° 10237 du 18 février 2010 sur la sécurité et la santé au travail. (- Articles 4, 10, 19, 32)

5.1.1. Policy or Plan Specifying Responsibilities and Arrangements for Health and Safety

Summary/citation: The employer has the following obligations for drawing up measures for prevention of accidents at work and occupational diseases:

- adopts a work equipment and technology to be used in the early stages of research, planning and execution of constructions, solutions according to the legal provisions, by application of which risks of accidents at work and occupational diseases are reduced or eliminated;
- to work out a prevention and protection plan, made up of technical, medical, organizational and hygeno-sanitary measures, on account of risk assessment, that they shall apply according to the working conditions specific to their undertaking;
- to obtain from the safety and health at work standpoint, the respective operating authorizations, before starting any activity, according to the legislation in force;
- to define in the job descriptions, the qualifications and responsibilities of worker in the field of safety and health at work, according to the respective work position;
- to draw up their own rules for the implementation of the law, in order to implement and apply the rules on safety and health at work for specific activities and workplaces under their responsibility.

References:

- DECISION No. 564, date 3.7.2013 ON ADOPTION OF REGULATION “ON MINIMUM SAFETY AND HEALTH REQUIREMENTS AT THE WORKPLACE (art. 3,4)
- Loi n° 10237 du 18 février 2010 sur la sécurité et la santé au travail. (art.9,10,11)

5.1.2. Appointment of A Person for Health and Safety

Summary/citation: According to Article 7 of the Law 10237, dated 18.02.2010, for Occupational Safety and Health at Work, every employer in order to ensure, prevent and protect the safety of his/her employees in all matters regarding occupational safety at work, shall:

- a) appoint one or more employees, as responsible persons regarding safety, health and protection matters at work and to prevent the professional risks at the institutions;
- b) contracts external specialized services outside the institution.

References:

- Arrêté n° 108 du 9 février 2011 sur les compétences exigées pour les employés et les services spécialisés impliqués dans les questions de sécurité et de santé au travail. (.Part I)
- Loi n° 10237 du 18 février 2010 sur la sécurité et la santé au travail. (- Article 7)

5.1.3. Written Risk Assessment

No data available.

5.1.4. Safe Operating Work Systems And Procedures

Summary/citation: In order to ensure the implementation of measures for the prevention of accidents at work and occupational diseases, the employer must take all the reasonable steps to create safe operating work systems and procedures for his employees. He must be aware of the hazards of the work environment and train his employees so they operate in accordance to the rules of safety.

References:

- Loi n° 10237 du 18 février 2010 sur la sécurité et la santé au travail. (Article 11)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No.Â 155) Direct Request 2015

5.1.5. Training and Information an Risks

Summary/citation: The employer before and after the recruitment must ensure that any worker receives the adequate training in the event of the introduction of any new technology or work equipment;

- in the event of a change of the work process in a way that it affects the level of health and protections at work.

- in the event of transfer or change of job.

The training on safety and health at work shall be adapted to the specific work position and must be developed according to an updating and changing program according to the new risks.

References:

- Loi n° 10237 du 18 février 2010 sur la sécurité et la santé au travail. (- Articles 11,12, 13, 19)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2015

5.1.6. Review or Assessment of the Results of Preventive Measures

Summary/citation: With regard to ensuring the implementation of measures for the prevention of accidents at work and occupational diseases, the employer shall arrange and control the quality of performance of services of responsible persons or external services, contracted by it for occupational safety and health, so that all employees know and apply the measures stipulated in the risk assessment and prevention document.

References:

- Loi n° 10237 du 18 février 2010 sur la sécurité et la santé au travail. (- Article 11)

5.1.7. Consultation with Workers in Health and Safety

Summary/citation: 1. The employer shall allow workers and their representatives to take part in discussions on all questions relating to safety and health at work according to Article 10 and 11 of this law and by-laws for its implementation.

References:

- Loi n° 10237 du 18 février 2010 sur la sécurité et la santé au travail. (- Article 13)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2015

5.2. Obligation to Implement a Specific OSH Management System or Standard

No data available.

6. Employers Duty to Ensure Availability of Expertise and Competence in Health And Safety

6.1. OSH Competence

Summary/citation: The legal framework aims to guarantee safety and protection of health, through the prevention of occupational risks, the elimination of factors that constitute a risk or an accident, through information, counseling, balanced participation, in accordance with the relevant law, as well as the training of the employees and their representatives.

References:

Loi n° 10237 du 18 février 2010 sur la sécurité et la santé au travail. (- Articles 1, 2)

6.1.1. Requirement to Access Expert Advice and/or Support in Health and Safety

Summary / Citation: Any employer of a public or private entity, either domestic or foreign, shall be obliged to provide medical service, through the occupational medical doctor, appropriate to the hazards and risks posed by the workplace.

References:

- Loi n° 136/2015 du 5 décembre 2015 portant modification de la loi modifiée n° 7961 du 12 juillet 1995 portant Code de travail. (- Article 103)
- Loi n° 10237 du 18 février 2010 sur la sécurité et la santé au travail. (- Article 23)

6.1.1.1. Qualifications of experts or professional services

Summary/Citation: The actual legal framework lacks the provision of some qualification for the experts or the professional services in occupational safety and health therefore the policy and Strategic plan for 2016-2020 has set up goals on developing an effective system by creating structures that will deal with training professionals in this field.

Organization of a short-term (3 months) course on OSH for family physicians and/or doctors specialized in internal medicine and doctors of other specialties is yet to be defined in the future. Also the creation of a specialization (4 years) and developing full curricula in occupational medicine. Organization of periodic training of academic staff on clinical part of occupational diseases by international experts.

Development of training curricula (university and post -university degree) on safety engineering. Training of IPH (Institute of Public Health) staff and of specialists in the environmental health area in RHD/PHD, SILSS and SHI as well as develop training curricula on occupation risks, legal frameworks, compensations, work hygiene requirements.

References:

- Occupational Safety and Health Policy Document (2016-2020) “on the road to a safer and healthier culture at work” (Supported by the Working Group created to elaborate the OSH policy document and Action Plan, Ministry of Social Welfare and Youth of Albania, 2016). 201603
- Arrêté n° 108 du 9 février 2011 sur les compétences exigées pour les employés et les services spécialisés impliqués dans les questions de sécurité et de santé au travail. (Paragraph 6,7)

6.2. Appointment of an OSH practitioner

Summary/citation: The employer shall designate one or more workers to carry out activities related to the protection of safety and health and prevention of occupational risks for the undertaking/establishment. If such protective and preventive measures cannot be organized for lack of personnel in the undertaking/establishment, the employer shall enlist specialized external services or persons by entering into contractual relations with them.

References:

- Loi n° 10237 du 18 février 2010 sur la sécurité et la santé au travail. (- Article 7)

6.2.1. Workforce Size Threshold for the Appointment of OSH Practitioners

Summary/citation: The Council of Minister defines by decision:

- the necessary capabilities and aptitudes that the workers and the specialized services described in Article 7, paragraph 1 and 3 of this law, should have, as well as
- the sufficient number of workers for one employer that deal with activities related to protection, safety and health at work and prevention of occupational risks.

References:

- Loi n° 10237 du 18 février 2010 sur la sécurité et la santé au travail. (- Article 7/7)

7. Workers' Rights and Duties

7.1. Duty to Take Reasonable Steps to Protect Their Own Safety and Health

Summary/Citation: Employees are obliged to comply with requirements and measures taken in order to using the equipment and machines at the workplace.

References:

- Loi n° 136/2015 du 5 décembre 2015 portant modification de la loi modifiée n° 7961 du 12 juillet 1995 portant Code de travail. (- Article 51)

7.2. Duty to take reasonable steps to protect the safety and health of others

Summary/Citation: Workers shall follow the instructions of the employer and internal regulations.

Workers shall take all the necessary steps to protect their own safety and health and that of others who may be affected by their acts or neglects at work, and they shall be trained taking into account all the possibilities.

Each worker shall perform work so that he does not expose himself nor other persons that may be affected by his acts or negligence during the working process to the danger of an accident or occupational disease, in accordance with his education and training, as well as the instructions given by the employer.

References:

- Loi n° 10237 du 18 février 2010 sur la sécurité et la santé au travail. (- Article 8, 20)

7.3. Supervisors' Duty to Take Reasonable Steps to Protect the Safety and Health of Others

No data available.

7.4. Senior Officers' Duty to Take Reasonable Steps to Protect the Safety and Health of Others

No data available.

7.5. Self-Employed Persons' Duty to Take Reasonable Steps to Protect Their Own and Other People's Health and Safety

No data available.

7.6. Duty to Comply with OSH-Related Requirements

Summary/Citation: Each worker shall perform work so that he does not expose himself nor other persons that may be affected by his acts or negligence during the working process to the danger of an accident or occupational disease, in accordance with his education and training, as well as the instructions given by the employer.

The employee in accordance with the instructions given by his employer, must use in a correct way the machinery, apparatus, tools, dangerous substances, transport equipment and other means.

References:

- Loi n° 10237 du 18 février 2010 sur la sécurité et la santé au travail. (- Articles 20, 21)

7.7. Right to Enquire About Risks and Preventive Measures

Yes.

References:

- Loi n° 10237 du 18 février 2010 sur la sécurité et la santé au travail. (Articles 21)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2015

7.8. Right to Remove Themselves from a Dangerous Situation

Summary/Citation: Employees have the right to immediately inform the employer, the worker in charge of safety and health at work issues and the workers' representative, of any work situation they have reasonable grounds for considering that it represents a serious and immediate danger to safety and health, as well as of any shortcoming in the protections arrangements.

Every employee has the right to take measures to avoid consequences on his/her own safety, or that of other person based on his knowledge, and the technical means that he possesses in cases of an imminent danger, without being subject of prejudice.

The employer shall organise and ensure the evacuation and rescue of workers depending on the nature of the working process and unexpected accidents that might threaten the safety and health of workers.

References:

- Loi n° 10237 du 18 février 2010 sur la sécurité et la santé au travail. (- Article 8 ,21)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No.Â 155) Direct Request 2015

7.9. Right to Be Reassigned to Non-Hazard Work

Summary/Citation: The legal framework on protecting vulnerable groups covers under the right to be reassigned to non hazard work only the pregnant woman in Article 104 in the Labour Code. However for people with disabilities Law No. 10237, dated 18.02.2010, On Safety and Health at work (Ligj nr. 10237, datë 18.02.2010, Për Sigurinë dhe Shëndetin në Punë) on Article 31 sets the obligation of the employer to make the environment (including schedules, processes, organization, tasks, place, work equipment) accessible, as long as it does not constitute an excessive burden for employer.

References:

- Loi n° 136/2015 du 5 décembre 2015 portant modification de la loi modifiée n° 7961 du 12 juillet 1995 portant Code de travail. (Article 104)
- Loi n° 10237 du 18 février 2010 sur la sécurité et la santé au travail. (Article 31)

7.9.1. Right To Withdraw With Compensation When Workers Are Not Reassigned To Non-Hazard work

Summary/Citation: If in case of any accident at work where the employee remains unable to work after, he benefits compensation from the social insurance.

References:

- Loi n° 10447 du 14 juillet 2011 modifiant la loi n° 7703 du 11 mai 1993 sur les assurances sociales. (Articles 21, 23, 24)

8. Consultation, Collaboration and Co-Operation with Workers and Their Representatives

8.1. National OSH Committee, Commission, Council or Similar Body

Summary/Citation: The National Labour Council is the highest tripartite social dialogue institution in the country. The Council examines issues of common interests for the organizations of the employers and employees in order to find an acceptable solution for the parties. Six specialized tripartite commissions operate under the NLC (The Legal Commission, the Employment and Vocational Training Commission, the Commission of Wages and Pensions, the Commission of Conditions, Health and Safety at Work, the Commission of Equal Opportunities and the Commission of Economy and Finances) where all issues planned to be examined by the NLC are consulted in advance.

References:

- Occupational Safety and Health Policy Document (2016-2020) “on the road to a safer and healthier culture at work” (Supported by the Working Group created to elaborate the OSH policy document and Action Plan, Ministry of Social Welfare and Youth of Albania, 2016). 201603
- Loi n° 136/2015 du 5 décembre 2015 portant modification de la loi modifiée n° 7961 du 12 juillet 1995 portant Code de travail. (- Article 200)
- DCM no. 1039/2013 “On the functionality of the National Labour Council and appointment of Representatives of the Council of Ministers in this Council”

8.1.1. Objectives, Roles and/or Functions

Summary/Citation: The purpose of the NLC is to maintain social balance through harmonizing parties' interests, reaching social understanding by developing the dialogue between the Government and Social Partners, minimizing social conflicts and reaching agreements which are accepted by parties through exchange of information and revision of proposed options. The Council examines issues of common interests for the organizations of the employers and employees in order to find an acceptable solution for the parties.

NLC organizes consultations especially concerning the preparation and implementation of the labour legislation, the amendments to LC and the content of the sub-legal acts, the policies and national organizations dealing with employment, vocational training and qualification, protection of the employees, OSH issues, wellbeing, programs of economic and social development, as well as with the application of the norms of the International Labour Organization.

References:

- Occupational Safety and Health Policy Document (2016-2020) “on the road to a safer and healthier culture at work” (Supported by the Working Group created to elaborate the OSH policy document and Action Plan, Ministry of Social Welfare and Youth of Albania, 2016). 201603
- Loi n° 136/2015 du 5 décembre 2015 portant modification de la loi modifiée n° 7961 du 12 juillet 1995 portant Code de travail. (- Article 200)
- DCM no. 1039/2013 “On the functionality of the National Labour Council and appointment of Representatives of the Council of Ministers in this Council

8.1.2. Constitution and Chairmanship Modalities

Summary/Citation: The NLC consists of 27 members where the Government is represented by 7 members (Ministers) and the employers’ and employees’ organizations are represented each by 10 members. The most represented employers organizations and trade unions participate in the NLC appointed every 3 years by a DCM based upon the indicators of representativeness defined in cooperation and with the consensus of these organizations. The Chair of the National Labour Council is the Minister of Social Welfare and Youth. The NLC has an independent budget. The NLC approves a meeting agenda and meets in observance of the program or upon the written request of each party to the NLC Chair in compliance with the internal standing rules laid down for operation of the NLC. The Council meets four times a year.

References:

- Occupational Safety and Health Policy Document (2016-2020) “on the road to a safer and healthier culture at work” (Supported by the Working Group created to elaborate the OSH policy document and Action Plan, Ministry of Social Welfare and Youth of Albania, 2016). 201603

- Loi n° 136/2015 du 5 décembre 2015 portant modification de la loi modifiée n° 7961 du 12 juillet 1995 portant Code de travail. (- Article 200)
- DCM no. 1039/2013 “On the functionality of the National Labour Council and appointment of Representatives of the Council of Ministers in this Council”

8.2. Employers' Duty to Consult Workers on Risks

Summary/Citation: 1.The employer shall allow workers and their representatives to take part in discussions on all questions relating to safety and health at work according to Article 10 and 11 of this law and by-laws for its implementation.

2. The employer shall consult workers and their representatives, or the Council of Safety and Health at work, with regard to:

- a) Any measure which may affect considerably safety and health at work,
- b) The designation of a responsible person or a legal or natural person in charge for the security at work, first aid, protection against fire and evacuation of workers.
- c) Information for evaluation of risks, protective measures register and report of work related accidents and reports from inspectorates and responsible institutions for occupational safety and health.
- ç) the enlistment of external services or persons outside the enterprise as referred to in Article 7 (3),
- d) the planning and organization of training referred to in Article 19.

References:

- Loi n° 10237 du 18 février 2010 sur la sécurité et la santé au travail. (- Article 13)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No.Â 155) Direct Request 2015

8.3. Workers' Right to Select Their Representatives for Health and Safety Matters

Summary/Citation: In order to have a functioning system for workers towards the protections of their rights on health and safety matters, a Council of Safety and health shall be established

depending on the numbers of the workforce. When there are more than 50 employees the Council will be established in the workplace, and when there are up to 50 employees, a representative will be selected to address their concerns on health and safety matters in the Council of Safety and Health established in professional and inter-professional level.

Internal Remarks/comments: When there are up to 50 employees, a representative will be selected to address their concerns on health and safety matters in the Council of Safety and Health established in professional and inter-professional level and for micro undertakings with less than 50 employees, there is not a requirement to establish a committee.

References:

- Loi n° 10237 du 18 février 2010 sur la sécurité et la santé au travail. (- Article 16)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2015

8.3.1. Workforce Size Conditions for Workers' Representation in Health

Summary/Citation: The number of worker representatives in the Council of Safety and Health at work, referred to in article 14 of this law, is defined with regard to the number of workers. When there are more than 50 employees the Council will be established in the workplace, and when there are up to 50 employees, a representative will be selected to address their concerns on health and safety matters in the Council of Safety and Health established in professional and inter-professional level.

References:

- Loi n° 10237 du 18 février 2010 sur la sécurité et la santé au travail. (- Articles 14, 16)

8.3.2. Conditions of Eligibility to Represent Workers in Health And Safety

Summary/Citation: In order to be assigned as representative of workers in the Health and Safety Council in the work place, the employee must have the ability to cover issues in the following areas: a) security; b) occupational medicine; c) ergonomics; d) industrial hygiene; e) psychosocial aspects of work, including violence and sexual harassment at work.

References:

- Arrêté n° 108 du 9 février 2011 sur les compétences exigées pour les employés et les services spécialisés impliqués dans les questions de sécurité et de santé au travail. (Paragraphe 6,7)

8.4. OSH Representatives' Functions, Rights and Powers

Summary/Citation: The worker's representative for safety and health at work shall inform the labour inspectorates on the assessment of conditions of safety at work, participate and express his point of view in the inspection-acts of the labour inspector.

8.4.1. Right to Inspect the Workplace

Summary/Citation: The worker's representative for safety and health at work shall inform the labour inspectorates on the assessment of conditions of safety at work, participate and express his point of view in the inspection-acts of the labour inspector.

References:

- Loi n° 10237 du 18 février 2010 sur la sécurité et la santé au travail. (- Article 18)

8.4.2. Right to Access OSH Information

Summary/Citation: The worker's representative for safety and health at work shall ask for information the employer and participate during the drawing-up of the risk assessment and prevention, as well as in other documents related to safety and health at work.

References:

- Loi n° 10237 du 18 février 2010 sur la sécurité et la santé au travail. (- Article 18/d)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2015

8.4.3. Right to Be Present at Interviews

No data available.

8.4.4. Right to Receive Professional Assistance from OSH Experts

No data available.

8.4.5. Right to Accompany Inspectors

Summary/Citation: The worker's representative for safety and health at work shall: Inform the labour inspectorates on the assessment of conditions of safety at work, participate and express his/her point of view in the inspection-acts of the labour inspector.

References:

- Loi n° 10237 du 18 février 2010 sur la sécurité et la santé au travail. (- Article 18/c)

8.4.6. Right to Use Facilities

Summary/Citation: The employer shall allow the representatives for safety and health at work adequate time off work, without loss of pay, and provide them with the necessary means to enable them to exercise their rights and functions under this Chapter II.

References:

- Loi n° 10237 du 18 février 2010 sur la sécurité et la santé au travail. (- Art. 18/3)

8.4.7. Right to Have Time Off Work with Pay to Perform Duties

Summary/Citation: The employer shall allow the representatives for safety and health at work adequate time off work, without loss of pay, and provide them with the necessary means to enable them to exercise their rights and functions under this Chapter II.

References:

- Loi n° 10237 du 18 février 2010 sur la sécurité et la santé au travail. (- Art. 18/3)

8.4.8. Right to Issue Remedial Notices.

No data available.

8.4.9. Right to Resolve OSH Issues in Consultation with Employers

Summary/Citation: The employer and the workers or their representatives shall consult with each other for different issues concerning health and safety.

References:

- Loi n° 10237 du 18 février 2010 sur la sécurité et la santé au travail. (- Art. 13/2)

8.4.10. Right to Direct That Dangerous Work Cease

Summary/Citation: The employer shall take action and give instructions to enable workers in the event of serious and imminent and unavoidable danger to stop work and/or immediately to leave the workplace and proceed to a place of safety.

The employer shall ensure that all workers are able, in the event of serious and imminent and unavoidable danger to their own safety and/or that of others, and where the immediate superior responsible cannot be contacted, to take appropriate steps in the light of their knowledge and the technical means at their disposal, to avoid the consequences of such danger. Their actions shall not place them at any disadvantage unless they acted carelessly or there was negligence on their part.

Remarks/comments: OSH representatives do not have the right to direct that dangerous work cease. Nevertheless, all workers have the duty to immediately inform the employer of any situation that they believe present an imminent or serious danger to the life or health and of all shortcomings noticed in the protection systems.

References:

- Law on Safety and Health at Work (- Art. 8/3-b and Art. 8/5)

8.5. Right of Workers' Representatives from Outside the Undertaking to Address OSH Issues at the Workplace

8.5.1. Right to Enter the Workplace

No data available.

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2015

8.5.2. Right to Investigate Suspected Non-Compliance with OSH Legislation

No data available.

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2015

8.5.3. Right to Consult with Workers

No data available.

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2015

8.5.4. Right to Advise Workers

No data available.

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2015

8.5.5. Right to Initiate Enforcement Action

No data available.

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2015

8.6. Joint OSH Committee

8.6.1. Participation of Workers' Representatives in Joint OSH Committee

Summary/Citation: To organize and decide on the number of employers' and employees' representatives in the Council of Safety of Health at Work, the classification is made into four groups:

Group A, includes subjects with 51 to 250 employees and shall have no less than 3 employees' representatives and 3 employers' representatives;

Group B, includes subjects with 251 to 500 employees and shall have no less than 4 employees' representatives and 4 employers' representatives;

Group C, includes subjects with 501 to 1500 employees and shall have no less than 6 employees' representatives and 6 employers' representatives;

Group D, includes subjects with more than 1501 employees and shall have no less than 9 employees' representatives and 9 employers' representatives.

References:

- Arrêté n° 107 du 9 février 2011 sur la composition, les règles d'organisation et de fonctionnement du Conseil de sécurité et de santé au travail. (Part I, para. 2)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2015

8.6.2. Conditions for Establishing a Joint OSH Committee

Summary/Citation: The Council of Safety and Health at Work shall be set up in the enterprise, which has as a mission to contribute to the protection of the physical and mental health and safety of the workers, as well as in the improvement of the working conditions.

References:

- Loi n° 10237 du 18 février 2010 sur la sécurité et la santé au travail. (- Art. 14/1)

8.6.3. Objectives, Roles and/or Functions of Joint OSH Committees

Summary/Citation: 1. The Council of Safety and Health has the following competencies:

a) to participate in the assessment, draw up and implementation of programmes for risk prevention in the enterprise;

b) to promote initiatives on the methods and procedures for the effective prevention of risks, proposing to the enterprise the improvement of conditions and avoidance of existing defects.

2. The Council of Safety and Health collaborates with the State inspectorate covering the labour area and the Sanitary State Inspectorate.

References:

- Loi n° 10237 du 18 février 2010 sur la sécurité et la santé au travail. (- Article 15)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2015

8.6.4. Keeping Record of the Work of Joint OSH

Summary/Citation: In every meeting of the Council of Safety and Health, minutes are taken with the summary of the meeting and the decisions taken in this meeting.

References:

- Arrêté n° 107 du 9 février 2011 sur la composition, les règles d'organisation et de fonctionnement du Conseil de sécurité et de santé au travail. (Part II, para. 20)

8.6.5. Sharing the minutes of joint OSH committees meetings

Summary/Citation: The secretary of the Council of Safety and Health keeps the summary of every meeting and it is submitted for approval to all the members of the Council at the end of the present meeting or at the start of the upcoming meeting. After approval, the Chairman of the Council legalizes it.

References:

- Arrêté n° 107 du 9 février 2011 sur la composition, les règles d'organisation et de fonctionnement du Conseil de sécurité et de santé au travail. (Part II, para. 21)

8.7. Mandatory Training for Members of Joint OSH Committee (S)

No data available.

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2015

8.8. Protection Against Reprisals

Summary/Citation: Employees' representative for occupational safety and health shall not be placed at a disadvantage, due to the activity he/she performs, as per this Chapter. The employer must allow the employees' representatives for occupational safety and health the necessary time (without affecting the normal payment for his/her normal work), in order for the assigned employee to carry out his/her duties deriving from this Chapter.

References:

- Loi n° 10237 du 18 février 2010 sur la sécurité et la santé au travail. (Article 18)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2015

8.9. Immunity From Civil and Criminal Liability for Exercising OSH Related Rights and Duties

No data available.

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2015

9. Specific Hazards or Risks

9.1. Biological Hazards

Summary/Citation: Though not directly specified in the Labour Code of the Republic of Albania, any exposure to conditions that may be deemed “hazardous” to the employee’s health will be included within the scope of the legislature.

Remarks/comments: The Albanian Labour Code section VIII states that the employer must take all the necessary measures to ensure the protection of workplace from nuisances, dangerous chemicals, radioactivity, air pollution or exposure to any other element that may be hazardous to the health and safety of the employees.

Moreover, there are direct stipulations made in the draft regulation regarding the protection of employees from risks related to biological agents at work (Draft Regulation on the Protection of Employees from Risks Related to Biological Agents at Work). This specific regulation aims to protect the employees’ health and safety through the prevention of risks which may arise as a result of exposure to biological agents in the workplace.

Furthermore, there are orders on this subject matter which have been issued by the relevant authorities; these orders serve to control the import of biocide products. In particular, the Order of the Minister of Health No. 365 of 3.08.2012 is accompanied by an updated list of biocide

substances which are permitted for use in public health within Albania, as well as a list of documentary requirements necessary for these biocide substances to receive import authorization.

References:

- Loi n° 10237 du 18 février 2010 sur la sécurité et la santé au travail. (- Article 48)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2015

9.2. Chemical Hazards

Summary/Citation: The law on chemical hazards is contained within Law No. 9108 of 17.7.2003, “On chemical substances and preparations. Under this law, obligations are imposed upon all natural and juridical persons to determine the nature and classification of chemical substances in their possession. A number of duties are also imposed, which require the registration, declaration, management.

9.2.1. Handling, Storage, Labelling and Use

Summary/Citation: The Decision of Council of Ministers (DCM) No. 824 offers substantive rules on the classification, packaging and labelling of chemical hazards in Albania, with the purpose of preventing accidents and protecting the health and the lives of those responsible for the management of hazardous, chemical substances.

References:

- PËR KLASIFIKIMIN, AMBALAZHIMIN, ETIKETIMIN DHE RUAJTJEN E SUBSTANCAVE DHE TË PREPARATEVE TË RREZIKSHME 20031211

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2015

9.2.2. Duty of Manufacturers, Suppliers and Importers of Chemicals in Relation to the Safety and Health of Users

Summary/Citation: Manufacturers, suppliers and importers are among the categories of individuals obliged to ensure the safety and health of workers. The object of DCM No. 100 is to protect the health and safety of users of these chemicals in the workplace. This decision is binding upon all legal and natural persons, manufacturers or importers, who are obliged to respect these as norms in the workplace. This decision partially transposes Directive 90/394/CEE of 06.28.1990 "On protection of labours at work from carcinogenic substances".

References:

- DCM No.100 of 3.2.2008 "On designation of hazardous substances"

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2015

9.2.3 Pesticides

Summary/Citation: There are rules, most frequently found in the agricultural labour market, which ensure the monitoring of registered Plant Protection Products (PPP's) from import through to use and the disposal of its packaging. The rules also contain further information in respect of classification, labelling and the packaging of PPP's.

These provisions regulate:

1. Registration of Plant Protection Products (PPP's) prior to sale, whereupon they will be imported and used within the territory of the Republic of Albania;
2. Registration of active substances and other substances contained in PPP's to protect plants and plant products from pests, without adverse impacts on health and environment.

References:

- Law on the plant protection service of 19.01.1993

9.3. Ergonomic Hazards

Summary/Citation: Under Albanian law, the employer is obligated to adapt the workplace to the nature of activities that will be carried out within it. The design and size of the workplace should be sufficient for the employee to work in complete safety and without impeding movement in the area. Moreover, the floor, roof and walls should be strong and well-maintained. They should be constantly kept in good conditions.

When the employee works continuously or discontinuously in a sitting position at his/her workplace, he/she must be provided with a chair appropriate to perform his/her job. Alternately, if the job requires standing up or stooping for a long time, the employee must enjoy the right to paid and short breaks lasting not less than 20 minutes every 4 continuous working hours.

References:

- Loi n° 136/2015 du 5 décembre 2015 portant modification de la loi modifiée n° 7961 du 12 juillet 1995 portant Code de travail. (- Articles 45, 46, 47, 54)

9.4. Physical Hazards

Yes.

9.4.1. Ionising Radiation

Summary/Citation: The present legislation in Albania contains a number of minimum requirements for the protection of workers from adverse health effects to the eye and skin arising from exposure to the artificial optical radiation during their work. Protection from ionizing and non ionizing radiation exists to prevent, reduce and control risks to human life and health as well as to the environment.

9.4.2. Vibration and Noise

Summary/Citation: The intensity of noises bearable for the employee must be kept at a level that suits his/her health through the absorption or decreasing of noises at their source and isolation of environment with the appropriate means. The intensity of vibrations bearable for the employee must be kept at a level that suits his health through the absorption or decreasing of vibrations at their source with the appropriate means.

References:

- Loi n° 136/2015 du 5 décembre 2015 portant modification de la loi modifiée n° 7961 du 12 juillet 1995 portant Code de travail. (Article 50)

9.4.3. Working at Height

Summary/Citation: Employers are under an obligation to follow prescribed standards with respect to working at heights, but this applies only to temporary or mobile sites. Temporary or mobile sites include any place where building or civil engineering work is carried out. The decision of the Council of Ministers includes working at heights as a type of work which involves particular risk to the safety and health of the employees. Also, mobile or fixed workplaces positioned at height must be sustainable and stable, whilst making considerations for the number of employees working, the maximum loads they may bear and their distribution and the outside influences that may affect the workplace. Where work is performed at a height over 2 meters, measures must be taken for building temporary scaffolding for the execution of such work. They must be built with an appropriate structure and must take measures to eliminate the hazard of falling from a height. Where structures are up to 8 meters high, specific one piece assemblies are accepted; but for structures with a greater height, for the last 7 meters the bearing masts must consist of separate elements.

References:

- Arrêté n° 312 du 5 mai 2010 sur l'adoption du règlement relatif à la sécurité dans les chantiers.

9.4.4. Working in Confined Spaces

Summary/Citation: There are direct stipulations in regard to this area; many of these are related to the protection of employees in the mineral-extracting industries who may experience risks from drilling and mining. In order to ensure their safety and health at work, these stipulations are applicable to all employers who carry out activities in this area.

Specifically, it is requested that the precise room dimensions and air space in workplaces are identified. As well as this, the freedom of movement at the workstation must be guaranteed by the employer. The employer shall ensure that workrooms have sufficient surface area, height and air space to allow employees to perform their work without risk to their safety, health or well-being.

Space to move within the workstation, in particular, allows employees sufficient freedom of movement and enables them to perform their work safely.

References:

- Loi n° 10237 du 18 février 2010 sur la sécurité et la santé au travail. (Article 42/3)
- Constitution de la République d'Albanie du 21 octobre 1998. (Article 100)

9.4.5. Risks Arising From Poor Maintenance

Summary/Citation: Workplace, in all its constituent parts, must be adapted to the nature of work to be carried out there. The surface and space of the workplace must be sufficient for the employee so that he/she can carry out his/her job in complete safety and without hindering circulation in the environment. Installment of machines and equipment, as well as storage, must not hinder circulation or occupy any space where work is done.

References:

- Loi n° 136/2015 du 5 décembre 2015 portant modification de la loi modifiée n° 7961 du 12 juillet 1995 portant Code de travail. (- Articles 45,46,47,48,49,50)

9.4.6. Exposure To Extreme Temperatures

Summary/Citation: Overall, employers have a duty to ensure that temperatures, to which employees are exposed to, remain within prescribed levels. The temperature of the surface of work equipment, including installations and protective systems, must not exceed the permissible temperature, depending on the minimum ignition temperature of present flammable substance.

References:

- Loi n° 10237 du 18 février 2010 sur la sécurité et la santé au travail. (Article 42/3)
- Constitution de la République d'Albanie du 21 octobre 1998. (Article 100)

9.4.7. Fire Risks

Summary/Citation: Under Albanian law, an explosive environment is defined as a mixture, in the atmospheric conditions, of flammable substances in the form of gases, vapors or dust, where, after ignition, the flames spread to the entire unburned mixtures. To combat this risk, every work environment must be equipped with a sufficient number of fire extinguishers, which should be

maintained to ensure effective functioning. Reserves of water and sand must also be kept near those workplaces that present great danger.

References:

- Loi n° 136/2015 du 5 décembre 2015 portant modification de la loi modifiée n° 7961 du 12 juillet 1995 portant Code de travail. (- Articles 51, 52)

9.4.8. Tobacco

Summary/Citation: Employers are required to ensure that persons refrain from smoking in any work place under the employer's control. Specifically, in an environment where they process or store substances that emit flammable vapors, the workplace must be ventilated and, in no case, it should contain open flames, devices, installments or any other means, by which sparks may be created. As a consequence, prohibition against smoking must be clear and all the possible means should be used to remind of that.

References:

- Loi n° 136/2015 du 5 décembre 2015 portant modification de la loi modifiée n° 7961 du 12 juillet 1995 portant Code de travail. (- Article 64)

9.4.9. Asbestos

Summary/Citation: Asbestos in the workplace has been regulated from a Council of Ministers decision; this decision aims to prevent the use of asbestos as thermo-isolation material in all types of construction.

References:

- For the approval of the Regulation for the Protection of Employees from the Risks related to Absent in the workplace 201606

9.4.10. Risks Related to Nanotechnology

No data available.

9.4.11. Contraction of HIV in the Workplace

No data available.

9.5. Psychosocial Hazards

Yes.

9.5.1. Psychosocial Risks

Summary/Citation: Albanian legislation provides protective measures for the mental health of employees. Only adults can be employed in jobs that are hazardous for their psychological health. In the case of employment of any person aged 16 to 18 years old in a hard or hazardous job of this nature, the employer must notify labour inspectorate and the employer is obliged to provide the labour inspectorate with all other necessary data. The inspectorate prohibits the employment of the employee, when the employment objectively exceeds the employees' physical or psychological capacity.

Psychiatric diseases are not recognized by the law as occupational diseases. The protection of the employee's psychiatric health is stipulated under the employer's general obligations chapter on the Labour Code of the Republic of Albania.

References:

- Loi n° 136/2015 du 5 décembre 2015 portant modification de la loi modifiée n° 7961 du 12 juillet 1995 portant Code de travail. (- Article 32)

9.5.2. Occupational Violence

Summary/Citation: Albanian law stipulates that employees must be protected against moral and sexual harassment. Moreover, any employee who complains of harassment, in any one of the ways set out in this provision, must present evidence illustrating this harassment; the employer must then rebut these claims, the burden of proof will fall upon the, employer to prove that his/her actions did not amount to an act of harassment and show that the objective elements that have nothing to do with the harassment or disturbance. The legislation takes further care of the harassed employee, if the harassment is proven, he/she cannot be fired, discriminated against or be a victim of sexual harassment and disturbances, as a result of speaking up against the harassment.

References:

- Loi n° 136/2015 du 5 décembre 2015 portant modification de la loi modifiée n° 7961 du 12 juillet 1995 portant Code de travail. (- Article 32)

9.6. Other Hazardous Substances

No data available.

9.7. Machineries

9.7.1. Risks Related to Machineries and Tools

Summary/Citation: The employer is bound by a duty to take care of the condition of the workplace. After having consulted the employees, the employer must take the necessary protective measures against special hazards presented by poisoning substances and agents, machines, transportation of heavy weights, air pollution, noise and vibrations, as well as against the hazards related to several branches of economy such as construction, civil engineering, mines and chemical industries. Moreover, only qualified persons may run the transportation, mechanical and electric machines and equipment.

References:

- Loi n° 136/2015 du 5 décembre 2015 portant modification de la loi modifiée n° 7961 du 12 juillet 1995 portant Code de travail. (- Articles 51, 52, 53)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2015

9.7.2. Duty of Designers and/or Manufacturers of Machineries in Relation to The Occupational Safety and Health of Operators of Machineries

Summary/Citation: Albanian legislation does not enforce obligations to the manufacturers to furnish other subjects with instructions, although there is a stipulation which brings this duty upon the manufacturers. Accordingly, if they have provided instructions, the work equipment must be used under these instructions.

References:

- Loi n° 10237 du 18 février 2010 sur la sécurité et la santé au travail. (Article 42/3)
- Constitution de la République d'Albanie du 21 octobre 1998. (Article 100)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2015

9.7.3. Duty of Designers, Manufacturers, Importers Or Suppliers of Machineries to Provide Machineries Information

No data available.

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2015

9.7.4. Duty To Purchase Machineries From Authorised/Certificated Suppliers or Only If Approved/Certificated

No data available.

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2015

9.7.5. Maintenance of Machinery And Equipment

Summary/Citation: The Albanian Labour Code includes a provision related to the maintenance of the machinery and equipment; this falls under the duties of the employer.

References:

- Loi n° 136/2015 du 5 décembre 2015 portant modification de la loi modifiée n° 7961 du 12 juillet 1995 portant Code de travail. (- Article 52)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2015

9.7.5.1. List of Equipment Where Applicable

No data available.

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2015

9.8. Provisions to Protect Workers in Specific Condition of Vulnerability

9.8.1. Protection of Pregnancy At Work

Summary/Citation: The Albanian Labour Code stipulates in an entire section the general provisions on the prohibition of work for pregnant and breastfeeding women. The employer shall assess the specific risk to agents, processes or working conditions, based on the degree and duration of exposure, in the undertaking and/or establishment where the pregnant employees, employees who are breastfeeding or the employees who have recently given birth, in performing their work activities.

In cases where the employer terminates the contract, when the woman is working while being pregnant, or back at work after the child delivery, according to Article 105 of this Code, the employer is responsible for certifying that the dismissal reason was not directly related to the pregnancy or child delivery.

The employer may not order the performance of night work for pregnant women and women who had recently given birth, until the child reaches the age of 1 year, if it is detrimental to the safety and health of the woman and/or child as certified by a medical report.

If the employee is pregnant, the employer must ensure that she takes a break every 3 hours, for a period of no less than 30 minutes. Performance of overtime work by pregnant women and for women after childbirth, until the child reaches the age of 1 year, shall be prohibited. Pregnant women are forbidden from working in the 35 days that precede the expected date of giving birth to the baby and in the 63 days after giving birth to the baby. The first period becomes 60 days when the woman is expected to give birth to more than one child.

Pregnant or breast-feeding women may not be employed to carry out difficult or hazardous jobs, which jeopardize the health of mother and child.

The employer shall inform the pregnant employee, breastfeeding mother and other employees that might be in these situations in the undertaking and/or establishment concerned, or their representatives, about the dangers and hazards stipulated in the annex of the Council of Ministers

decision. These provisions are related to physical dangerous agents, chemical agents, biological agents and so on (non-exhaustive list), as well as the measures to be undertaken regarding health and safety at work, without prejudice to Articles 12 and 32 of Law No. 10237 dated 18.02.2010 “On Safety and Health at Work”. In cases where a woman cannot perform a work due to the danger it poses, the employer should assign her another role and if that is not feasible, give her paid leave.

References:

- Loi n° 136/2015 du 5 décembre 2015 portant modification de la loi modifiée n° 7961 du 12 juillet 1995 portant Code de travail. (- Articles 54, 104-108)
- Loi n° 10237 du 18 février 2010 sur la sécurité et la santé au travail. (Article 42/3)

Related CEACR Comments

- Maternity Protection Convention, 2000 (No. 183) Observation 2013
- Maternity Protection Convention, 2000 (No. 183) Direct Request 2008

9.8.2. Protection of Lactating Women at Work

No data available.

Related CEACR Comments

- Maternity Protection Convention, 2000 (No. 183) Observation 2013
- Maternity Protection Convention, 2000 (No. 183) Direct Request 2008

9.8.3. Limits To Women’s Access To Specific Occupations, Undertakings

Summary/Citation: For women, the weight they may carry is up to 20 kg.

Internal Remarks/comments: There are not many provisions about a woman at work if they are not pregnant.

References:

- Loi n° 136/2015 du 5 décembre 2015 portant modification de la loi modifiée n° 7961 du 12 juillet 1995 portant Code de travail. (Article 55)

9.8.4. Limits To Workers' Access To Specific Occupations, Undertakings Or Shifts By Reason Of Age

Summary/Citation: Employment of minors under the age of 16 is prohibited. Hence, the minimum age for their employment is 16 years old. Minors under the age of 14 may be subject to professional formation with the authorization of the state labour inspectorate. The request for authorization should include the name and surname of the employer, the name of his company, his address, the name and surname of the employee, the employee's date of birth, the work description and his working hours. The employer is obliged to provide the labour inspectorate with all the other necessary data. The authorization from the labour inspectorate is not necessary if the company training or probation is organized by the authorities in charge of education and vocational training.

Minors from the age of 16 to 18 may be employed for light jobs, which do not damage their physical or psychological health. The term "light jobs" is taken to mean any work, which due to the nature of the tasks to be carried out and of the special conditions it is performed does not damage the health, development and safety of the minors; it does not impede their attendance at school, their participation in orientation or vocational training programs approved by the competent authority or their ability to profit from their acquired formation.

For minors under the age of 16, the duration of the working day shall not exceed 6 hours per day. At least once a year, minors from the age of 14 to 16 must have 4 weeks of holiday, free from any school activities and any kind of work.

References:

- Loi n° 136/2015 du 5 décembre 2015 portant modification de la loi modifiée n° 7961 du 12 juillet 1995 portant Code de travail. (- Articles 98-103)

Related CEACR Comments

- Minimum Age Convention, 1973 (No. 138) Observation 2010
- Minimum Age Convention, 1973 (No. 138) Direct Request 2014

10. Recording, notification and investigation of accidents/incidents and diseases

10.1. Duty to record and/or investigate the causes of work accidents, near misses incidents and cases of occupational diseases

Yes.

10.1.1. Work-related accidents

Summary/Citation: Under Albanian law, the employer is obliged to carry out an assessment of the risks that the employees face at work, specifically where there are vulnerable groups exposed to particular risks. The employer is also obliged to keep documents related to work-accidents and present them whenever necessary to the labour inspector.

References:

- Loi n° 136/2015 du 5 décembre 2015 portant modification de la loi modifiée n° 7961 du 12 juillet 1995 portant Code de travail. (- Articles 39, 42, 131)
- Loi n° 10237 du 18 février 2010 sur la sécurité et la santé au travail. (- Article 9)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2015

10.1.2. Near miss incidents

No data available.

10.1.3. Occupational diseases

Summary/Citation: Albanian law places an obligation upon medical authorities to report and any occupational diseases identified during medical examinations, whereas the employer has the duty to ensure that these medical examinations happen for every employee. The notification filled out by the physician should immediately be forwarded to the State Labour Inspectorate.

References:

- Loi n° 10237 du 18 février 2010 sur la sécurité et la santé au travail. (Articles 23 and 25)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2015

10.2. Employers' duty to notify OSH authorities of work related death and/or injuries to health

Summary/Citation: The employer is legally obliged to inform the Inspectorate about all accidents at work, whether or not death is consequential, and all occupational diseases. Where an accident in the workplace causes death, the employer must also inform the prosecution office.

References:

- Loi n° 9634 du 30 octobre 2006 sur les services de l'Inspection du travail. (- Article 22)

Related CEACR Comments

- Labour Inspection Convention, 1947 (No. 81) Direct Request 2013
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2015

11. OSH inspection and enforcement of OSH legislation

11.1. Appointment of OSH inspectors

Summary/Citation: In order to be appointed as a "labour inspector", he/she shall be subject to a written test in the field of labour legislation and inspection techniques in front of a committee set up especially by the inspector general of State Labour Inspectorate.

References:

- Law for the Inspection of Labour and the State Inspectorate of Labour 200610

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2015

11.2. OSH inspectors powers

11.2.1. Power to enter workplaces

Summary/Citation: The labour inspector, equipped with a warrant legitimizing their status by the minister, are authorized to enter in the working environment of every subject (except residential) without advance notice, at any time of the day or night, in all subjects, branches, sites, etc. that may be the subject of an inspection. When inspecting without advance notice, the inspector or work controller must comply with the requirements of the inspection act.

References:

- Law for the Inspection of Labour and the State Inspectorate of Labour 200610 (- Art. 13.)

Related CEACR Comments

- Labour Inspection Convention, 1947 (No. 81) Direct Request 2013

11.2.2. Power to inspect and carry out any examination, test or enquiry

Summary/Citation: The inspector of labour, during the inspection, is authorized to search for all necessary evidence to identify those present in the workplace and to prove their identity by demanding a form of identification document; to examine the payment of mandatory health insurance for all employees in the workplace; to carry out inspections of workplace at the necessary times and to ensure the effective implementation of the provisions of the labour legislation in force.

References:

- Law for the Inspection of Labour and the State Inspectorate of Labour 200610 (- Art. 14.)

Related CEACR Comments

- Labour Inspection Convention, 1947 (No. 81) Direct Request 2013

11.2.3. Power to investigate

Summary/Citation: To ensure the execution of the law, by-law and administrative provisions, the inspector is authorised to execute examinations, control measures and investigations in the working environment, interview employees only, interview employees in the employer's presence

or make assessments on the basis of his working conditions, document all violations that were noticed during the inspection using photographs, audio and video mediums.

References:

- Law for the Inspection of Labour and the State Inspectorate of Labour 200610 (- Art. 14)

11.2.4. Duty to provide advice on OSH

Summary/Citation: The inspector will advise and instruct the employer and the employees regarding the requirements set out in the labour legislation and in respect of safety at work.

References:

- Law for the Inspection of Labour and the State Inspectorate of Labour 200610 (- Art. 17)

Related CEACR Comments

- Labour Inspection Convention, 1947 (No. 81) Direct Request 2013

11.3. OSH inspectors enforcement powers

11.3.1. Power to issue orders or notices

Summary/Citation: Where the inspector and the labour controller find out that the employer has not implemented key legal provisions in respect of working hours, holidays, official holidays, compulsory social and health contributions payment for all the employees, as well as other safety and health conditions at work, the employer will be issued with a warning. This warning will advise the employer to take measures for the full implementation of the legal provisions within a fixed term, as specified by the inspection act.

References:

- Law for the Inspection of Labour and the State Inspectorate of Labour 200610 (- Art. 32)

Related CEACR Comments

- Labour Inspection Convention, 1947 (No. 81) Direct Request 2013

11.3.2. Power to impose financial penalties

Summary/Citation: Where there is a violation of the labour legislation, the labour inspector May impose a financial penalty within the scope of the following provisions:

- a) where there is a violation of the Labour Code of the Republic of Albania, the labour inspector may impose a financial penalty as specified in Article 202, point 1, 2, 3 and 5 of the Labour Code;
- b) for the violation of the labour legislation, apart from those predicted in the letter “a” of point 1 of this Article, the labour inspector may impose a financial penalty which amounts to between 30 and 50 times the minimum wage;
- c) Where there are continuous violations by the employer, identified by the labour inspector, the inspector may impose a fine. The value of this fine is determinable by doubling the maximum financial penalty that would be attributed to this violation, should it have happened only once.
2. When the labour inspector is obstructed from executing his role, the entity will be punished with a penalty 10 times the minimum wage. These cases of obstruction and the procedures used in these scenarios are provided for within the Minister’s Directive.
3. The labour inspector, when assigning the measure, must take into consideration the violation, the frequency, its duration, the extent of damage and the number of employees, which have been affected by such violation.
4. Financial penalties are the main punishment.

References:

- Law for the Inspection of Labour and the State Inspectorate of Labour 200610 (- Art. 33)

11.3.3. Power to revoke or suspend licenses or authorizations

No data available.

Related CEACR Comments

- Labour Inspection Convention, 1947 (No. 81) Direct Request 2013

11.3.4 Power to require the cessation of dangerous work

Summary/Citation: It is in the competencies of the labour inspector to require the cassation of dangerous work and to give orders of suspension to the subject found in violation of the provisions stated in Article 15 of the Law on Labour Inspection and State Labour Inspectorate .

References:

- Loi n° 10237 du 18 février 2010 sur la sécurité et la santé au travail. (- Art. 43)

- Law for the Inspection of Labour and the State Inspectorate of Labour 200610 (Article 15)

Related CEACR Comments

- Labour Inspection Convention, 1947 (No. 81) Direct Request 2013

11.3.4. Power to Initiate Prosecutions

Summary/Citation: It is in the competencies of the labour inspector to require the cassation of dangerous work and to give orders of suspension to the subject found in violation of the provisions stated in Article 15 of the Law on Labour Inspection and State Labour Inspectorate.

References:

- Loi n° 10237 du 18 février 2010 sur la sécurité et la santé au travail. (- Art. 43)
- Law for the Inspection of Labour and the State Inspectorate of Labour 200610 (Article 15)

Related CEACR Comments

- Labour Inspection Convention, 1947 (No. 81) Direct Request 2013

11.3.5. Power to conduct prosecutions

Summary/Citation: After becoming subject of the final decision in cases of not complying with the provisions of the measures requiring to modify and adapt the conditions in the work environment, in order to be compatible with the expectations of the norms, the labour inspector refers his/her decision to the competent authority for conducting prosecutions.

References:

- Loi n° 10237 du 18 février 2010 sur la sécurité et la santé au travail. (Article 40/2,c)

11.3.6. Other enforcement powers

No data available.

11.4. Application of Sanctions by Courts

No data available.

11.4.1. Financial Penalties for Legal Persons

Summary/Citation: Where there is a violation of the labour legislation, the labour inspector May impose a financial penalty within the scope of the following provisions:

- a) where there is a violation of the Labour Code of the Republic of Albania, the labour inspector may impose a financial penalty as specified in Article 202, point 1, 2, 3 and 5 of the Labour Code;
 - b) for the violation of the labour legislation, apart from those predicted in the letter “a” of point 1 of this Article, the labour inspector may impose a financial penalty which amounts to between 30 and 50 times the minimum wage;
 - c) Where there are continuous violations by the employer, identified by the labour inspector, the inspector may impose a fine. The value of this fine is determinable by doubling the maximum financial penalty that would be attributed to this violation, should it have happened only once.
2. When the labour inspector is obstructed from executing his role, the entity will be punished with a penalty 10 times the minimum wage. These cases of obstruction and the procedures used in these scenarios are provided for within the Minister’s Directive.
 3. The labour inspector, when assigning the measure, must take into consideration the violation, the frequency, its duration, the extent of damage and the number of employees, which have been affected by such violation.
 4. Financial penalties are the main punishment.

References:

- Law for the Inspection of Labour and the State Inspectorate of Labour 200610 (- Art.33)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No.Â 155) Direct Request 2015

11.4.2. Financial Penalties for Natural Persons

Summary/Citation: Where there is a violation of the labour legislation, the labour inspector May impose a financial penalty within the scope of the following provisions:

- a) where there is a violation of the Labour Code of the Republic of Albania, the labour inspector may impose a financial penalty as specified in Article 202, point 1, 2, 3 and 5 of the Labour Code;

b) for the violation of the labour legislation, apart from those predicted in the letter “a” of point 1 of this Article, the labour inspector may impose a financial penalty which amounts to between 30 and 50 times the minimum wage;

c) Where there are continuous violations by the employer, identified by the labour inspector, the inspector may impose a fine. The value of this fine is determinable by doubling the maximum financial penalty that would be attributed to this violation, should it have happened only once.

2. When the labour inspector is obstructed from executing his role, the entity will be punished with a penalty 10 times the minimum wage. These cases of obstruction and the procedures used in these scenarios are provided for within the Minister’s Directive.

3. The labour inspector, when assigning the measure, must take into consideration the violation, the frequency, its duration, the extent of damage and the number of employees, which have been affected by such violation.

4. Financial penalties are the main punishment.

References:

- Law for the Inspection of Labour and the State Inspectorate of Labour 200610 (- Art.33)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2015

11.4.3. Non-financial Sanctions

No data available.

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2015

11.4.4. Criminal Liability

Summary/Citation: The person who, causes death or serious harm to the health of an individual because of disregard of rules dealing with work, production, service, provided in the law, acts of the Council of Ministers or the relevant technical safety regulations, discipline technical, labor protection, hygiene and fire safety of persons charged with observance of rules and measures for their implementation, shall be punished by a fine or imprisonment up to ten years.

When the criminal act has caused death or serious harm to the health of persons, he/she shall be punished with imprisonment of not less than five years.

References:

- Loi n° 9030 du 13 mars 2003 portant amendements à la loi n° 8240 du 10 avril 1997 portant Code pénal, modifiée par les lois n° 8279 du 15 janvier 1998 et n° 8733 du 24 janvier 2001. (- Art. 289)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No.Â 155) Direct Request 2015

11.4.5. Terms Of Imprisonment for Natural Persons

Summary/Citation: When the criminal act has caused death or serious harm to the health of persons, the perpetrator of the criminal act shall be punished with imprisonment of not less than five years.

References:

- Loi n° 9030 du 13 mars 2003 portant amendements à la loi n° 8240 du 10 avril 1997 portant Code pénal, modifiée par les lois n° 8279 du 15 janvier 1998 et n° 8733 du 24 janvier 2001. (Article 289)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No.Â 155) Direct Request 2015

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1. Description of national OSH regulatory framework

1.1. Description of OSH Regulatory framework

Summary/citation: Everyone shall have the right to work and freedom of work and everyone shall be granted the right to healthcare in conformity with the law. Moreover, young people, mothers and disabled persons shall be entitled to special protection at work while everyone shall have the right to a healthy life and within the scope of their powers and activities, accord particular attention to the protection of human health, nature and the human environment.

The main legal act regulating occupational safety and health is the Law on Safety at Work which is generally regulating a system of protection at work. Its purpose is to systematically improve safety and health of workers, to prevent injuries at work, occupational and other diseases in connection with work. The OSH Law recognises the importance of a person's life, health and ability to work as values bearing special social interest in the Republic of Croatia. It is divided into chapters regulating rules for protection at work and general principles of prevention; employer's obligations in implementing rules on safety at work while focusing attention on organisation and implementation of safety at work, liability for damages at work and in connection with work, vocational training, consultations, jobs with special working conditions, particularly sensitive workgroups, means of work, personal protection equipment, technology of work and working procedures, working environment, stress at work or in connection to work, safety signs, written information and instructions, foreign workers; obligations and rights of workers; workers' commissioner for safety at work; activities with regards to safety at work; supervision; misdemeanour provisions; transitional and final provisions. At the same time, there are numerous specific legal acts such as rules of procedure laws and regulations that are containing legal norms regulating health and safety of workers regarding specific jobs they are doing.

Croatian Institute for Health Protection and Safety at Work is an independent health institution at national level working under supervision of the Ministry of Health. Its main goal is to develop and disseminate knowledge on sustainable and healthy work as well as health surveillance, health promotion and improvement of quality of life and work ability of Croatian workers.

Remarks/comments: The OSH Law implements into Croatian legislation the Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work, Directive 2007/30/EC of the European Parliament and of the Council of 20 June 2007 amending Council Directive 89/391/EEC, its individual Directives and Council Directives 83/477/EEC, 91/383/EEC, 92/29/EEC and 94/33/EC with a view to simplifying and rationalising the reports on practical implementation, Council Directive 91/383/EEC of 25 June 1991 supplementing the measures to encourage improvements in the safety and health at work of workers with a fixed- duration employment relationship or a temporary employment relationship, Council Directive 92/85/EEC of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding (tenth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC) and Council Directive 94/33/EC of 22 June 1994 on the protection of young people at work.

References:

- Constitution of the Republic of Croatia (Text No. 2422) (Consolidated text). (Articles 55(1), 59, 65(3), 70)
- Act of 5 June 2014 on Occupational Safety (Text No. 1334). (Articles 1, 5)

2. Scope, coverage and exclusions

2.1. Health and safety covers physical and psychological health

Summary/Citation: Special occupational health and safety rules include requirements relating to age, sex, completion of professional education and other forms of education and training for work, health, physical state, psychophysiological and psychological abilities which employees must meet when performing work with special working conditions. Specific occupational health and safety rules, apart from the abovementioned requirements, contain both rights and obligations in relation to: (1) the organization of work time and rest, (2) the use of appropriate personal protective equipment, (3) special procedures while using or being exposed to physical harms, hazardous chemicals, i.e. biological harms, (4) placing safety signs which provide information or instructions, (5) instructions on work processes and ways of conducting work, particularly with respect to the

duration of work, performance of monotonous work and result-based work in a given period of time (normative work) and the exposure of employees to other exertions at work or in connection with work, (6) procedures for an injured or ill employee up to provision of emergency medical care i.e. up to their admission to a health institution.

References:

- Act of 5 June 2014 on Occupational Safety (Text No. 1334). (Article 13(2)(3))

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2011
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016
- Occupational Health Services Convention, 1985 (No. 161) Observation 2015
- Occupational Health Services Convention, 1985 (No. 161) Direct Request 2016

2.2. Definition of worker

Summary/Citation: A worker is a natural person who, in employment, carries out certain tasks for the employer.

References:

- Labour Act (Official Gazette no. 93/14), Article 8(1).

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2011
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

2.2.1. Coverage of particular categories of workers

Yes.

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2011
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

2.2.1.1. Migrant workers

Summary/Citation: An alien shall be allowed to work in the Republic of Croatia upon issuance of a valid residence and work permit or certificate of work registration. A residence and work permit may be issued when based on annual quotas and outside of the annual quotas. An alien without a valid residence and work permit is allowed to work in the Republic of Croatia if it was allowed permanent residence, asylum, subsidiary or temporary protection, temporary residence for the purpose of family reunification with a Croatian citizen, an alien with permanent residence, asylum seeker and alien whom has been allowed subsidiary or temporary protection, temporary residence for humanitarian purposes, autonomous residence, status of a regular student or a student working through the mediation of an employer, temporary residence for the purpose of conducting scientific research. An alien is allowed to work in the Republic of Croatia only on jobs for which it has issued residence and work permit or certificate of work registration and only at the employer with whom has established employment relationship.

Articles of the OSH Law shall apply to all activities in which employees perform work for an employer.

References:

- Act of 5 June 2014 on Occupational Safety (Text No. 1334). (Article 4)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2011
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

2.2.1.2. Domestic workers

Summary/Citation: Articles of the Law on Safety at Work shall apply to all activities in which employees perform work for an employer.

Remarks/comments: Because of the fact that domestic worker is conducting a work for another person (employer) they have to sign a labor contract. This implies that all the rights and obligations from the Labor Act and Act on Occupational safety apply equally to domestic workers.

References:

- Act of 5 June 2014 on Occupational Safety (Text No. 1334). (Article 4)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2011
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

2.2.1.3 Home workers

Summary/Citation: A labour contract concluded in written form or a certificate on the conclusion of a labour contract for the performance of work in the worker's home or on other premises other than the place of work of the employer shall also contain the provisions on: 1. the duration of a normal working week, 2. daily, weekly or monthly period of the worker's mandatory presence in the place of work, 3. time limits, time and manner of supervision of work quality performed by the worker, 4. machines, tools and equipment necessary for the performance of the work, which the employer is obliged to provide, install and maintain, 5. use of the worker's own machines, tools and other equipment and the coverage of costs thereof, 6. coverage of other costs to the worker concerning the performance of work, 7. occupational training methods and further training of workers.

Articles of the OSH Law shall apply to all activities in which employees perform work for the employer.

References:

- Labour Code of 18 July 2014 (Text No. 1872). (Article 17 (1))
- Act of 5 June 2014 on Occupational Safety (Text No. 1334). (Article 4)

Related CEACR Comments

- Safety and Health Convention, 1981 (No. 155) Observation 2011
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

2.2.1.4 Self-employed persons

No data available.

2.3 Definition of employer

Summary/Citation: An employer is a natural or legal person for whom the worker, in employment, carries out certain tasks.

References:

- Labour Code of 18 July 2014 (Text No. 1872). (Article 8(2))

2.4 Exclusion of branches of economic activity

Sometimes.

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2011
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

2.4.1 Agriculture

Summary/Citation: Ordinance on occupational health and safety in agriculture prescribes specific measures and principles of protection of persons working in agriculture as well as specific measure and principles of protection of machines used for agricultural work.

During the period of agricultural labour, the tractor driver must be provided with appropriate personal protective means and appropriate personal protective equipment for protection against cold, excessive exposure to sunlight, dust, chemical substances harmful to health and for the protection of other adverse effects on work.

References:

- Ordinance on occupational health and safety in agriculture 2008 (Art. 1 (1), 16 (1))

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2011
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

2.4.2 Construction

Summary/Citation: An investor must apply general prevention principles and occupational health and safety rules during all stages of work concerned. An investor, building owner, concessionaire or another person for whom a main project is being designed must appoint one or more coordinators for occupational health and safety matters during the project design and project execution stages in cases when the works are carried out or are scheduled to be carried out by two or more contractors. The employer carrying out construction works or the activities of forest exploitation shall, before the work begins on a temporary work site, prepare the work site and ensure that the works are carried out in accordance with special regulations and occupational health and safety rules

References:

- Ordinance on safety at work at temporary or removable construction sites
- Act of 5 June 2014 on Occupational Safety (Text No. 1334). (Article 73, 74, 75)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2011
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

2.4.3 Services

No data available.

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2011
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

2.4.4 Public sector

Summary/citation: The provisions of this Act shall not apply when performing certain work to which, due to its uniqueness and inevitable conflict with the provisions of this Act, the Act cannot be fully applied, such as activities of the Croatian Armed Forces, police activities, protection and rescue activities, protection of persons and property and activities of firefighters and deminers.

References:

- Act of 5 June 2014 on Occupational Safety (Text No. 1334). (Art. 4. (2))

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2011
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

2.4.5 Other

No data available.

2.5 Definition of occupational accident

Summary/Citation: Occupational accident is an injury caused by direct and short mechanical, physical or chemical act and injury caused by sudden changes in the position of a body and other similar changes of the physical condition of a body that is connected with a work.

References:

- Act concerning mandatory health insurance (Article 66)

2.6 Definition of occupational disease

Summary/Citation: Occupational disease is any disease proved to be a consequence of an harmful act originating from the working process and/or working environment, namely a disease for which is known that can be a consequence of an harmful act connected with the working process and/or working environment while the intensity and the length of the exposure to such harmful act is on the level for which is known that causes damage to health.

References:

- Act concerning a list of occupational diseases (Article 2 (1)) 25(1).

2.6.1 List of occupational diseases

Summary/Citation: Act concerning a list of occupational diseases contains a list of occupational diseases caused by chemical, physical and biological hazards.

References:

- Act concerning a list of occupational diseases (Article 3)

2.6.2 Mechanism for compensating other diseases as occupational ones

No data available.

3 Institutions and programmes relating to OSH administration and/or enforcement

3.1 Competent national authority for safety and health at work

Summary/Citation: Government of the Republic of Croatia is a competent national authority for safety and health at work with the Ministry of the Labour and Pension System as the main administrative body for OSH. For those purposes, National Council for Work Safety is established by the Government of the Republic of Croatia as its advisory body for occupational health and safety. Further on, according to The decision on the establishment of the National Council for Occupational Safety and Health, The National Council for Safety and Health at Work is established and supervised by the Ministry of Labour and Pension System and is obliged to report on its work to Government at least once a year.

References:

- The Decision on the Establishment of the National Council for Occupational Safety and Health 20141010 (§ V, VII)
- Act of 5 June 2014 on Occupational Safety (Text No. 1334). (Art. 6 (1))

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2011
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

3.1.1 Objectives, roles and/or functions

Summary/Citation: The Government of the Republic of Croatia, through established National Council for Safety and Health at Work, identifies, proposes, implements and systematically reviews

the policy of occupational health and safety and proposes amendments to the legislation in order to improve safety and protect health of employees.

The National Council for Safety and Health at Work fulfils six namely listed functions: monitoring, analyzing and evaluating the system and policy of OSH and informing the Government on its finding and assessments and proposing changes, monitoring the effects of the application of relevant legislation, gives its opinion on drafts statements and regulation within the OSH field, proposing measures for improvement of OSH system, participating in the organisation of the National Day of OSH and performing other tasks at the Government's request.

References:

- Act of 5 June 2014 on Occupational Safety (Text No. 1334). (Art. 6 (1), 7(1))

3.1.2 Chairperson and composition

Summary/Citation: The National Council for Safety and Health at Work consists of seven members. They are appointed by the Government's decision and consist of the director of the Institute for the Advancement of Safety at Work, two representatives nominated by the minister responsible for labour affairs and two representatives per the employers and per the employees, nominated by representative associations of the employer and employees of a higher level under a special regulation. Chairperson, the President of the National Council, is elected by the members at the first session.

References:

- Act of 5 June 2014 on Occupational Safety (Text No. 1334). (Art. 6 (2,3), 7 (2))

3.2 National OSH research programme or institute

Summary/Citation: Institute for the Advancement of Safety at Work is a public institution established and governed by the Government of the Republic of Croatia registered in the Court Register and seated in Zagreb. The Institute took over all the functions prescribed in the Occupational Health and Safety Act from the Croatian Institute for the Protection of Health and Safety and Work.

83(1) "In order to monitor the situation in the field of occupational health and safety, the Institute for the Advancement of Safety at Work shall be established.

84(1) "The Institute shall have a Statute which regulates, pursuant to this Act, the organization, powers, responsibilities and decision-making methods of the bodies managing the Institute, the conditions and procedures for appointment of the Governing Council and of the Director of the Institute and other matters relevant for the activities and the work of the Institute.

84(2) The Statute of the Institute shall be adopted by the Governing Council, with the consent of the Government."

4(3) "The name of the Institute in English is INSTITUTE FOR OCCUPATIONAL SAFETY IMPROVEMENT."

Remarks/comments: The OSH Act refers to the Institute as "The Institute for the Advancement of Safety at Work" while the Institute refers to itself as "The Institute for Occupational Safety Improvement" in its own Statute.

References:

- Statute of the Institute for Occupational Safety Improvement 20150225 (Art 4(3))
- Act of 5 June 2014 on Occupational Safety (Text No. 1334). (Art. 83 (1,2,3), 84)

3.2.1 Objectives, roles and/or functions

Summary/Citation: Main objective of the Institute for the Advancement of Safety at Work is to monitor the situation in the field of occupational health and safety.

Further more, The Occupational Health and Safety Act provides a list of 11 special roles and functions of the Institute, particularly related to monitoring, development of programs, guidelines, methods and models for OSH, establishing criteria and procedures for the organization of work activities, conducting statistical surveys, cooperation with organizations and institutions, providing expert opinions and professional assistance, performing activities and preparing promotional materials, resolving and acting in administrative matters in the first instance proceedings, carrying out professional supervision and audit of authorized persons and submitting activity reports to the Government within the OSH field.

83(4) Within its scope of work the Institute shall:

- 1) monitor the situation in the area of occupational health and safety,
- 2) develop programs, guidelines, methods and models for occupational health and safety,

- 3) establish criteria and procedures for the organization of work activities appropriate for employees,
- 4) conduct statistical surveys in the area of occupational safety and health,
- 5) cooperate, within its area of competence, with international and national organizations and professional and scientific institutions,
- 6) provide expert opinions on occupational health and safety for different interested parties,
- 7) provide professional assistance to employers' associations, trade unions, persons authorized for occupational health and safety matters and administrative bodies, based on the information within its scope of work,
- 8) perform activities in particular areas of occupational health and safety and prepare promotional materials,
- 9) resolve and act in administrative matters in the first instance proceedings related to authorizations which are granted to persons for occupational health and safety and approvals granted to occupational health and safety experts,
- 10) carry out professional supervision and audit of authorized persons with respect to authorization obtained under this Act,
- 11) submit activity reports to the Government by the end of May of the current year for the previous year."

References:

- Act of 5 June 2014 on Occupational Safety (Text No. 1334). (Art. 83 (1,4))

3.2.2 Governance board constitution and chairmanship

Summary/Citation: Supervision of the legality of the work of the Institute is carried out by the ministry competent for labour.

The Institute is managed by the Governing Council, consisted of five members appointed by the Government, namely: two members proposed by the Minister competent for labour, two members proposed by the National Council for Work Safety and one member who is the representative of the employees of the Institute. Governing Council elects its President at the first constitutive session and from among the members stated previously.

The Director of the Institute, its chairman, is appointed by the Government, at the proposal of the minister competent for labour affairs, following a public announcement of the vacancy for the mandate of four years with the possibility of reappointment.

Restrictions/obligations:

85(1) "The Institute shall be managed by the Governing Council.

85(2) The Governing Council shall consist of five members appointed by the Government, namely:

- 1) two members proposed by the Minister,
- 2) two members proposed by the National Council for Work Safety,
- 3) one member, being a representative of the employees of the Institute, appointed or elected in accordance with labour law.

85(3) The President of the Governing Council shall be elected by the members of the Governing Council, at the first constitutive session and from among the members referred to in paragraph 2 subparagraph 1 of this Article.

85(4) The Governing Council shall make decisions by majority vote of all its members.

85(5) The President of the Governing Council may suspend any decision of the Governing Council which may negatively affect financial operations of the Institute.

85(6) The members of the Governing Council shall be appointed for a period of four years.

85(7) The scope, powers and responsibilities of the Governing Council shall be established by the Statute of the Institute."

86(1) "The Government may relieve of duty a member of the Institute's Governing Council before the expiry of the term of office he has been appointed for, where:

- 1) a member himself requests that he be relieved of duty,
- 2) a member, in the course of carrying out his activities, violates the law or other regulations related to the work and activities of the Institute,
- 3) a member, in the course of carrying out his activities, causes damage to the Institute,
- 4) a member is involved in a conflict of interest with the activities of the Institute while carrying out his duties,

5) there are other cases as laid down by law or Statute."

87(1) "The affairs of the Institute shall be managed by the Director.

87(2) The Director of the Institute shall be appointed by the Government, at the proposal of the minister competent for labour affairs, following a public announcement of the vacancy.

87(3) The Director of the Institute shall be appointed for a period of four years, and once this period ends may be reappointed.

87(4) The scope, powers and responsibilities of the Director shall be set out in the Statute of the Institute."

88(1) "The Director of the Institute shall be relieved of duties by the Government before the expiry of the office term the Director has been appointed for, where the Director:

1) requests that he be relieved of duty,

2) fails to act in compliance with regulations and general Acts of the Institute,

3) is negligent and unconscientious in the performance of his duties thus causing damage to the Institute,

4) is frequently negligent and neglectful in the performance of his duties thus making it difficult for the Institute to perform its activities."

16(2) "The proposition to relieve a member of the Governing Council of his duties can be presented to the Government by the Governing Council or the Director."

References:

- Statute of the Institute for Occupational Safety Improvement 20150225 (Art 16(2))
- Act of 5 June 2014 on Occupational Safety (Text No. 1334). (Art. 83 (6), 85, 86 87, 88)

3.2.3 Source of funding

Summary/Citation: According to the Occupational Health and Safety Act, the Institute is funded from the state budget.

83(2) "The Institute is a public institution owned by the Republic of Croatia and the founding rights are exercised by the Government of the Republic of Croatia. The funds for the work of the Institute shall be allocated from the state budget."

References:

- Act of 5 June 2014 on Occupational Safety (Text No. 1334). (Article 83 (2))

3.3 National OSH programme

Summary/Citation: Ministry responsible for labour affairs in cooperation with the National Council for Work Safety proposes for adoption the National Programme on OSH to the Government.

Remarks/Comments: The Ministry of Economy, Labour and Entrepreneurship adopted the “National Programme on Health and safety at Work for the period from 2009 to 2013”. One of the objectives of the Programme was to provide the conditions for "healthy workplace", and with the measures implemented in achieving that goal Republic of Croatia accepts European Union Strategy for Safety and Health at Work for the period 2007-2012, on which the National Programme is based upon. Within named Programme Croatia managed to fully complete the process of harmonisation national legislation on safety at work with the EU directives.

In February 2015 Ministry of Health adopted the National Programme on Health and Safety at Work for Persons working in the Healthcare for the period from 2015 to 2020 with a vision of improvement of health of persons employed in health care.

References:

- National Programme on Health and Safety at Work for Persons working in the Sector of Health Protection for the period from 2015 to 2020
- Act of 5 June 2014 on Occupational Safety (Text No. 1334). (Art. 6 (6))
- National Programme on Health and safety at Work for the period from 2009 to 2013
- National Programme on Health and safety at Work for the period from 2009 to 2013

3.3.1 Consultation on the national OSH programme

Summary/Citation: Government is obliged to ensure effective and permanent cooperation of government executive bodies with representatives of employers and workers and representatives of the agencies associated with health, safety and work in general, such as technical safety, public

health, social security, fire protection, environmental protection, standardization, product safety, protection of consumers and so on.

References:

- National Programme on Health and safety at Work for the period from 2009 to 2013

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2011
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

4. Employers' duties and responsibilities to protect the safety and health of workers and others

Summary/Citation: The employer shall be obliged to organize and implement occupational health and safety, taking into account risk prevention as well as informing, training, organization and resources. The employer shall be obliged to implement prevention in all work processes, in work organization and in the management of work processes,

whereby the highest possible level of safety at work for the employees must be ensured.

Also, the employer shall be responsible for the organization and implementation of occupational health and safety of employees in all segments of the organization of work and in all work processes.

References:

- Act of 5 June 2014 on Occupational Safety (Text No. 1334). (Art. 17, 19)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2011
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

4.1. Duty to ensure the health and safety of employees

Summary/Citation: The employer shall be obliged to, taking into account the work and its nature, assess the risks to life and health of people other than their own employees, particularly in relation to the means of work, the work environment, technology, physical harms, used chemicals i.e. biological agents, design of the workplace, the organization of work processes, work monotony, static and psychophysiological exertions, work at a set pace, result based work in a given period of time (normative work), night work, mental workload and other risks that are present, for the purpose of preventing or reducing the risk.

References:

- Act of 5 June 2014 on Occupational Safety (Text No. 1334). (Art. 18)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2011
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

4.2. Duty to protect the health and safety of people other than their own employees

Summary/Citation: The employer shall be obliged to, taking into account the work and its nature, assess the risks to life and health of employees, particularly in relation to means of work, the work environment, technology, physical harms, used chemicals, i.e. biological agents, design of the workplace, the organization of work processes, work monotony, static and psychophysiological exertions, work at a set pace, result based work in a given period of time (normative work), night work, mental workload and other risks that are present, for the purpose of preventing or reducing the risk.

References:

- Act of 5 June 2014 on Occupational Safety (Text No. 1334). (Art. 18)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2011
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

4.3. Collaboration among two or more employers at the same workplace

Summary/Citation: Where two or more employers are doing business in the same location, they may mutually contract out the organisation and implementation of occupational health and safety to an occupational health and safety specialist they commonly employ and may also establish a joint service for occupational health and safety, applying the criterion of the number of employees.

Also, employers that work on the same site, or several employers who share the workplace or where two or more employers or other persons (contractors) are carrying out work or are scheduled to carry out work at a workplace, shall implement occupational health and safety measures, taking into account the nature of the work, coordinate their activities, provide information and cooperate in the implementation of the health and safety provisions under this Act with a view to protecting and preventing risks at work and they shall organise the work and ensure that it is carried out in such a way that the health and safety of employees working for other employers and other persons are not endangered.

References:

- Act of 5 June 2014 on Occupational Safety (Text No. 1334). (Art 20, 76)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2011
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

4.4. Surveillance of worker' health in relation to work

Summary/Citation: The person who intends to enter into an employment contract for the purpose of performing of work with special working conditions shall be referred by the employer to a specialist in occupational medicine for a medical check-up, with a referral stating the details of the nature or type of work and other circumstances which are of importance for the assessment of his/her ability to perform that work and the potential impact of harms at the workplace to the employee's health.

At the same time, with a view to ensuring health surveillance appropriate to the health and safety risks in the workplace to which an employee is exposed, the employer shall, at the request of the employee, enable the employee to undergo medical examination once in five years. And also, the employer shall provide employees with occupational medical services so as to ensure health surveillance appropriate to risks, hazards and exertions during work with a view to protecting the health of employees

References:

- Act of 5 June 2014 on Occupational Safety (Text No. 1334). (Art. 36, 63, 80)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2011
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

4.4.1. Specific hazards for which surveillance is required

Summary/Citation: The employer shall be obliged to assess risks and ensure health protection and safety of employees exposed to physical, chemical and biological harmful effects at work, in accordance with the Occupational Health and Safety Act, its implementing rules and regulations of occupational health and safety and special regulations on the protection against physical, chemical and biological harms.

The Minister, with the consent of the minister responsible for health, shall by virtue of the ordinance regulate rules, measures, procedures, deadlines and activities of occupational health and safety of the employees exposed to hazardous chemicals at work, limit values for exposure to hazardous chemicals and biological limit values.

References:

- Act of 5 June 2014 on Occupational Safety (Text No. 1334). (Art. 45, 49)

4.5. Surveillance of the working environment and working practices

Summary/Citation: The employer shall be obliged to ensure that used workplaces are at all times safe, maintained, adapted to work and in good condition, in accordance with occupational health and safety rules.

References:

- Act of 5 June 2014 on Occupational Safety (Text No. 1334). (Art. 41)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2011
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

4.6. Duty to provide personal protective equipment

Summary/Citation: The employer shall be obliged to ensure that the means of work and personal protective equipment in use are at all times secured, maintained, adapted to work in good condition and that they are used in accordance with occupational health and safety rules, technical regulations and manufacturer's instructions so that during the work they pose no danger to employees.

References:

- Act of 5 June 2014 on Occupational Safety (Text No. 1334). (Art. 41)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2011
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

4.7. Duty to ensure the usage of personal protective equipment

Summary/Citation: The employer shall be obliged to exclude from use means of work and personal protective equipment subject to deformations presenting risks to health and safety of employees.

In accordance with this Act, its implementing regulations, occupational health and safety rules, special regulations, i.e. manufacturer's instructions, the employer shall be obliged to inspect, i.e. manufacturer's instructions, the employer shall be obliged to inspect, i.e. test the means of work used to determine whether occupational health and safety rules have been applied and whether the health and safety of employees have been put at risk due to changes that have occurred during their use.

References:

- Act of 5 June 2014 on Occupational Safety (Text No. 1334). (Art. 41, 42)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2011
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

4.8. Duty to provide first-aid and welfare facilities

Yes.

References:

- Act of 5 June 2014 on Occupational Safety (Text No. 1334). (Art. 56)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2011
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

4.8.1. Arrangements for first-aid

Summary/Citation: The employer shall provide means and equipment for the provision of first aid, which shall always be available, indicated by signs and protected from unauthorized use.

The Minister competent for health matters, with the consent of the minister, shall by virtue of an ordinance stipulate first aid procedures, means, type and quantity of medical supplies which must be provided at the workplace as well as the manner and time limits in which the employees must undergo training for first aid.

References:

- Act of 5 June 2014 on Occupational Safety (Text No. 1334). (Art. 56)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2011
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

4.8.2. Sanitary installations

Summary/Citation: Basic occupational health and safety rules include requirements which means of work must meet when in use. In particular, this includes securing spaces and devices for personal hygiene.

References:

- Act of 5 June 2014 on Occupational Safety (Text No. 1334). (Art. 12)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2011
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

4.8.3. Drinking water

No data available.

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2011
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

4.8.4. Rest and eating areas

No data available.

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2011
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

5. Employers' duty to organize prevention formally along generally accepted OSH management principles and practices

5.1 Elements of an OSH management system

No data available.

5.1.1 Policy or plan specifying responsibilities and arrangements for health and safety

Summary/citation: The employer, with regards to the general labour act, rule book or any other legal act, determines the organisation of implementation health and safety procedures and rights, obligations and responsibilities of his workers if those questions are not already regulated in the Occupational Health and Safety Act, collective agreement, agreement between the workers' council and employer or labour contract.

References:

- Act of 5 June 2014 on Occupational Safety (Text No. 1334). (Art. 33 (8))

5.1.2 Appointment of a person for health and safety

Summary/citation: Health and safety matters may be carried out by an authorized person. The authorized person shall deal with those matters in accordance with the occupational Health and Safety Act and other regulations on occupational health and safety. An employer who employs more than 50 persons shall appoint an expert for occupational health and safety.

References:

- Act of 5 June 2014 on Occupational Safety (Text No. 1334). (Art. 82 (1,2))

5.1.3. Written risk assessment

Summary/citation: The employer has a duty to possess risk assessment in a written or electronic form, enlisting existing risks at work and in connection to work and that shall be available for workers at their working place.

References:

- Act of 5 June 2014 on Occupational Safety (Text No. 1334). (Art. 18 (2))

5.1.4. Safe operating work systems and procedures

Summary/citation: The employer has a duty, based on the written risk assessment, to apply rules on safety at work and preventive measures, to organize and carry out procedures or methods or other activities as well as to prevent or reduce exposure of employees to identified risks.

References:

- Act of 5 June 2014 on Occupational Safety (Text No. 1334). (Art. 18 (3))

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2011
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

5.1.5. Training and information on risks

Summary/citation: The employer shall be obliged to implement occupational health and safety measures based on appropriate training and information provided to employees.

References:

- Act of 5 June 2014 on Occupational Safety (Text No. 1334). (Art. 11 (9))

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2011
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

5.1.6 Review or assessment of the results of preventive measures

No data available.

5.1.7 Consultation with workers in health and safety

Summary/citation: The employer shall be obliged to inform and consult with his employees or their representatives on occupational health and safety issues in accordance with this Act and general regulations on work.

References:

- Act of 5 June 2014 on Occupational Safety (Text No. 1334). (Art. 31)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2011
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

5.2 Obligation to implement a specific OSH management system or standard

No data available.

6. Employers' duty to ensure availability of expertise and competence in health and safety

6.1 OSH competence

Yes.

References:

- Act of 5 June 2014 on Occupational Safety (Text No. 1334). (Art. 6 (6))

Related CEACR Comments

- Occupational Health Services Convention, 1985 (No. 161) Observation 2015
- Occupational Health Services Convention, 1985 (No. 161) Direct Request 2016

6.1.1 Requirement to access expert advice and/or support in health and safety

Summary/Citation: The employer shall be obliged to establish and perform tasks of OSH in accordance with the risk assessment, condition of safety at work and number of employees. In cases where the employer is not authorised to perform OSH tasks himself/herself, due to lack of prescribed requirements and/or exceeding 49 employees, or in cases where he/she meets the requirements, but for an objective and legitimate reason he/she cannot perform these tasks himself/herself, he/she is obliged to contract the performance of the OSH tasks with one or more OSH specialists. OSH tasks include, among others, technical assistance to the employer and his authorized employees, employees and employees' commissioners and participation in the development of business strategy and operational plans and programmes of the employer's business activities.

References:

- Act of 5 June 2014 on Occupational Safety (Text No. 1334). (Art. 21)

Related CEACR Comments

- Occupational Health Services Convention, 1985 (No. 161) Observation 2015
- Occupational Health Services Convention, 1985 (No. 161) Direct Request 2016

6.1.1.1 Qualifications of experts or professional services

Summary/citation: According to the Ordinance on Performance of Occupational Safety and Health, OSH tasks are performed by OSH experts of a first or a second degree, depending on the number of workers and occupations. OSH experts shall be within the field of technical, bio-technical or natural sciences or in the field that corresponds to the activities of the employer. A first degree occupational safety and health expert shall hold at least secondary education degree and one of the following: general part of the professional examination for OSH expert, recognized status of OSH expert, certificate of specialist exam in the field of OSH. A second degree OSH expert is a person who passed the general and specific part of the professional examination for OSH expert.

References:

- Ordinance on Performance of Occupational Safety and Health 20140924 (Art. 2, 3)

Related CEACR Comments

- Occupational Health Services Convention, 1985 (No. 161) Observation 2015
- Occupational Health Services Convention, 1985 (No. 161) Direct Request 2016

6.2 Appointment of an OSH practitioner

Summary/citation: The employer is not obliged to appoint an OSH practitioner only in case she/he employs not more than 49 employees and fulfills legal conditions listed in the Ordinance on Performance of Occupational Safety and Health to carry out OSH tasks by herself/himself. In all other cases employer is obliged to appoint an OSH expert. If the employer employs 50 employees or more, she/he is obliged to appoint an OSH expert regardless of the fact if she/he fulfills legal conditions to carry out these tasks herself/himself.

References:

- Ordinance on Performance of Occupational Safety and Health 20140924 (Art. 4)
- Act of 5 June 2014 on Occupational Safety (Text No. 1334). (Art. 20)

6.2.1 Workforce size threshold for the appointment of OSH practitioners

Summary/citation: Ordinance on Performance of Occupational Safety and Health prescribes three categories of workforce size threshold relevant for this matter: employers who employ up to and including 49 employees, employers who employ from 50 up to and including 249 employees

and employers who employ from 250 up to and including 499 employees. For the first category mentioned, at least one first degree OSH expert shall be appointed. However, in case where more than 70 percent of the employees are performing work in special working conditions a second degree OSH expert shall be appointed.

In the second category mentioned, at least one second degree OSH expert shall be appointed. However, in case where at least 80 percent of the employees are performing exclusively work of low risk, a first degree OSH practitioner can be appointed.

In the last category mentioned, at least one second degree and one first degree OSH practitioner shall be appointed. Additionally, on every 500 following employees, at least one more second degree OSH practitioner shall be appointed. However, where more than 500 employees are employed and of which at least 80 percent perform work of low risk, at least one second degree and one first degree OSH practitioner shall be appointed.

References:

Ordinance on Performance of Occupational Safety and Health 20140924 (Art. 6, 7, 8)

7. Workers' rights and duties

7.1 Duty to take reasonable steps to protect their own safety and health

Summary/Citation: The Occupational Health and Safety Act provides that it is the responsibility of an employee to perform his duties with due care while at the same time taking care of his health and safety, as well as the health and safety of other employees. He/she shall work with due care when performing tasks in line with knowledge and skills acquired during training in safe working practices and should follow instructions when performing his duties. The employee shall inspect the workplace and inform the employer of any identified deficiencies. He/she shall ensure his proper use of work equipment and prescribed personal protective equipment and avoid modifying safety components on equipment. He/she shall also notify designated persons of any situation that poses a significant and immediate risk to health and safety and perform his tasks in compliance with occupational health and safety rules, professional standards of care and written instructions by the employer. Before leaving the workplace, the employee shall ensure that equipment is stored

in such a way that it poses no danger to other employees or equipment. The employee must cooperate with the employer, its authorised officers, occupational health and safety specialists, specialists in occupational medicine and employees' representatives for occupational health and safety.

References:

- Act of 5 June 2014 on Occupational Safety (Text No. 1334). (Art.68)

7.2 Duty to take reasonable steps to protect the safety and health of others

Summary/Citation: The Occupational Health and Safety Act provides that it shall be the responsibility of an employee to perform his duties with due care while at the same time taking care of the health and safety of other employees, which may be endangered by his actions or oversights at work. Before leaving the workplace, the employee ensures that the equipment which he/she has used is left in such a condition that it poses no danger to other employees or equipment. Furthermore, the employee shall cooperate with and notify the designated persons, i.e. the employer, its authorised officer, occupational health and safety specialist, specialist in occupational medicine and employees' representative for occupational health and safety, of any situation that represents a significant and immediate risk to the health and safety of others. The employee shall also notify these persons of any other shortcomings identified in the occupational health and safety system.

References:

- Act of 5 June 2014 on Occupational Safety (Text No. 1334). (Art.68,Art.69(3))

7.3 Supervisors' duty to take reasonable steps to protect the safety and health of others

Summary/Citation: According to The Occupational Health and Safety Act, the employees' commissioner shall protect the interest of employees and monitor the implementation of rules, measures, procedures and activities relating to occupational health and safety. He/she shall be entitled to submit proposals and requests to the employer, submit complaints to competent bodies, participate in plans of improvement with the employer, receive employees' complaints, inform the competent inspectors and specialists in occupational medicine of his/her observations or those of

the employees. Furthermore, he/she shall involve a competent inspector in case he/she finds that the health and safety of the employees have been endangered and if the employer fails or refuses to implement occupational health and safety measures.

References:

- Act of 5 June 2014 on Occupational Safety (Text No. 1334). (Art.71)

7.4 Senior officers' duty to take reasonable steps to protect the safety and health of others

Summary/Citation: The authorised officer shall make sure that employees who have not been trained for work in a safe manner do not work without the supervision of a trained employee. Furthermore, he/she must ensure that the employee who no longer meets the requirements to continue to perform work with special working conditions is prevented from doing so. He/she must exclude from use work equipment and personal protective equipment that is defective. He/she should also supervise employees to ensure they are working in accordance with occupational health and safety rules and instructions of the employer. The authorised officer must also ensure that during working time there is no consumption of alcohol or other addictive substances and must prevent employees from working where their work is being performed contrary to occupational health and safety rules.

References:

- Act of 5 June 2014 on Occupational Safety (Text No. 1334). (Art.24)

7.5 Self-employed persons' duty to take reasonable steps to protect their own and other people's health and safe

No data available.

7.6 Duty to comply with OSH-related requirements

Summary/Citation: The employee must perform his tasks in line with occupational health and safety rules, professional standards of care and written instructions provided by the employer.

References:

- Act of 5 June 2014 on Occupational Safety (Text No. 1334). (Art.68(2))

7.7 Right to enquire about risks and preventive measures

Summary/Citation: The risk assessment produced by the employer in written or electronic form which corresponds to the existing risks at work and in relation to work must be made available to employees in the workplace. The employer is also obliged to inform and updated his employees on all risks which might affect their health and safety. The employer is also obliged to visibly display written instructions about the work environment, equipment, hazardous chemicals, biological harms, occupational hazards, sources of physical harms and other risks at work and in relation to work, in accordance with the risk assessment. The employees may inform themselves through displayed written instruction. There is no data available on the specific way of enquiring about risks and preventive measures.

References:

- Act of 5 June 2014 on Occupational Safety (Text No. 1334). (Art.18,32)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2011
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

7.8 Right to remove themselves from a dangerous situation

Summary/Citation: The Act accords employees the right to refuse work and leave the workplace if faced with an immediate risk to their life and health, until such time as the employer takes remedial measures, and must not be placed at a disadvantage because of his actions. The employee must not be required to remain at their workplaces as long as there exists an immediate and serious risk to the life and health of employees. The employee shall notify the employer, its authorised officer, occupational health and safety specialist or employees' representative for occupational health and safety about this situation. For the period during which the employee does not perform his duties, so as to avoid exposure to immediate and serious risk to his life and health, the employee is entitled to pay and other rights arising from his employment in accordance with labour law.

References:

- Act of 5 June 2014 on Occupational Safety (Text No. 1334). (Art.69(4,5))

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2011
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

7.9 Right to be reassigned to non-hazard work

7.9.1 Right to withdraw with compensation when workers are not reassigned to non-hazard work

No data available.

8 Consultation, collaboration and co-operation with workers and their representatives

8.1 National OSH committee, commission, council or similar body

Summary/Citation: 6(1) "The Government of the Republic of Croatia (hereinafter: the Government) systematically monitors the state of occupational health and safety in the Republic of Croatia and in consultation with representatives of employers and employees identifies, proposes, implements and systematically reviews the policy of occupational health and safety and proposes amendments to the legislation in order to improve safety and protect health of employees and with that aim it established the National Council for Work Safety."

Remarks/comments: The Occupational Health and Safety Act establishes a National Council for Work Safety.

References:

- Act of 5 June 2014 on Occupational Safety (Text No. 1334). (Art 6(1))

8.1.1 Objectives, roles and/or functions

Summary/Citation: 6(1) "The Government of the Republic of Croatia (hereinafter: the Government) systematically monitors the state of occupational health and safety in the Republic of Croatia and in consultation with representatives of employers and employees identifies, proposes, implements and systematically reviews the policy of occupational health and safety and proposes amendments to the legislation in order to improve safety and protect health of employees and with that aim it established the National Council for Work Safety."

6(6) "The Ministry responsible for labour affairs in cooperation with the National Council for Work Safety proposes to the Government the adoption of the National Programme on Occupational Health and Safety, published in the "Official Gazette"."

7(1) "The National Council for Work Safety:

- 1) monitors, analyzes and evaluates the system and policy of occupational health and safety and informs the Government on its findings and assessments and proposes necessary changes
- 2) monitors the effects of the application of this Act, its implementing regulations, specific laws and other regulations which protect health and safety of employees in the Republic of Croatia and, if necessary, proposes changes to the Government, including their alignment with international regulations
- 3) gives its opinion on draft statements of the regulatory impact assessment and on draft regulations proposals in the field of occupational health and safety
- 4) proposes measures for improving occupational health and safety system in the Republic of Croatia
- 5) participates in the organization of the National Day of Occupational Health and Safety
- 6) performs other tasks at the request of the Government."

Remarks/comments: The Government systematically monitors the state of occupational health and safety in Croatia and in consultation with representatives of employers and employees identifies, proposes, implements and systematically reviews the policy of occupational health and safety and proposes amendments to the legislation in order to improve safety and protect the health of employees and it is with that aim that it established the National Council for Work Safety. One of the more important roles of the Council – in cooperation with the Ministry responsible

for labour affairs – is to propose to the Government the adoption of the National Programme on Occupational Health and Safety which is then published in the ‘Official Gazette’.

References:

- Act of 5 June 2014 on Occupational Safety (Text No. 1334). (Art 6(1,6), 7(1))

8.1.2 Constitution and chairmanship modalities

Summary/Citation: 6(2) "The National Council for Work Safety consists of seven members.

6(3) The members of the National Council referred to in paragraph 2 of this Article shall be appointed by the Government's decision as its advisory body for occupational health and safety, and shall consist of the director of the Institute for the Advancement of Safety at Work (hereinafter: the Institute), two representatives nominated by the minister responsible for labour affairs (hereinafter: the Minister) and two representatives per the employers and per the employees, nominated by representative associations of the employer and employees of a higher level under a special regulation."

7(2) "The President of the National Council is elected by the members of the National Council at its first session."

3(1) "The President shall be chosen by a majority vote of the members of the Council.

3(3) If the President is prevented or unable to perform his duties for three months, the members shall appoint a new President between themselves."

4(1) "The members are appointed for a term of four years and they can be reappointed."

Remarks/comments: The Government has established a National Council for Work Safety. It consists of seven members. The Council's members are the director of the Institute for Occupational Safety Improvement, 2 representatives nominated by the minister responsible for labour affairs and 2 representatives per the employers and the employees, nominated by representative associations of the employer and employees of a higher level under a special regulation.

References:

- Rules of Procedure of the National Council for Work Safety 20100610 (Art 3(1,3), 4(1))
- Act of 5 June 2014 on Occupational Safety (Text No. 1334). (Art 6(2,3), 7(2))

8.2 Employers' duty to consult workers on risks

Summary/Citation: 18(2) "The employer shall be obliged to produce a risk assessment in written or electronic form which corresponds to the existing risks at work and in relation to work available to the employee at the workplace.

18(5) The employer shall be obliged to involve the employees and their representatives in the risk assessment procedure in the manner prescribed by this Act.

18(6) The minister shall, by virtue of an ordinance, regulate the conditions, manner and method of drafting the risk assessment, the required subject matter covered by the assessment, the information on which a risk assessment shall be based and the classification of hazards, harms and exertion at work and in relation to work."

31 "The employer shall be obliged to inform and consult with his employees or their representatives on occupational health and safety issues in accordance with this Act and general regulations on work."

33(1) "The employer shall be obliged to, in advance and in a timely manner, consult with the employees' commissioner for occupational health and safety on:

3) drafting the risk assessment and modifications, i.e. amendments to the risk assessment."

7(3) "The risk assessment shall be drafted with active participation of the workers performing the work that is being assessed for risk and by respecting their opinions."

12 "The workers or their representatives, or the persons they authorised, and experts in occupational health and safety at work must participate in the process of risk assessment. The employer shall include experts in other areas if necessary. The Committee on Occupational Health and Safety, established by the employer employing 50 or more workers, must discuss the risk assessment or amendments to the risk assessment on its meetings. The committee can accept it, or propose amendments and give suggestions and objections."

Restrictions/obligations: 149(1) "The employer shall be obliged to inform the works council at least every three months about:

7) health protection and safety at work policy and measures taken in order to improve working conditions,

8) outcomes of inspections of work and safety at work conditions"

149(2) "The employer shall be obliged to inform the works council about the issues from paragraph 1 of this Article in such a manner in terms of timeliness and the level of detail so as to enable the members of the works council to evaluate possible impact and prepare for negotiations with the employer."

150(1) "Before rendering a decision that is relevant for the position of workers, the employer must consult the works council about the proposed decision and must communicate to the works council the information important for rendering a decision and understanding its impact on the position of workers.

150(2) In cases referred to in paragraph 1 of this Article, the employer shall be obliged to enable the works council to organise meetings, upon their request and before their final response about the employer's intended decision, in order to obtain additional answers and explanations related to their statement."

150(3) "Important decisions referred to in paragraph 1 of this Article shall include in particular decisions on:

4) the measures related to the protection of health and safety at work"

150(4) "The complete information related to the proposed decision must be delivered to the works council in good time, so as to enable the works council to put forward comments and proposals stemming from the discussion that could have substantial effect on decision-making process."

150(5) Unless otherwise specified by an agreement between the employer and the works council, the works council shall provide the employer with a feedback concerning the proposed decision within eight days. In case of an extraordinary dismissal, the deadline shall be five days.

150(6) If the works council does not provide its feedback on the proposed decision within the deadline referred to in paragraph 5 of this Article, it shall be presumed that it has no comments or proposals.

150(8) The works council must give reasons for its opposition to the employer's decision."

150(12) "A decision rendered by the employer contrary to the provisions of this Act governing consultations with the works council shall be null and void."

Remarks/comments: The OSH Act provides that the employer is obliged to inform and consult with his/her employees or their representatives on occupational health and safety issues in accordance with this Act and general regulations on work. Since provisions of the OSH Act do not regulate this matter completely, but point towards the provisions of the Labour Act, it is necessary to consult those for a complete view of the legislature regarding this matter. The most important part regarding the consultation of workers is the provision of the Labour Act stating that a decision rendered by the employer contrary to the provisions of the Act governing consultations with the works council shall be null and void. This means they [the provisions] are applicable to any and all employers' decisions regarding occupational health and safety at work. After the Labour Act it is necessary to once again return to the Occupational Health and Safety Act's provisions.

References:

- Ordinance on the drafting of risk assessment 20140924 (Art 7(3), 12)
- Act of 5 June 2014 on Occupational Safety (Text No. 1334). (18(2,5,6), 31, 33(1), subpara (3))
- Labour Code of 18 July 2014 (Text No. 1872). (Art 149(1 subparas [7,8],2), 150(1,2,3 subpara [4],4,5,6,8,12))

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2011
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

8.3 Workers' right to select their representatives for health and safety matters

Summary/Citation: 70(1) "Employees of an employer, may elect an employees' commissioner for occupational health and safety from among themselves."

Remarks/comments: The workers may elect their commissioner for occupational health and safety issues.

References:

- Act of 5 June 2014 on Occupational Safety (Text No. 1334). (Art 70(1))

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2011
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

8.3.1 Workforce size conditions for workers' representation in health and safety

Summary/Citation: 70(2) "Where 20 or less employees work for an employer, a commissioner for occupational health and safety shall be elected in a direct and public vote by employees attending a meeting convened by the employer in accordance with labour law."

70(3) "Where more than 20 employees work for an employer, a commissioner for occupational health and safety shall be elected in accordance with labour law regulating the election of a works council."

70(4) "Where the employer has several elected commissioners, based on the prescribed criteria, the elected commissioners shall choose a coordinator from among themselves."

Restrictions / obligations: 142(1) "The number of members of the works council shall be determined in accordance with the number of workers employed with an employer in the following manner:

- 1) up to 75 workers: 1 representative,
- 2) 76 to 250 workers: 3 representatives,
- 3) 251 to 500 workers: 5 representatives,
- 4) 501 to 750 workers: 7 representatives,
- 5) 751 to 1000 workers: 9 representatives."

142(2) "For each further 1000 workers, or a fraction thereof, the number of the members of the works council shall be increased by two."

Remarks/comments: The provision regarding the number of representatives in the works council directly applies to the provision that stipulates the election of several commissioners for occupational health and safety.

It is the opinion of the Ministry of Labour and Pension System of Croatia that if the employer does not convene a meeting, the employees themselves may organise a meeting where the commissioner shall be elected in a direct and public vote by employees.

References:

- Labour Code of 18 July 2014 (Text No. 1872). (Art 142(1,2))
- Act of 5 June 2014 on Occupational Safety (Text No. 1334). (Art 70(2,3,4))

8.3.2 Conditions of eligibility to represent workers in health and safety

Summary/Citation: 141(1) "Workers shall have the right to elect, in free and direct elections, by secret ballot, one or more of their representatives (hereinafter: "the works council") which shall represent them before their employer in relation to the protection and promotion of their rights and interests."

142(3) "When members of the works council are proposed, account must be taken of equal representation of all organisational units and groups of employees (by gender, age, qualifications, jobs they perform, etc.)."

145(1) "All workers of an employer shall have the right to elect and be elected.

145(2) Members of management and supervisory bodies and their family members, as well as workers referred to in Article 131, paragraphs 1 and 2 of this Act, shall not have the right to elect and be elected.

145(3) Family members referred to in paragraph 2 of this Article are considered to be members of the immediate family referred to in Article 86, paragraph 3 of this Act.

145(4) The provision of paragraph 2 of this Article shall not apply to workers' representatives in employers' bodies.

145(5) An electoral committee shall establish a list of workers having voting rights."

146(1) "Lists of candidates for worker representatives may be proposed by trade unions whose members are employed with a respective employer, or a group of workers enjoying the support of at least twenty per cent of the workers employed with a respective employer.

146(2) Each list of candidates shall contain the same number of candidates and deputies as the number of worker representatives elected.

146(3) The procedure for the election of works councils, responsible persons, deadlines and manner of submitting the information on elected works councils shall be prescribed by the Minister by virtue of an ordinance."

Remarks/comments: The OSH Act does not regulate the conditions of eligibility, but the provision that they shall be elected in accordance with labour law regulating the elections of a works council does and the conclusion is that Labour Act provisions are relevant here. The provisions stated about the works council should be read and interpreted with that in mind.

References:

- Labour Code of 18 July 2014 (Text No. 1872). (Art 141(1), 142(3), 145, 146)

8.4 OSH representatives' functions, rights and powers

8.4.1 Right to inspect the workplace

Summary/Citation: 71(2) 'The employees' commissioner for occupational health and safety shall be entitled to:

- 6) have access to and use the employer's documentation about occupational health and safety,
- 12) continually broaden and improve his knowledge and monitor and collect information relevant to his activities,

71(3) 'The collective agreement may regulate other issues related to the activities performed by the employees' commissioner for occupational health and safety, and these issues may also be regulated by an agreement entered into between the employer and the works council, should the parties to the collective agreement authorize the parties to the agreement to do so.'

Remarks/comments: This right is not defined by the Act, but it can be extrapolated from the duties and rights of the commissioner for occupational health and safety. One of his/her duties is to monitor the implementation of rules, to be present at inspections and inform the inspectors about his/her or the employees' observations.

References:

- Act of 5 June 2014 on Occupational Safety (Text No. 1334). (Art 71(2) subparas [6,12], 71(3))

8.4.2 Right to access OSH information

Summary/Citation: 71(2) 'The employees' commissioner for occupational health and safety shall be entitled to:

- 5) be informed of any changes that affect or might affect occupational health and safety,

6) have access to and use the employer's documentation about occupational health and safety, 71(3) The collective agreement may regulate other issues related to the activities performed by the employees' commissioner for occupational health and safety, and these issues may also be regulated by an agreement entered into between the employer and the works council, should the parties to the collective agreement authorize the parties to the agreement to do so." Restrictions / obligations: 32(5) "The employer shall be obliged to make available the appropriate documentation to the occupational health and safety specialist, to the authorized officer and to the employees' commissioner for occupational health and safety, in particular:

- 1) risk assessment and the list of measures being implemented for the purpose of eliminating or reducing the estimated risks,
- 2) records and documents which he shall be obliged to keep in line with the provisions of Article 61, paragraph 1 of this Act,
- 3) administrative measures ordered by the authorized inspector."

Remarks/comments: This right is not defined by the Act, but it can be extrapolated from the duties and rights of the commissioner for occupational health and safety. The commissioner has the right to access and use the employer's OSH documentation.

References:

- Act of 5 June 2014 on Occupational Safety (Text No. 1334). (Art 32(5), 71(2) subparas [5,6], 71(3))

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2011
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

8.4.3 Right to be present at interviews

Summary/Citation: 71(1) "The employees' commissioner for occupational health and safety shall protect the interests of employees in terms of occupational health and safety and monitor the implementation of rules, measures, procedures and activities relating to occupational health and safety.

71(2) The employees' commissioner for occupational health and safety shall be entitled to:

7) receive employees' complaints about the implementation of occupational health and safety rules and communicate those complaints to the employer or its authorized officer,

9) be present at inspection visits and respond with respect to the facts established by a competent inspector,

71(3) The collective agreement may regulate other issues related to the activities performed by the employees' commissioner for occupational health and safety, and these issues may also be regulated by an agreement entered into between the employer and the works council, should the parties to the collective agreement authorize the parties to the agreement to do so."

Remarks/comments: This right is not defined by the Act, but it can be extrapolated from the duties and rights of the commissioner for occupational health and safety because it's his/her duty protect the interests of the employees and monitor activities relating to occupational health and safety. It can be said that since the commissioner has the right to be present at inspections and to receive the employees' complaints and communicate those complaints to the employer or authorized officer that the right to be present at interviews also exists.

References:

- Act of 5 June 2014 on Occupational Safety (Text No. 1334). (Art 71(1,2 subparas [7,9], 71(3))

8.4.4 Right to receive professional assistance from OSH experts

Summary/Citation: 21(1) "Occupational health and safety tasks are in particular:

technical assistance to the employer and his authorized employees, employees and employees' commissioners for occupational health and safety in the implementation and improvement of occupational health and safety."

71(1) "The employees' commissioner for occupational health and safety shall protect the interests of employees in terms of occupational health and safety and monitor the implementation of rules, measures, procedures and activities relating to occupational health and safety.

71(2) The employees' commissioner for occupational health and safety shall be entitled to:

- 1) submit proposals to the employer related to decision-making on occupational health and safety matters,
- 2) request that the employer take appropriate measures with a view to reducing or eliminating risks,

- 3) submit complaints to bodies competent for occupational health and safety,
- 4) participate together with the employer in plans to improve working conditions, introduce new technologies, introduce new chemicals and biological hazards into work and production processes and encourage the employer and its authorized officers to implement occupational health and safety measures,
- 5) be informed of any changes that affect or might affect occupational health and safety,
- 6) have access to and use the employer's documentation about occupational health and safety,
- 7) receive employees' complaints about the implementation of occupational health and safety rules and communicate those complaints to the employer or its authorized officer,
- 8) inform the competent inspectors and a specialist in occupational medicine of their observations or those of the employees,
- 9) be present at inspection visits and respond with respect to the facts established by a competent inspector,
- 10) involve a competent inspector, should a commissioner find that the health and safety of employees have been endangered and if the employer fails or refuses to implement occupational health and safety measures,
- 11) undergo training enabling him to perform the duties of employees' commissioner for occupational health and safety,
- 12) continually broaden and improve his knowledge and monitor and collect information relevant to his activities,
- 13) raise objections to inspection findings if appropriate,
- 14) encourage employees, by his own conduct and activities, to implement occupational health and safety measures,
- 15) inform employees of occupational health and safety measures which have been introduced.

71(3) 'The collective agreement may regulate other issues related to the activities performed by the employees' commissioner for occupational health and safety, and these issues may also be regulated by an agreement entered into between the employer and the works council, should the parties to the collective agreement authorize the parties to the agreement to do so.'

Restrictions/obligations: 20(8) "The employees, occupational health and safety specialists, employees' commissioners for occupational health and safety and authorized persons shall cooperate in the implementation of occupational health and safety."

Remarks/comments: This right is not defined by the Act, but it can be extrapolated from the duties and rights of the commissioner for occupational health and safety. The commissioner has the right to involve a competent inspector if he/she believes it to be necessary and the right to inform competent inspectors and the duty to continually broaden and improve his knowledge. They are also obliged to cooperate with each other.

References:

- Act of 5 June 2014 on Occupational Safety (Text No. 1334). (Art 20(8), 21(1) subpara (1), 71)

8.4.5 Right to accompany inspectors

Summary/Citation: 71(2) The employees' commissioner for occupational health and safety shall be entitled to:

9) be present at inspection visits and respond with respect to the facts established by a competent inspector,

71(3) The collective agreement may regulate other issues related to the activities performed by the employees' commissioner for occupational health and safety, and these issues may also be regulated by an agreement entered into between the employer and the works council, should the parties to the collective agreement authorize the parties to the agreement to do so."

Remarks/comments: The commissioner for occupational safety and health has the right to be present at inspections.

References:

- Act of 5 June 2014 on Occupational Safety (Text No. 1334). (Art 71(2) subpara [9], 71(3))

8.4.6 Right to use facilities

Summary/Citation: 71(3) "The collective agreement may regulate other issues related to the activities performed by the employees' commissioner for occupational health and safety, and these issues may also be regulated by an agreement entered into between the employer and the works

council, should the parties to the collective agreement authorize the parties to the agreement to do so."

Restrictions/obligations: 72(1) "The employer shall ensure that the employees' commissioner for occupational health and safety has the necessary time and conditions for uninterrupted performance of his duties, shall provide all necessary information and access to all regulations and documents on occupational health and safety and shall not, because of his activities, and without the consent of the works council or that of trade union commissioner having the rights and obligations of the works' council, terminate his employment, or in any other way place him at a disadvantage in comparison with his previous working conditions and other employees.

72(2) The employer shall ensure that the employees' commissioner for occupational health and safety has the conditions for uninterrupted performance of his duties, in accordance with the labour law laying down the conditions for the work of works council."

Remarks/comments: The employer has the obligation to provide adequate working conditions to the commissioner for occupational health and safety and from this it can be extrapolated that the right to use facilities exists, but not specifically mentioned in the Act.

References:

- Act of 5 June 2014 on Occupational Safety (Text No. 1334). (Art 71(3), 72(1), (2))

8.4.7 Right to have time off work with pay to perform duties

Summary/Citation: 71(3) "The collective agreement may regulate other issues related to the activities performed by the employees' commissioner for occupational health and safety, and these issues may also be regulated by an agreement entered into between the employer and the works council, should the parties to the collective agreement authorize the parties to the agreement to do so."

Restrictions/obligations: 72(3) "The employees' commissioner for occupational health and safety shall be entitled to salary compensation for the performance of his duties, for no less than three hours per week, unless otherwise regulated in the collective agreement, and without the option to assign that right to another commissioner."

Remarks/comments: The Act specifies that the employees' commissioner for occupational health and safety has the right to have time off work with pay to perform his duties.

References:

- Act of 5 June 2014 on Occupational Safety (Text No. 1334). (Art 71(3), 72(3))

8.4.8 Right to issue remedial notices

Summary/Citation: 71(2) "The employees' commissioner for occupational health and safety shall be entitled to:

- 1) submit proposals to the employer related to decision-making on occupational health and safety matters,
- 2) request that the employer take appropriate measures with a view to reducing or eliminating risks,
- 3) submit complaints to bodies competent for occupational health and safety,
- 8) inform the competent inspectors and a specialist in occupational medicine of their observations or those of the employees,
- 10) involve a competent inspector, should a commissioner find that the health and safety of employees have been endangered and if the employer fails or refuses to implement occupational health and safety measures,
- 14) encourage employees, by his own conduct and activities, to implement occupational health and safety measures,
- 15) inform employees of occupational health and safety measures which have been introduced.

71(3) The collective agreement may regulate other issues related to the activities performed by the employees' commissioner for occupational health and safety, and these issues may also be regulated by an agreement entered into between the employer and the works council, should the parties to the collective agreement authorize the parties to the agreement to do so."

Remarks/comments: This right is not specifically defined in the Act, but the commissioner has the right to submit proposals to the employer, to request that he/she take appropriate measures in occupational health and safety and to submit complaints to competent bodies. A "remedial notice" defined as "written statutory direction that requires, by law, that a notice recipient undertake works or activities as detailed in the notice" is non-existent in the Croatian legal system because our legal system historically takes after the Austrian and German legal

systems. Conclusively, it is very different from the English legal system where such remedial notices exist.

References:

- Act of 5 June 2014 on Occupational Safety (Text No. 1334). (Art 71(2) subparas [1,2,3,8,10,14,15], (3))

8.4.9 Right to resolve OSH issues in consultation with employers

Restrictions/obligations: 20(8) "The employees, occupational health and safety specialists, employees' commissioners for occupational health and safety and authorized persons shall cooperate in the implementation of occupational health and safety."

33(1) "The employer shall be required to, in advance and in a timely manner, consult with the employees' commissioner for occupational health and safety on:

- 1) the employment of an occupational health and safety specialist and the tasks he shall perform,
- 2) entrusting the implementation of occupational health and safety matters to the authorized person and on the tasks he shall perform,
- 3) drafting the risk assessment and modifications, i.e. amendments to the risk assessment,
- 4) the selection of the employees who shall provide first aid and the employees who shall implement measures for protection against fire, evacuation and rescue,
- 5) safety and risks prevention at work and on prevention and reduction of risks,
- 6) the prevention of accidents, injuries at work and occupational diseases,
- 7) changes in the work process and technology,
- 8) planning and conducting training in occupational health and safety,
- 9) the improvement of working conditions and on planning and introducing new technologies,
- 10) the impact of working conditions and working environment on the health and safety of employees,
- 11) the choice of work equipment and personal protective equipment,
- 12) the exposure of employees to monotonous work, work at a set pace, result-based work in a given period of time (normative work) and other exertions."

Remarks/comments: The employees' commissioner for occupational health and safety has the right to resolve OSH issues in consultation with employers because he/she has the right to participate together with the employer in the improvement of working conditions and the right to encourage the employer to implement occupational health and safety measures. They are also obliged by the Act to cooperate.

References:

- Act of 5 June 2014 on Occupational Safety (Text No. 1334). (Art 20(8), 33)

8.4.10 Right to direct that dangerous work cease

No data available.

8.5 Right of workers' representatives from outside the undertaking to address OSH issues at the workplace

No data available.

8.5.1 Right to enter the workplace

No data available.

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2011
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

8.5.2 Right to investigate suspected non-compliance with OSH legislation

No data available.

8.5.3 Right to consult with workers

No data available.

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2011
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

8.5.4 Right to advise workers

No data available.

8.5.5 Right to initiate enforcement action

No data available.

8.6 Joint OSH Committee

Summary/Citation: 34(1) "The employer employing 50 or more employees shall be obliged to set up an occupational health and safety committee (hereinafter: the Committee) as its advisory body for the improvement of occupational health and safety.

34(2) Notwithstanding paragraph 1 of this Article, the employer employing fewer than 50 employees shall be obliged to set up a committee if it is prescribed by a special law or other regulation.

34(3) The Committee consists of the employer or his authorized officer, occupational health and safety specialist performing tasks of occupational health and safety for the employer, occupational medicine specialist appointed in accordance with a special regulation and the employees' commissioner for occupational health and safety or their coordinator.

34(4) The President of the Committee is the employer or his authorized officer.

34(5) The employer shall issue a written decision on the appointment of the Committee members.

34(6) For the purpose of solving specific issues of occupational health and safety, the employer shall include specialists on specific areas in the work of the Committee.

34(7) The Committee shall meet at least once every three months and keep minutes about its work.

34(8) Notwithstanding the provisions of paragraph 7, in the event of death, serious injury at the workplace, an identified case of occupational disease or in any case where a competent inspector has identified a failure in the implementation of occupational health and safety, the employer shall be obliged to convene a session within two working days after the occurrence of the injury.

34(9) The employer shall notify the competent inspector about the Committee referred to in paragraph 8 of this Article, who may attend the session.

34(10) If the employer fails to convene a session of the Committee within the time limits set out in paragraphs 7 and 8 of this Article, the employees' commissioner for occupational health and safety or the coordinator of the commissioners, i.e. the works council or the trade union commissioner with the rights and obligations of the works council, may convene the session of the Committee."

Remarks/comments: The Act provides the establishment of an OSH Committee, given that the employer has workforce that is large enough. There are two relevant provisions regarding this committee in the Act

References:

- Act of 5 June 2014 on Occupational Safety (Text No. 1334). (Art 34)

8.6.1 Participation of workers' representatives in joint OSH committee

Summary/Citation: 34(3) "The Committee consists of the employer or his authorized officer, occupational health and safety specialist performing tasks of occupational health and safety for the employer, occupational medicine specialist appointed in accordance with a special regulation and the employees' commissioner for occupational health and safety or their coordinator."

Remarks/comments: In the joint OSH committee there are some workers' representatives (the employees' commissioner for occupational health and safety) participating according to the Act.

References:

- Act of 5 June 2014 on Occupational Safety (Text No. 1334). (Art 34(3))

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2011
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

8.6.2 Conditions for establishing a joint OSH committee

Summary/Citation: 34(1) "The employer employing 50 or more employees shall be obliged to set up an occupational health and safety committee (hereinafter: the Committee) as its advisory body for the improvement of occupational health and safety.

34(2) Notwithstanding paragraph 1 of this Article, the employer employing fewer than 50 employees shall be obliged to set up a committee if it is prescribed by a special law or other

regulation."

Remarks/comments: The main condition for establishing a joint OSH committee is the quantity of workforce with the exception of it being provided in a special act or other regulation.

References:

- Act of 5 June 2014 on Occupational Safety (Text No. 1334). (Art 34 (1,2))

8.6.3 Objectives, roles and/or functions of joint OSH committees

Summary/Citation: 35(1) "For the purpose of continuous improvement of occupational health and safety the Committee shall plan and monitor:

- 1) the application of occupational health and safety rules in the undertaking,
- 2) the organization of the performance of occupational health and safety,
- 3) information and training in relation to occupational health and safety,
- 4) prevention of risks at work and in relation to work and its effects on health and safety of the employees.

35(2) The tasks of the Committee referred to in paragraph 1 of this Article may be extended by the collective agreement or an agreement between the works council and the employer."

Remarks/comments: The joint OSH committee plans and monitors the continuous improvement of occupational health and safety, but its tasks can be extended by the collective agreement or an agreement between the works council and the employer.

References:

- Act of 5 June 2014 on Occupational Safety (Text No. 1334). (Art 35)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2011
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

8.6.4 Keeping record of the work of joint OSH committees

Restrictions/obligations: 34(7) "The Committee shall meet at least once every three months and keep minutes about its work."

Remarks/comments: The OSH Act provides the obligation to meet regularly and keep the minutes of work, but it does not go beyond that to specify in more details.

References:

- Act of 5 June 2014 on Occupational Safety (Text No. 1334). (Art 34(7))

8.6.5 Sharing the minutes of joint OSH committees meetings

No data available.

8.7 Mandatory training for members of joint OSH committee(s)

Summary/Citation: 21(1)" Occupational health and safety tasks are in particular:

7) training of employees, employers and authorized officers for work in a safe manner,
8) training of employees' occupational health and safety commissioners and assistance in their activities."

22(2) "The employer shall be obliged to provide professional health and safety training to the health and safety specialist and bear the cost of that training."

29 "The employer or his authorized officer shall be educated and professionally trained in the field of occupational health and safety in accordance with risk assessment."

71(2) "The employees' commissioner for occupational health and safety shall be entitled to:

11) undergo training enabling him to perform the duties of employees' commissioner for occupational health and safety."

Remarks/comments: The Act has provisions for training of the members of the OSH Committee and it also defines this training as pertaining to the definitions of occupational health and safety tasks. It is necessary to also mention that the Ministry of Labour and Pension System has provided an Ordinance on Occupational Health and Safety Training and Taking of Professional Examinations.

References:

- Act of 5 June 2014 on Occupational Safety (Text No. 1334). (Art 21(1) subparas (7,8), 22(2), 29, 71(2) subpara (11))

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2011
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

8.8 Protection against reprisals

Summary/Citation: 69(1) "The employee shall cooperate with the employer, its authorized officer, occupational health and safety specialist, employees' commissioner for occupational health and safety and specialist in occupational medicine in order to resolve all matters concerning occupational health and safety, in particular for as long as necessary to ensure that the working environment and working conditions pose no risk to safety and health and until occupational health and safety measures entirely comply with the requirements set out by the bodies competent for supervision of occupational health and safety.

69(2) The employee shall not bear the costs of implementing occupational health and safety rules and health protection measures.

69(3) The employee shall immediately notify the employer, its authorized officer, occupational health and safety specialist or employees' commissioner for occupational health and safety of any issue believed to be posing an immediate risk to health and safety, as well as of any other shortcomings identified in the occupational health and safety system.

69(4) The employee shall have the right to refuse work and leave the workplace if faced with an immediate risk to his life and health, until such time as the employer takes remedial measures, and shall not be placed at a disadvantage because of his actions.

69(5) The employer shall not require employees to remain at his workplace as long as there exists an immediate and serious risk to the life and health of employees.

69(6) The employee shall notify the employer, its authorized officer, occupational health and safety specialist or employees' commissioner for occupational health and safety of the procedure referred to in paragraph 4 of this Article.

69(7) In the case referred to in paragraph 4, the employer, its authorized officer or employee or commissioner for occupational health and safety shall without delay notify the competent inspector who shall, within 48 hours, establish the facts and merits of the claims put forward by the employees.

69(8) For the period during which the employee does not perform his duties so as to avoid exposure to immediate and serious risk to his life and health, the employee shall be entitled to salary and other rights arising from employment in accordance with labour law."

Restrictions/obligations: 117(1) "Temporary absence from work due to illness or injury shall not constitute a just cause for terminating the employment contract.

117(2) An appeal or civil action, or participation in a proceeding against the employer due to violation of laws, regulations or administrative provisions, collective agreement or working regulations, or the worker's approach to the competent state authorities shall not constitute a just cause for terminating the employment contract.

117(3) The worker's approach to the competent persons or state authorities on the grounds of reasonable suspicion of corruption or his report in good faith on the said suspicion shall not constitute a just cause for terminating the employment contract."

Remarks/comments: The OSH Act doesn't provide protection against reprisals per se, but due to the *lex generalis – lex specialis* nature between the Labour Act and the OSH Act, wherever the OSH Act lacks in provisions, the Labour Act provisions apply in order to fill the void.

References:

- Labour Code of 18 July 2014 (Text No. 1872). (Art 117)
- Act of 5 June 2014 on Occupational Safety (Text No. 1334). (Art 69)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2011
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

8.9 Immunity from civil and criminal liability for exercising OSH related rights and duties

Summary/Citation: 18(4) "Omissions in the procedure of risk assessment (e.g. failure to perceive the likelihood of occurrence of hazardous or harmful event at work or in relation to work, incorrect assessment of harmfulness of the event, i.e. underestimation of its harmful effects, etc.) do not absolve the employer from obligations and liabilities in relation to occupational health and safety."

19(1) "The employer shall be responsible for the organization and implementation of occupational health and safety of employees in all segments of the organization of work and in all work processes.

19(4) The transfer of authority for the implementation of occupational health and safety does not absolve the employer from liability."

25(1) "Injury at work and occupational disease suffered by an employee performing duties in the undertaking shall be considered to have originated from work and the employer shall be liable for it according to the principle of objective liability.

25(2) The employer may be exonerated from liability or his liability may be limited if the damage occurred is due to force majeure, or intentional or gross negligence of the employee or a third party where the employer could not have influenced or avoided the consequences, in spite of the implemented occupational health and safety."

26(1) "The authorized person referred to in Article 82 of this Law shall be liable for damage at work and in relation to work which he causes to the employer, i.e. to the employee by performing tasks of occupational health and safety, if he does not act in compliance with the provisions of this Act and other regulations.

26(2) For the purpose of determining the liability referred to in paragraph 1 of this Article general provisions of the law of obligations shall be applied."

77(4) "The appointment of a coordinator shall not relieve designers, contractors and other persons on the construction site, or parties concerned in the construction, of their responsibilities for the implementation of occupational health and safety measures."

Restrictions/obligations: 82(1) "Employer's occupational health and safety matters shall be carried out by authorized persons.

82(2) A person authorized to manage occupational health and safety matters shall deal with those matters in accordance with the provisions of this Act and other regulations on occupational health and safety.

82(4) The investor, building owner, concessionaire or other person for whom a main project is being designed must appoint one or more coordinators for occupational health and safety matters

during the project design and project execution stages in cases when the works are carried out or are scheduled to be carried out by two or more contractors.

82(6) The appointment of coordinators for health and safety matters shall not relieve the persons referred to in paragraph 4 of this Article, or the parties concerned in the construction, of the responsibility for the implementation of safety measures on the work site."

Remarks/comments: The Act does not define civil or criminal liability for persons exercising their OSH related rights and duties, but it does define the employer's responsibilities and through that it can be said that since the employer is responsible, others are not, except in cases where the employer can be absolved from liability for OSH duties. Article 82 defines the authorised person as one tasked to manage occupational health and safety tasks by the employer.

References:

- Act of 5 June 2014 on Occupational Safety (Text No. 1334). (Art 18(4), 19(1,4), 25(1,2), 26(1,2), 77(4), 82(1,2,4,6))

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2011
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

9 Specific hazards or risks

9.1 Biological hazards

Summary/Citation: If an employee is working under conditions of exposure to biological harms, the employer shall be obliged to apply occupational health and safety rules in the following sequence: he/she must avoid the use of a biological harm, i.e. replace it with an agent which is not harmful. If the use of biological harms cannot be avoided or if they cannot be replaced with an agent which is not harmful, the employer shall be obliged to ensure the use of an agent which is less harmful to the health and safety of the employees.

The definition of hazardous agents can be found in the Act of 5 June 2014 on Occupational Safety: "Biological harms are biological agents i.e. microorganisms, including genetically modified cell

cultures and endoparasites of human and animal origin which may cause infection, allergy or poisoning, used at work or which are present in the work environment."

References:

- Act of 5 June 2014 on Occupational Safety (Text No. 1334). (Art. 50 §3)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2011
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

9.2 Chemical hazards

Summary/Citation: The employer may use hazardous chemicals only if he/she cannot achieve the same work results by applying harmless chemicals. If it is not possible to replace hazardous chemicals with harmless or less harmful chemicals, the employer shall be obliged to determine whether the application of another work process can reduce the risk or harm of their use.

The obligation of the employer shall be to ensure that the concentration of hazardous chemicals, which act in the form of gases, vapours, dust and aerosols, at workplaces and their environment is as low as possible and below the exposure limit value.

References:

- Act of 5 June 2014 on Occupational Safety (Text No. 1334). (Art. 47 § 1 - 2)

9.2.1 Handling, storage, labelling and use

Summary/Citation: Hazardous chemicals should be packed and labelled in such a way that when used there is no risk or harm to the health and safety of the employees. When storing hazardous chemicals, the employer shall be obliged to ensure the application of occupational health and safety rules in accordance with the properties of these chemicals. The employer shall be obliged to ensure that the packaging remaining after the use of hazardous chemicals is handled in accordance with occupational health and safety rules and that it is disposed of in accordance with special regulations.

References:

- Act of 5 June 2014 on Occupational Safety (Text No. 1334). (Art. 50 § 1 - 4)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2011
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016
- Benzene Convention, 1971 (No. 136) Direct Request 2005

9.2.2 Duty of manufacturers, suppliers and importers of chemicals in relation to the safety and health of users

No data available.

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2011
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016
- Benzene Convention, 1971 (No. 136) Direct Request 2005

9.2.3 Pesticides

Summary/Citation: All professional users, distributors and advisers must have appropriate training, which consists of a basic module and additional training modules for acquisition and restoration of adequate knowledge of safe handling of pesticides and proper application of pesticides.

The procedures for handling and storage pesticides are set out in the Act of 5 February 2014 on Sustainable use of Pesticides which are implementing the Directive 2009/128/EC of the European Parliament and of the Council of 21 October 2009 establishing a framework for Community action to achieve the sustainable use of pesticides.

References:

- Act of 5 February 2014 on Sustainable use of Pesticides 20140205 (Art 5)

9.3 Ergonomic hazards

Summary/Citation: For the purpose of improving safety and protecting health of employees, the employer shall be obliged to improve the level of occupational health and safety and coordinate

work processes with changes and advances in the field of technology, health care, ergonomics and other scientific and technical fields.

References:

- Act of 5 June 2014 on Occupational Safety (Text No. 1334). (Art. 17 § 5)

9.4 Physical hazards

9.4.1 Ionising radiation

Summary/Citation: Any legal or natural person who has been given a license for the use and marketing of sources of ionizing radiation shall bear the responsibility and costs of implementation of measures for protection against ionizing radiation.

Legal or natural person who has been given the license for the use and marketing of sources of non-ionizing radiation is obligated to provide the necessary protective equipment to exposed persons, check the accuracy of the protective equipment by the authorized legal entities and to measure levels of non-ionizing radiation within the prescribed deadlines.

References:

- Act of 26 May 2006 on protection from ionising radiation and security of ionising radiation sources (Text No. 1544). (Art 30 and 31)

9.4.2 Vibration and noise

Summary/Citation: Risks related to exposure to noise should be eliminated at source or reduced to a minimum according to the principles of prevention laid down in the Regulation of 11 June 2010 on the protection of workers from exposure to noise at work.

If the risk assessment indicates that the noise level of the working environment is more than allowed, employer shall develop and implement a program of technical and / or organizational measures that aim to reduce the exposure to noise. This can be done by: reducing employee's exposure to noise by introducing the methods of work that require less exposure to noise, the supply of workers with personal protective equipment, adequate information and training, which shall instruct workers to use work equipment in the right way in order to reduce their exposure to noise to a minimum. Workplaces at which workers are likely to be exposed to noise exceeding the upper exposure action values shall be marked with appropriate signs.

References:

- Regulation of 23 April 2008 on the Protection of Workers from Exposure to Noise at Work 20080423 (Art 7)

Related CEACR Comments

- Working Environment (Air Pollution, Noise and Vibration) Convention, 1977 (No. 148) Direct Request 2016

9.4.3 Working at height

Summary/Citation: Falls from a height must be physically prevented by fencing all work places at height by fences strong enough and high enough, having at least a floor board edge and handrail. Work at a height of more than 3 m is considered particularly dangerous. Work at a height cannot be carried out without the proper equipment or the without usage of safety devices such as protective cage, platform, safety nets. If usage of such equipment or device is not possible because of the nature of the work, adequate security shall be provided using different means.

References:

- Regulation of 11 June 2014 on Occupational Safety at Temporary or Mobile Construction Sites 20140611 (Annex II and IV)

9.4.4 Working in confined spaces

No data available.

9.4.5 Risks arising from poor maintenance of workplace facilities

Summary/Citation: The employer shall be obliged to ensure that used workplaces are at all times safe, maintained, adapted to work and in good condition, in accordance with occupational health and safety rules. The employer shall be obliged to cease work in buildings intended for work in which occur changes presenting a risk to the safety and health of the employees

References:

- Act of 5 June 2014 on Occupational Safety (Text No. 1334). (Art. 41)

9.4.6 Exposure to extreme temperatures

No data available.

9.4.7 Fire risks

Summary/Citation: The employer shall take the necessary measures to ensure fire prevention measures and rescue operations, draw up an evacuation and rescue plan, designate employees who will implement the measures, and ensure that the public fire prevention and rescue service can be called and can intervene, in accordance with special regulations.

References:

- Act of 5 June 2014 on Occupational Safety (Text No. 1334). (Art. 55)

9.4.8 Tobacco

Summary/Citation: The employer shall implement measures protecting non-smokers from tobacco smoke. Smoking during work-related meetings shall be prohibited. Smoking in the workplace shall be prohibited. The employer may, in writing, allow smoking only in a designated room or area with a sign which makes visible that smoking is permitted.

References:

- Act of 5 June 2014 on Occupational Safety (Text No. 1334). (Art. 57)

9.4.9 Asbestos

Summary/Citation: The employer shall not assign young workers, pregnant and lactating women to jobs where they could be exposed to asbestos dust or dust materials containing asbestos.

The regulation also sets guidelines for asbestos removal, disposal, and labelling of asbestos products. The employer must direct each employee who could be exposed to asbestos dust or dust materials containing asbestos, before the beginning of work on these tasks, to the medical examination at a health facility which consists of Occupational Health or private practice

occupational medicine specialist, to determine whether it meets the prescribed requirements for working on those jobs.

References:

- Regulation of 18 April 2008 on the Protection of Workers From Risks Related to Exposure to Asbestos 20080418 (Art 4)

Related CEACR Comments

- Asbestos Convention, 1986 (No.Â 162) Observation 2015
- Asbestos Convention, 1986 (No.Â 162) Direct Request 2003

[9.4.10 Risks related to nanotechnology](#)

No data available.

[9.4.11 Contraction of HIV in the workplace](#)

No data available.

[9.5 Psychosocial hazards](#)

[9.5.1 Psychosocial risks](#)

Summary/Citation: The definition of mobbing is not directly mentioned in Croatian Labour Act. However, any direct or indirect discrimination in the area of labour and working conditions shall be prohibited, including the selection criteria and requirements for employment, advance in employment, professional guidance, education, training and retraining, in accordance with The Labour Act and special laws and regulations. The employer shall be obliged to protect the worker's dignity during the work in case of acts, uncalled for and contrary to the Labour Act and special legal provisions, of superiors, collaborators and persons with whom the worker contacts on a regular basis while performing his/her tasks. The procedure and measures for the protection of workers' dignity from harassment or sexual harassment is regulated by special legislation, collective agreements, agreements between the works council and the employer or working regulations.

References:

- Labour Code of 18 July 2014 (Text No. 1872). (Art. 174)

9.5.2 Occupational violence

No data available.

9.6 Other hazardous substances

Summary/Citation: Special requirements apply to the employers hiring employees working under conditions of exposure to carcinogenic or mutagenic chemical substances. Such employees are subject to a periodic medical examination.

The employer must replace carcinogenic and/or mutagenic substances by harmless or less harmful substances, mixtures or procedures which, depending on the situation and the conditions of use are not dangerous or are less dangerous to the health and safety of workers, and if this is not possible, the employer shall reduce the use of carcinogens and / or mutagenic in the work process to a minimum.

References:

- Regulation of 21 August 2015 on Rules on the Protection of Workers From Risks Related to Exposure to Carcinogens and / or Mutagens 20150821 (Art. 5 § 1)

9.7 Machineries

9.7.1 Risks related to machinery and tools

Summary/Citation: Inspection and testing of work equipment refers to the work equipment consisting of machinery, plants and the means of transport and cargo. Inspection and testing of work equipment shall be carried out to verify the fulfilment of health safety requirements on work equipment, or to detect and eliminate defects that could endanger the safety and health of the operator and other workers in the area in which the work equipment is used.

References:

- Regulation of 19 February 2016 on Rules on the Examination and Testing of Work Equipment 20160219 (Art 1)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2011

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016
- Guarding of Machinery Convention, 1963 (No. 119) Observation 2012
- Guarding of Machinery Convention, 1963 (No. 119) Direct Request 2016

9.7.2 Duty of designers and/or manufacturers of machineries in relation to the occupational safety and health of operators of machineries

Summary/Citation: The manufacturer of machinery or his/hers authorized representative must ensure that he made a risk assessment, to determine the health and safety requirements applicable to machinery. Machinery must be designed and constructed taking into account the risk assessment.

The machine should be designed and constructed in such a way that, under the intended conditions of use, the discomfort, fatigue and physical and psychological stress faced by the operator are being minimized, reduced to the lowest possible level, taking into account ergonomic principles.

References:

- Regulation of 28 June 2013 on Rules on Safety of Machinery 20130628 (Annex I)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2011
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016
- Guarding of Machinery Convention, 1963 (No. 119) Observation 2012
- Guarding of Machinery Convention, 1963 (No. 119) Direct Request 2016

9.7.3 Duty of designers, manufacturers, importers or suppliers of machineries to provide machineries information

Summary/Citation: The information and warnings on the machine shall be indicated in the form of easily understood symbols and pictograms. When the machines are placed on the market and / or put into service on Croatian territory all written or verbal information and warnings must be in the Croatian language and the Latin script, and upon the request, on any other official language or languages of the European Union, understood by the operator.

References:

- Regulation of 28 June 2013 on Rules on Safety of Machinery 20130628 (1.7.1)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2011
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016
- Guarding of Machinery Convention, 1963 (No. 119) Observation 2012
- Guarding of Machinery Convention, 1963 (No. 119) Direct Request 2016

[9.7.4 Duty to purchase machineries from authorised/certificated suppliers or only if approved/certificated](#)

Summary/Citation: If the machinery and other technical devices that do not meet the criteria necessary to obtain a certificate, the manufacturer shall stop putting the machinery in question on the market.

References:

- Regulation of 28 June 2013 on Rules on Safety of Machinery 20130628 (Annex IX)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2011
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016
- Guarding of Machinery Convention, 1963 (No. 119) Observation 2012
- Guarding of Machinery Convention, 1963 (No. 119) Direct Request 2016

[9.7.5 Maintenance of machinery and equipment](#)

Summary/Citation: Points for the installation and maintenance shall be located outside the zone of danger. Adjustment, maintenance, repair, cleaning and servicing must be possible while the machines are not operating. Control of the machines shall be carried out by the qualified personnel.

References:

- Regulation of 28 June 2013 on Rules on Safety of Machinery 20130628 (Annex IX)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2011
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

9.7.5.1 List of equipment where applicable

No data available.

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2011
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

9.8 Provisions to protect workers in specific condition of vulnerability

9.8.1 Protection of pregnancy at work

Summary/Citation: The Labour Act also specifically protects women who are pregnant or breastfeeding.

The employer may not refuse to employ a woman due to her pregnancy or offer her the conclusion of an amended employment contract under less favourable conditions on the grounds of her pregnancy, recent childbirth or breastfeeding within the meaning of specific provisions. The employer may not request any information whatsoever about pregnancy or direct any other person to do so, unless the worker personally demands for a particular entitlement provided for by laws, regulations and administrative provisions for the purpose of protecting pregnant workers.

The employer shall be obliged to offer a pregnant worker, a worker who has recently given birth or is breastfeeding, who performs works that have harming effects on her or the child's life or health, an appendix to the employment contract during the entitlement period providing for a fixed-term performance of other appropriate tasks.

References:

- Labour Code of 18 July 2014 (Text No. 1872). (Art 30 and 31)

Related CEACR Comments

- Benzene Convention, 1971 (No. 136) Direct Request 2005

9.8.2 Protection of lactating women at work

Summary/Citation: A female employee breast-feeding a child is entitled to two half-hour breaks from work included in the working time. A pregnant employee or an employee who has given birth or an employee who is breastfeeding a child is not required to work at night during pregnancy, in the period up to one year of age of a child or the period while breastfeeding.

References:

- Maternity and Parental Benefits Act of 9 July 2008 (Text No. 2727). (Art 20)

Related CEACR Comments

- Benzene Convention, 1971 (No. 136) Direct Request 2005

9.8.3 Limits to women's access to specific occupations, undertakings or shifts

No data available.

Related CEACR Comments

- Underground Work (Women) Convention, 1935 (No. 45) Direct Request 2015

9.8.4 Limits to workers' access to specific occupations, undertakings or shifts by reason of age

Summary/Citation: Minors may not be employed to perform works likely to harm their safety, health, morals or development. It shall be prohibited to employ a person under fifteen, of fifteen or above fifteen years of age and under eighteen years of age who is still subject to compulsory full-time elementary schooling.

References:

- Labour Code of 18 July 2014 (Text No. 1872). (Art 21 and 31)

Related CEACR Comments

- Minimum Age Convention, 1973 (No. 138) Observation 2010
- Minimum Age Convention, 1973 (No. 138) Direct Request 2016

- Night Work of Young Persons (Industry) Convention (Revised), 1948 (No. 90) Direct Request 2016

10 Recording, notification and investigation of accidents/incidents and diseases

10.1 Duty to record and/or investigate the causes of work accidents, near misses incidents and cases of occupational diseases

10.1.1 Work-related accidents

Summary/Citation: The employer shall keep records and documents and provide information and notifications in accordance with this Act and other occupational health and safety regulations.

Remarks/comments: Act concerning mandatory health insurance, Article 66: Occupational accident is an injury caused by direct and short mechanical, physical or chemical act and injury caused by sudden changes in the position of a body and other similar changes of the physical condition of a body that is connected with a work.

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2011
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

10.1.2 Near miss incidents

Summary/Citation: The employer shall keep records of near miss incidents, i.e. unexpected and undesirable events at work or in relation to work without an injury to the employee, but if repeated in minimally altered subjective or objective circumstances injury could be caused.

Remarks/comments: Explanation of near miss incident is given in Article 3(7) of The Occupational Health and Safety Act as an unexpected and undesirable event at work or in relation to work without an injury to the employee, but if repeated in minimally altered subjective or objective circumstances injury could be caused.

References:

- Act of 5 June 2014 on Occupational Safety (Text No. 1334). (Art.61)

10.1.3 Occupational diseases

Summary/Citation: "(1) The employer shall keep records and documents and provide information and notifications in accordance with this Act and other occupational health and safety regulations .

(2) In addition to the records referred to in paragraph 1 of this Article, the employer shall keep records of injuries at work, occupational diseases and occupational accidents.

(3) The employer shall provide notifications and information in such a manner so as to protect the employees' privacy in accordance with special provisions on personal data protection."

References:

- Act of 5 June 2014 on Occupational Safety (Text No. 1334). (Art.61)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2011
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

10.2 Employers' duty to notify OSH authorities of work related death and/or injuries to health

Summary/Citation: (1) The employer shall notify the body competent for inspection of a fatal and serious injury which has taken place in any premises or area where the employer carries out its activities.

(2) The notification referred to in paragraph 1 of this Article shall be submitted by the employer immediately after the injury has occurred.

Internal Remarks/comments: The notification procedure is not prescribed by the law.

Unable to provide required act or provision.

References:

- Act of 5 June 2014 on Occupational Safety (Text No. 1334). (Art.65)

Related CEACR Comments

- Labour Inspection Convention, 1947 (No. 81) Observation 2015
- Labour Inspection Convention, 1947 (No. 81) Direct Request 2015
- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2011
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

11 OSH inspection and enforcement of OSH legislation

11.1 Appointment of OSH inspectors

Summary/Citation: The labour inspector and the senior labour inspector shall survey the implementation of the law and other regulations in the area of labour and occupational health and safety.

References:

- Law of State Inspectorate 20081002 (Art. 15, 16)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2011
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

11.2 OSH inspectors' powers

11.2.1 Power to enter workplaces

Restrictions/obligations: Natural and legal persons that are subjects to this law are obliged to enable conducting of the inspectorate according to the Article 27 (1) and (3) and ensure conditions for undisturbed work of the inspector.

References:

- Law of State Inspectorate 20081002 (Article 30 (1))

Related CEACR Comments

- Labour Inspection Convention, 1947 (No. 81) Observation 2015
- Labour Inspection Convention, 1947 (No. 81) Direct Request 2015

11.2.2 Power to inspect and carry out any examination, test or enquiry

Summary/Citation: In conducting inspection supervision a State Inspectorate inspector is authorised to photograph and videotape persons, inspect, photograph and videotape buildings, facilities, business premises, and other rooms and premises; ports, temporary work sites; performance of works, structures intended for work with pertaining areas, rooms and installations; household rooms and areas or residential buildings, apartments and houses for rent where catering and tourist services are provided to travellers and tourists; products, appliances, equipment, instruments of labour, vehicles, business books, register files, documents, contracts, certificates and other business records which allow access to business transactions conducted by a legal or a natural person concerned.

The labour inspector shall carry out the inspection at the site of an incident which has resulted in death, injury of several persons or a serious injury of an employee, or a disruption of work that may have had harmful effects on employees' safety and health which has happened at the employer's facility where a case of occupational disease has been reported.

References:

- Law of State Inspectorate 20081002 (Art. 36, 56)

Related CEACR Comments

- Labour Inspection Convention, 1947 (No. 81) Observation 2015
- Labour Inspection Convention, 1947 (No. 81) Direct Request 2015

11.2.3 Power to investigate

Summary/Citation: The labour inspector shall investigate at the site of an incident which has resulted in death, injury of several persons or a serious injury of an employee, or a disruption of work that may have had harmful effects on employees' safety and health which has happened at the employer's facility where a case of occupational disease has been reported.

References:

- Law of State Inspectorate 20081002 (Art. 56)

11.2.4 Duty to provide advice on OSH

Remarks/comments: According to Law of State Inspectorate, after completing inspection work, an inspector may inform and advise the legal or natural persons undergoing inspection on the most efficient ways of implementing laws and other regulations, if she/he considers this useful or necessary. However, this implies a power, not a duty upon the inspector.

References:

- Law of State Inspectorate 20081002 (Art. 32)

Related CEACR Comments

- Labour Inspection Convention, 1947 (No. 81) Observation 2015
- Labour Inspection Convention, 1947 (No. 81) Direct Request 2015

11.3 OSH inspectors' enforcement powers

11.3.1 Power to issue orders or notices

Summary/Citation: An inspector has a power to issue administrative measures such as order or notices for those situations when such is prescribed by the law.

References:

- Law of State Inspectorate 20081002 (Art. 2)

Related CEACR Comments

- Labour Inspection Convention, 1947 (No. 81) Observation 2015
- Labour Inspection Convention, 1947 (No. 81) Direct Request 2015

11.3.2 Power to impose financial penalties

No data available.

11.3.3 Power to revoke or suspend licenses or authorisations

Summary/Citation: In conducting inspection supervision, a labour inspector shall give a verbal order entered into the record prohibiting the employer, for a limited period of time of a minimum of 30 days, until the established irregularities have been removed.

References:

- Law of State Inspectorate 20081002 (Art. 58)

Related CEACR Comments

- Labour Inspection Convention, 1947 (No. 81) Observation 2015
- Labour Inspection Convention, 1947 (No. 81) Direct Request 2015

11.3.4 Power to require the cessation of dangerous work

No data available.

Related CEACR Comments

- Labour Inspection Convention, 1947 (No. 81) Observation 2015
- Labour Inspection Convention, 1947 (No. 81) Direct Request 2015

11.3.5 Power to initiate prosecutions

Summary/Citation: An inspector shall initiate proceedings ex officio or exceptionally at the request of a party concerned, if provided by the law.

References:

- Law of State Inspectorate 20081002 (Art. 33)

11.3.6 Power to conduct prosecutions

No data available.

11.3.7 Other enforcement powers

No data available.

11.4 Application of sanctions by courts

Yes.

11.4.1 Financial penalties for legal persons

Summary/Citation: The Law of State Inspectorate prescribes in details fines that may be imposed on natural or legal persons for certain non-compliances with the law, such as for the act of preventing inspector from doing his or her work or who fails to create conditions for undisturbed inspection.

Internal Remarks/comments: Unable to find specific provision as required

References:

- Law of State Inspectorate 20081002 (Art. 61, 63, 64, 65)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2011
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

11.4.2 Financial penalties for natural persons

Summary/Citation: The Law of State Inspectorate prescribes in details fines that may be imposed on natural or legal persons for certain non-compliances with the law, such as for the act of preventing inspector from doing his or her work or who fails to create conditions for undisturbed inspection.

Internal Remarks/comments: Unable to find required provision.

References:

- Law of State Inspectorate 20081002 (Art. 61-66)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2011
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

11.4.3 Non-financial sanctions

Summary/Citation: The Law of State Inspectorate prescribes that in addition to fine a protective measure prohibiting certain actions or activities to a legal or natural person may be imposed.

References:

- Law of State Inspectorate 20081002 (Art. 66)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2011
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

11.4.4 Criminal liability

No data available.

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2011
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

11.4.5 Terms of imprisonment for natural persons

No data available.

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2011
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

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1. Description of national OSH regulatory framework

1.1 Description of OSH regulatory framework

Summary/Citation: In Cyprus, the main provisions on occupational safety and health are included in the Safety and Health at Work Law 89 (I) of 1996. This piece of legislation imposes duties on employers, self-employed persons, employees' designers, manufacturers, importers, and suppliers of articles and substances for use at work to ensure the safety of persons at work and of persons who may be affected by their actions. What is more, there are several provisions regarding qualified inspectors, who pay regular visits to workplaces to ensure compliance with all the legal provisions and Regulations.

According to Article 38 of Safety and Health at Work Law, the Council of Ministers has the power to issue Regulations regarding health and safety for the prosperity of the people. The Safety and Health at Work Law (No. 89(I) of 1996) underwent a series of amendments. The Act, has been amended by The Safety and Health at Work (Amendment) Law (No. 158(I) of 2001) (Department of Labour Inspection); The Safety and Health at Work (Amendment) Law (No. 25(I) of 2002) which amended the Laws of 1996 and 2001 concerning occupational safety and health; The Safety and Health at Work (Amendment) Law (No. 41(1) of 2003) concerning health and safety at work amending The Safety and Health at Work Law (No. 89(I) of 1996), Law The Safety and Health at Work (Amendment) Law (No. 158(I) of 2001), and The Safety and Health at Work (Amendment) Law (No. 25(I) of 2002); The Safety and Health at Work (Amendment) Law (No. 99(I) of 2003) amending The Safety and Health at Work (Amendment) Law (No. 89(I) of 1996), Law The Safety and Health at Work (Amendment) Law (No. 158(I) of 2001), and The Safety and Health at Work (Amendment) Law (No. 25(I) of 2002); The Safety and Health at Work (Amendment) Law (No. 41(I) of 2003); The Safety and Health at Work (Amendment) Law (No. 33(I) of 2011)(n6); and Occupational Safety and Health (Amendment) Law (No. 170(I) of 2015) and Occupational Safety and Health (Amendment No 2) Law (No. 178(I) of 2015). Their official Cypriot citation is as follows: Law No. 170(I) of 2015 concerning health and safety at work (amending Law No. 89(I) of 1996), Ε.Ε. Παρ. Ι(Ι), Αρ. 4542, 2.12.2015; Law No. 178(I) of 2015 concerning health and safety at work (amending Law No. 89(I) of 1996), Ε.Ε., Παρ.Ι(Ι), Αρ.4543, 9/12/2015.

References:

- The Safety and Health at Work (Amendment) Law of 2015 (L.178 (I)/2015), Art. 2A
- The Safety and Health at Work (Amendment) Law of 2015 (L.170 (I)/2015) Art. 38

2. Scope, coverage and exclusions

2.1 Health and Safety covers physical and psychological health

Summary/Citation: The Safety and Health at Work Law 89 (I) of 1996 defines bodily harm as health damage and then clarifies that the definition health includes both physical and psychological health, which affect and have direct relation to the safety and the health of workers.

References:

- The Safety and Health at Work (Amendment) Law of 2001 (L.158 (I)/ 2001), Art. 2

2.2 Definition of worker

Summary/Citation: “Employee” means a person who works under a contract of employment, or a trainee or an apprentice and includes persons who, as inmates of institutions, carry out work entrusted to them and the expression “employment” shall be construed accordingly;

Reference:

- The Safety and Health at Work (Amendment) Law of 2011 (L.33 (I)/2011), Art. 2

2.2.1 Coverage of particular categories of workers

Yes.

2.2.1.1 Migrant workers

Summary/Citation: According to the Constitution of the Republic of Cyprus 1960, migrant and local workers shall be treated equally. Nevertheless, under the Foreigners and Immigration Law CAP.105, if a migrant worker is a threat to the Government he or she shall be expelled.

Remarks/Comments: Cyprus ratified the Migrant Workers (Supplementary provisions) Convention, 1975, No.143 with the Convention on Migrants, Workers (Supplementary Provisions) (Ratification) Law of 1977.

References:

- Constitution of the Republic of Cyprus (0/1960), Art. 28(2)
- The Aliens and Immigration Law Cap.105 (1959 edition), Art. 14A

2.2.1.2 Domestic workers

Summary/Citation: The Safety and Health at Work (Amendment) Law 33 (I) of 2011 applies to all domestic workers, in addition to in situations when a person is employed as a domestic worker in a private household, without prejudice to provision in the Constitution of Cyprus protecting the inviolability of every person's residence.

References:

- Constitution of the Republic of Cyprus 1960, Art. 16
- The Safety and Health at Work (Amendment) Law of 2011 (L.33 (I)/2011), Art. 3(3), Art. 3(4)

2.2.1.3 Home workers

No data available.

2.2.1.4 Self-employed persons

Summary/Citation: A self-employed person, according to the Safety and Health at Work Law of 1996, means a person who works for the purpose of gain or reward otherwise than under a contract of employment, whether or not he employs others; The provisions of this Law apply to self-employed persons, in case their activities or omissions directly affect the life, the physical integrity or health of other persons. Self-employed persons have a series of obligations, like all employers, such as for example to provide first aid, depending on the circumstances of the operation. Furthermore, self-employed persons have the duty to take measures to prevent exposure to harmful substances, in addition to measures prevent exposure to noise, whose source is under control of the self-employed person according to each case.

References:

- The Safety and Health at Work Law of 1996 (L.89 (I)/1996), Art. 2, Art. 28(2), Art. 37
- The Safety and Health at Work (Amendment) Law of 2011 (L.33 (I)/2011), Art.3(7), Art.14, Art.36

2.3 Definition of employer

Summary/Citation: According to the Safety and Health at Work Law 89(I) of 1996 and its 2011 amendment, an employer is any person who is responsible for the workplace, the premises, the undertaking and/or establishment, in which the employee works or is employed. This Law sets out the general duties of an employer regarding his or her employees' safety, health and welfare at work. Any employer that has more than 200 employees is obligated to have a Security Officer. Furthermore, an employer has a duty to take measures to ensure that his or her employees are prevented from being exposed to harmful substances to their health and to noise while at work.

References:

- The Safety and Health at Work Law of 1996 (L.89 (I) /1996), Art. 2, Art. 28(1), Art. 37
- The Safety and Health at Work (Amendment) Law of 2011 (L.33 (I)/2011), Art. 10, Art.13, Art.36

2.4 Exclusion of branches of economic activity

2.4.1 Agriculture

Summary/Citation: The Safety and Health at Work Law 89 (I) of 1996 states that 'agriculture' has the same meaning as in the Factories Act Cap.134 and also states that 'agricultural work' is defined accordingly. According to Factories Act Cap.134, "agriculture" includes horticulture, seed production, plant production, forestry, farming and keeping of animals (including the transfer of up to slaughter point or export), apiculture, sericulture and preparation of land for agricultural use and "agricultural" shall be construed accordingly.

References:

- The Safety and Health at Work Law of 1996 (L.89 (I)/1996), Art. 2
- The Factories Law of 1956 (Cap.134), Art. 3

2.4.2 Construction

Summary/Citation: The Safety and Health at Work (Amendment) Law 33 (I) of 2011 provides that constructions are included in the definition of premises, and they include, inter alia, construction projects, road constructions, drainage projects and underground or over-ground pipelines.

References:

- The Safety and Health at Work (Amendment) Law of 2011 (L.33 (I)/2011), Art. 2

2.4.3 Services

Summary/Citation: Services fall within the scope of the Safety and Health at Work Law as amended, and more specifically are envisaged under Art.3 (1) of this Law. Also, according to Art.38A, the Minister shall issue Orders to regulate fixing fees for services provided under this Law, including the approval or authorisation of persons as well as the conduct of examinations, inspections, tests, surveys, investigations or specialised inspections.

References:

- The Safety and Health at Work (Amendment) Law of 2011 (L.33 (I)/2011), Art. 3(1), Art. 38A (c)

2.4.4 Public sector

Summary/Citation: Public areas fall within the scope of the Safety and Health at Work (Amendment) Law 33 (I) of 2011, with certain exceptions, such as activities in the armed forces, the police, or some activities in the civil protection services. Article 3(1) declares that subject to the provisions of subsection (6), this Law shall apply:

(a) to places of work, premises, businesses, establishments and all public or private areas, such as industrial, agricultural, commercial, administrative, educational, cultural activities, activities for providing recreational services.

(b) in elevator installations and to facilities of pressure vessels; and

(c) in domestic premises and residential premises located in the Republic.

Subjection (6) declares that: This Law does not apply when there are characteristics peculiar to certain public sector activities, such as activities in the armed forces, the police, or to certain activities in the civil protection services:

Provided that, in this case the competent authority shall ensure, as far as possible, the safety and health of the employees in the aforementioned activities, or to third persons who may be affected by these activities, having regard to the objectives and the objective purpose of this Law.

References:

- The Safety and Health at Work (Amendment) Law of 2011 (L.33 (I)/2011), Art. 3(1), Art. 3(6)

2.4.5 Other

No data available.

2.5 Definition of occupational accident

Summary/Citation: There is no specific definition of an “occupational accident” under the Safety and Health at Work Law 89 (I) of 1996, but the Council of Ministers can issue Regulations. The Safety and Health at Work (Accidents and Dangerous Occurrences Notification) Regulations of 2007 (P.I. 531/2007) define what is an “occupational accident” as a particular event which causes physical or mental harm or loss of life to: (a) an employee or a self-employed person during the course of his/her employment or during the normal journey between his/her home and his/her place of work (b) a person who is not at work during the time of the accident, provided that the accident is related to work activities.

References:

- The Safety and Health at Work (Amendment) Law of 2015 (L.170 (I)/2015), Art. 38
- The Safety and Health at Work (Accidents and Dangerous Occurrences Notification) Regulations of 2007 (P.I. 531/2007), Art. 2

2.6 Definition of occupational disease

Summary/Citation: Occupational diseases are those contracted as a result of work or occupational activity, and are caused by elements or substances that indicated set out in The Safety

and Health at Work (Notification of Occupational Diseases) Regulations of 2007 (P.I. 530/2007). The form should be submitted to the District Labour Inspection Office of the District where the accident happened, either directly or through the respective District Social Insurance Office.

Comments: The Accidents and Occupational Diseases (Notification) Law CAP. 176, has been abolished. The Safety and Health at Work (Accidents and Dangerous Occurrences Notification) Regulations of 2007 (P.I. 531/2007) and The Safety and Health at Work (Notification of Occupational Diseases) Regulations of 2007 (P.I. 530/2007) have substituted this Law.

References:

- The Safety and Health at Work (Notification of Occupational Diseases) Regulations of 2007 (P.I. 530/2007) Art. 2, 3 Annex 1, Annex 2

2.6.1 List of occupational diseases

Summary/Citation: Occupational diseases are those contracted as a result of work or occupational activity, and are caused by elements or substances that indicated in Annex 1 and Annex 2 of The Safety and Health at Work (Notification of Occupational Diseases) Regulations of 2007 (P.I. 530/2007).

References:

- The Safety and Health at Work (Notification of Occupational Diseases) Regulations of 2007 (P.I. 530/2007) Art. 2, 3 Annex 1, Annex 2

2.6.2 Mechanism for compensating other diseases as occupational ones

No data available.

3. Institutions and programmes relating to OSH administration and/or enforcement of OSH legislation

3.1 Competent national authority for safety and health at work

Summary/Citation: The Department responsible for issues pertaining to safety and health at work, in Cyprus, is the Department of Inspection of Labour. It operates under the Ministry of Labour and Social Insurance.

References:

- Department of Labour Inspection, Safety and Health at Work, Administrative setup in the area of Safety and Health at Work – An Overview, available at: <http://www.mlsi.gov.cy/Document>

3.1.1 Objectives, roles and/or functions

Summary/Citation: The main focus of the Department of Inspection of Labour is to secure safety and health at work and to safeguard adequate levels of safety and health at work as a way of securing the elimination of work accidents and occupational diseases, whilst also preserving the appropriate protection of work and the general public from activities conducted in the working environment. The fulfilment of the aforementioned aims is accomplished by means of a suitable legislative framework, the implementation of an effective inspection system, a continuous awareness of the public, the training and education of the Department's personnel, and co-operation with social partners.

Comments/remarks: The Department of Labour Inspection is subdivided into 6 divisions. The Division of Health and Safety of the Department of Inspection of Labour deals with the issues of protection of safety, health and well-being of employees at the workplaces. Specifically, it regulates the organisation and management of safety and health issues at work. Moreover, this Division deals with safety and health requirements of the workplaces (buildings, premises, construction sites, dock sites, extractive industries, agricultural, enterprises etc.).

This Division regulates also the issues of safety and health requirements of work equipment (machinery, tools, appliances, pressure vessels, scaffolding, personal protective equipment, etc.), that are used at the workplaces.

Also, it deals with issues related to the risks to health arising from the use of asbestos, chemical agents, biological agents, carcinogenic and mutagenic agents, from physical agents, such as noise and heat, or from ergonomic factors, such as manual lifting and handling of loads, monotonous work, pace of work, etc. Finally, it regulates the issues related to the safety and health of children and young persons at work as well as of maternity protection at work.

References:

- Department of Labour Inspection, Safety and Health at Work available at <http://www.mlsi.gov.cy/mlsi>

3.1.2 Chairperson and composition

Summary/citation: The Chairperson of the Department of Inspection of Labour is the Minister of Labour, who is responsible for the technical advice and the setting of inspection standards for all the sectors.

The Safety and Health at Work Law 89 (I) of 1996 as amended gives power to the Chairperson of the Department to make provision for regulations and propose legislation in relation to the use of specific working areas, arranging for the provision of certificates of use, setting the fees for the authorisation of the personnel, setting the requirements of people providing training, setting the standards and content of the training as well as providing working standards and good practice. The aforementioned sectors are formed following the division by the Minister of Labour deriving power under Article 40 of the Safety and Health at work Act 1996 as amended by Law N.33(I)/2011.

References:

- The Safety and Health at Work (Amendment) Law of 2015 (L.170(I)/ 2015, Art. 38
- The Safety and Health at Work (Amendment) Law of 2011 (L.33 (I)/ 2011), Art. 38A, Art. 40

3.2 National OSH research programme or institute

Comments/Remarks: The eighth fundamental pillar of the Strategy on Safety and Health at Work for the Period 2007-2012 deals with the encouragement of scientific progress and research. The Strategy intends to promote the collaboration between universities, institutes and services in Cyprus and abroad in order to face OSH risks. Assignments of studies to suitable organisations are a means towards this end. The Occupational Health and Safety Training Centre, which is part of the Department of Labour Inspection, is engaged in information, education and training of employers and employees on issues of occupational safety and health, as well as the preparation of specific training programs, manuals and brochures. The main activities of the Occupational Health and Safety Training Centre are the following:

- a) Organisation or co-organisation with other interested parties of training and informative programs, seminars, lectures and other awareness raising activities.
- b) Implementation of training programs of existing Officers / Inspectors of the Department within the Action Plan of the Learning Unit established after the diagnosis of learning needs.
- c) Training of newly employed Officers / Inspectors of the Department of Labour Inspection.
- d) Organisation of the European Week for Safety and Health at Work, as well as of the Information and Inspection Campaigns organised within the framework of the Senior Labour Inspectors Committee of the European Union.
- e) Development, publication and distribution of informative material aiming at increasing awareness of employers and employees.
- f) Mainstreaming of safety and health into other Policy Areas, such as Education.
- g) Organisation or co-organisation of Competitions aiming to raise awareness on health and safety issues.

References:

- Department of Labour Inspection, Training/Raising Awareness, available at: http://www.mlsi.gov.cy/mlsi/dli/dliup.nsf/pagem5_en/pagem5_en?OpenDocument

3.2.1 Objectives, roles and/or functions

No data available.

3.2.2 Governance board constitution and chairmanship

No data available.

3.2.3 Source of funding

No data available.

3.3 National OSH programme

Remarks/comments: The Cypriot Department of Labour Inspection has adopted the Strategy of Cyprus for Safety and Health at Work 2013-2020 setting out the priorities and goals set to achieve the Department's objectives, in which the Minister of Labour, Welfare and Social Security

is in charge of implementing and evaluating it. However, the Institutional Framework is based on the Activities of the Labour Advisory Body, which advises the Minister on all labour issues and presents recommendations and suggestions on the working legislation, and also on the activities of the Pan Cyprian Council of Safety and Health which also advises the Minister. This Strategy Plan is the continuation of the “Strategy of Cyprus on Safety and Health at Work 2007 – 2012” and sets the direction and priorities for the continuous and constant improvement of safety and health levels at work. A number of elements and groups’ opinions were taken into account to prepare the Strategy 2013 - 2020. These were the views of the social partners, the results of the evaluation of the "Strategy of Cyprus for Safety and Health at Work 2007 – 2012", the recommendations of the Committee of Senior Labour Inspectors and of the Advisory Committee on Safety and Health at Work of the European Union on a new European strategy, the strategies of other EU Member States, the experiences gained from the implementation of existing legislation on health and safety at work and the special needs of the Cypriot society. The Strategy of Cyprus for Safety and Health at Work (2013-2020), focuses on the harmonisation of the current legislative framework with the European status quo, while improving the function of the current system. This would only be possible with the encouragement of adopting and making effective use of the academic research in the field and raising awareness in this respect, as well as working towards increasing the public influence towards being more cautious and adopting pro-active policies in dealing with health and safety issues in the workplace. One of the objectives of this strategy is the collaboration of the Department of Labour Inspection with organisations responsible for social care and assistance in a form of providing their support in exploring difficulties that arise and speedily lead to their resolution.

References:

- Strategy of Cyprus for safety and health at work during the period 2013-2020, available at:

https://oshwiki.eu/wiki/Strategy_of_Cyprus_for_OSH_2013-2020

3.3.1 Consultation on the national OSH programme

Summary/Citation: The Safety and Health at Work Law 89(I) 1996 established the Pan-Cyprian Safety and Health Council as a tripartite body (state/employers/employees). The council is a consultative body on OSH matters and provides advice to the Minister of Labour and Social

Insurance on new legislation and measures for the prevention of work accidents and occupational diseases. It consists of representatives from the Ministry of Labour and Social Insurance, the Mines Department of the Ministry of Agriculture, Natural Resources and Environment, the Agriculture Department of the same Ministry, the Employers and Industrialists Federation (OEB), the Cyprus Chamber of Commerce and Industry (KEBE), the major confederations of the trade unions (PEO, SEK, DEOK, POAS), the confederation of the public servants (PASDYD), the Cyprus Scientific and Technical Chamber (ETEK), the Cyprus Union of Bank Employees (ETYK) and the Cyprus Safety and Health Association (SAYK, its English acronym being: CySHA). OSH services in Cyprus provided by the employer to his or her employees are directly associated with the social dialogue mechanisms at the enterprise level (Safety Committees). The Committee submits proposals on OSH measures that may improve the working conditions and the prevention of work related accidents and diseases. It deals with employees' complains on OSH matters, promotes the cooperation within the plant for the implementation of health and safety measures and safe production methods. It also participates in the preparation of Safety Rules for the plant; it oversees the training programmes and the dissemination of information material on OSH. Finally, it collaborates with the Labour Inspector on all OSH matters.

References:

- The Safety and Health at Work (Amendment) Law of 2011 (L.33 (I)/2011), Art. 5
- The Strategy of Cyprus for Safety and Health at Work 2013 – 2020, available at: https://oshwiki.eu/wiki/Strategy_of_Cyprus_OSH_2013-2020

4. Employers' duties and responsibilities to protect the safety and health of workers and others

4.1 Duty to ensure the health and safety of employees

Summary/Citation: It is the duty of every employer to ensure the safety and health at work of all his or her employees, taking into account the general principles concerning the prevention and protection of workers against occupational accidents and diseases. Moreover, appropriate measures should be taken to protect the safety and health of his or her employees that concern

the use, handling storage or transportation of any objects. Cypriot legislation introduced, under Article 13(1) of the Safety and Health at Work as amended, some specific circumstances under which employers can be excluded for such a duty, including inter alia liability for occurrences arising from unconnected to him, unusual and unforeseeable circumstances, or to exceptional events, the consequences of which could not have been avoided despite all due diligence.

References:

- The Safety and Health at Work (Amendment) Law of 2011 (L.33 (I)/2011), Art. 5, Art.13
- The Minimum Requirements for Safety and Health (Use of Work Equipment at Work) Regulations of 2001 (P.I. 444/2001), Art. 4

Related CEACR Comments:

- Occupational Safety and Health Convention, 1981 (No. 155)

4.2 Duty to protect the health and safety of people other than their own employees

Summary/Citation: All employers have a duty to protect the health and safety of people other than their own employees. Employers should take all the appropriate measures to ensure that the health and safety of people other than their own employees is protected. Specifically, employers are under a duty to protect such individuals from exposure to noise at work. If noise comes from a place controlled by the employer, he or she should take reasonable measures to protect those people from that noise.

References:

- The Safety and Health at Work Law of 1996 (L.89(I)/1996), Art. 13, Art.37

Related CEACR Comments:

- Occupational Safety and Health Convention, 1981 (No. 155)

4.3 Collaboration among two or more employers at the same workplace

Summary/Citation: If two or more employers operate their business at the same workplace employers should collaborate to ensure the health and safety of all the people at the workplace.

Moreover, Cypriot legislation indicates that employers and self-employed individuals that use the same workplace should collaborate in order to safeguard the health and safety of anyone working in that workplace.

References:

- The Safety and Health at Work (Amendment) Law of 2011 (L.33 (I)/2011), Art. 13(6)

Related CEACR Comments:

- Occupational Safety and Health Convention, 1981 (No. 155)

4.4 Surveillance of workers' health in relation to work

Summary/Citation: Employers should take all appropriate measures to ensure that his/her employees are not exposed to any substances harmful for workers' health. According to Article 42 of the Health and Safety at Work Law as amended, medical examinations for workers' health surveillance, are conducted by physicians in the speciality of Medicine Division of Labour and by other qualified practitioners who will hold the speciality specified in the relevant decree of the Minister.

Comments/Remarks: The legal framework in relation to the surveillance of workers' health at work is very generic. It does not indicate specific procedures that employers should follow in order to surveillance the worker's health at work. Instead, it classifies specific principles that employers should consider ensuring that the employers' exposure is adequately controlled.

References:

- The Safety and Health at Work (Amendment) Law of 2011 (L.33 (I)/2011), Art 36, Art. 13(3), Art.42

Related CEACR Comments:

- Occupational Safety and Health Convention, 1981 (No. 155)

4.4.1 Specific hazards for which surveillance is required

Summary/Citation: The only specific hazard for which surveillance is required under Cypriot legislation is exposure to noise. According to the provisions of the Health and Safety at Work

(Protection from Noise) Regulations of 2006 those workers who are exposed to noise above the prescribed level in the relevant legislation, in which the level of noise is above 87 dB, shall be subject to hearing test so arranged by the employer. The interval between such tests will depend upon the exposure levels. The said worker shall be informed of the results of the test.

References:

- The Safety and Health at Work (Protection from Noise) Regulations of 2006 (P.I.317/2006), Art.11

Related CEACR Comments:

- Occupational Safety and Health Convention, 1981 (No. 155)

4.5 Surveillance of the working environment and working practices

Summary/Citation: Employers have a duty to provide their employees with all the necessary support to ensure the employees' health and safety is at a reasonable level. Employers have a duty to ensure the surveillance of the workplace to a reasonable extent for the protection of the health and safety of his/her employees. Cypriot legislation sets out a number of substances which are harmful for the health of employees. Substances that are specified as carcinogens or mutagens are considered as specific hazards that employees should not be exposed to. The same category of specific hazards includes the high level of dust concentration in the atmosphere.

Comments/Remarks: Again, legislation does not impose specific methods that employers should follow when the surveillance of the working environment and working practices takes place. Instead, employers have a general duty to ensure that the health and safety of employees is at a reasonable level. Such a duty might be interpreted in a very broad way.

References:

- The Safety and Health at Work Law of 1996 (L.89 (I)/1996), Art. 37
- The Safety and Health at Work (Amendment) Law of 2002 (L.25 (I)/2002), Art.15
- The Safety and Health at Work (Amendment) Law of 2011 (L.33 (I)/2011), Art.13(2), Art.36
- The Safety and Health at Work (Carcinogenic and Mutagenic Agents) Regulations of 2001 (P.I. 153/2001), Art.2(1)

Related CEACR Comments:

- Occupational Safety and Health Convention, 1981 (No. 155)

4.6 Duty to provide personal protective equipment

Summary/Citation: Employers have a duty to provide protective equipment to their employees, if any other measure taken is not sufficient to control the exposure to harmful substances. Protective equipment shall not only be provided, but it should also be used by employees. In instances where any other measure taken is insufficient to limit the noise exposure, then employers own a duty to provide their employees with personal protective equipment for that noise.

In relation to work at a height higher than two meters, employers have a duty to provide their employees with appropriate means for their protection.

Legislation imposes a duty to all employers to provide their employees with suitable personal protective equipment to protect them for any potential safety and health risk in the workplace. In cases where the risk can be eliminated with other means, personal protective equipment should be provided.

Personal protective equipment should be designed and manufactured in accordance with existing legislative provisions. Employers should personalise protective equipment in order to comply with the employees' health and the existing ergonomic necessities.

Additionally, employers have a duty not only to provide them with appropriate personal protective equipment, but more importantly they own a duty to ensure that this equipment is appropriately used.

References:

- The Safety and Health at Work Law of 1996 (L.89 (I)/1996), Art. 37
- The Safety and Health at Work (Amendment) Law of 2002 (L.25 (I)/2002), Art.34
- The Safety and Health at Work (Amendment) Law of 2011 (L.33 (I)/2011), Art.36
- The Minimum Requirements for Safety and Health (Use of Personal Protective Equipment at Work) Regulations of 2001 (P.I. 470/2001), Art.3, Art. 5, Art. 7, Art. 9

Related CEACR Comments:

- Occupational Safety and Health Convention, 1981 (No. Â 155)
- Hygiene (Commerce and Offices) Convention, 1964 (No. Â 120)

4.7 Duty to ensure the usage of personal protective equipment

Summary/citation: Employers own a duty to ensure their employees use the personal protective equipment. Personal protective equipment and clothing that protect employees' health from harmful substances shall be used.

In relation to the provision of personal equipment for the protection from noises employers shall take appropriate measures to ensure the maintenance and the usage of this personal protective equipment.

References:

- The Safety and Health at Work (Amendment) Law of 2011 (L.33 (I)/2011), Art. 36
- The Minimum Requirements for Safety and Health (Use of Personal Protective Equipment at Work) Regulations of 2001 (P.I. 470/2001), Art. 7(4)

Related CEACR Comments:

- Occupational Safety and Health Convention, 1981 (No. Â 155)

4.8 Duty to provide first-aid and welfare facilities

Summary/Citation: Employers should provide their employees with appropriate health facilities. Moreover, Cypriot legislation imposes a duty on employers to provide their employees with rinsing and cleaning facilities. Employees should be provided with first aid facilities or welfare facilities.

References:

- The Safety and Health at Work Law of 1996 (L.89 (I)/1996), Art. 24
- The Safety and Health at Work (First Aid) Regulations of 2009 (P.I. 198/2009), Art.3

Related CEACR Comments:

- Occupational Safety and Health Convention, 1981 (No. Â 155)

4.8.1 Arrangements for first-aid

Summary/Citation: Employers have a duty to ensure that first aid services are available to their employees whenever necessary. First aid facilities should be at the nearest possible point and marked in accordance with the existing legislation. First-aid facilities should be kept in a good conditions and be available to whoever needs them at the workplace.

References:

- The Safety and Health at Work Law of 1996 (L.89(I)/1996), Art.28
- The Safety and Health at Work (First Aid) Regulations of 2009 (P.I. 198/2009), Art.3(3), Art.5(1),(2)

Related CEACR Comments:

- Occupational Safety and Health Convention, 1981 (No. 155)

4.8.2 Sanitary installations

Summary/Citation: Employers have a duty to provide their employees with clean sanitary installations. Additionally, employers should equip their employees with appropriate rinsing and cleaning facilities.

Comments/remarks: Cypriot legislation for sanitary requirements is drafted in such a broad manner that it could include shower facilities. Nevertheless, there are no explicit requirements that these facilities should be made available.

References:

- The Safety and Health at Work Law of 1996 (L.89(I)/1996), Art. 24(1)-(2)

Related CEACR Comments:

- Occupational Safety and Health Convention, 1981 (No. 155)
- Hygiene (Commerce and Offices) Convention, 1964 (No. 120)

4.8.3 Drinking water

Summary/Citation: Employers have the duty to provide their employees with drinking water which is easily accessible to all employees.

References:

- The Safety and Health at Work Law of 1996 (L.89 (I)/1996), Art. 25

Related CEACR Comments:

- Occupational Safety and Health Convention, 1981 (No. 155)
- Hygiene (Commerce and Offices) Convention, 1964 (No. 120)

4.8.4 Rest and eating areas

Summary/Citation: Employers should provide their employees with resting areas under specific circumstances. In particular, if the number of employees in the workplace or the nature of the work so requires, employers should provide employees with an appropriate area for resting, separately from the workplace.

References:

- The Safety and Health at Work Law of 1996 (L.89 (I)/1996), Art. 29

Related CEACR Comments:

- Occupational Safety and Health Convention, 1981 (No. 155)

5. Employers' duty to organize prevention formally along generally accepted OSH management principles and practices

5.1 Elements of an OSH management system

5.1.1 Policy or plan specifying responsibilities and arrangements for health and safety

Summary/Citation: Every employer shall implement a proper safety system or risk management system, conducting such arrangements in the workplace, according to the nature of the activities and the size of the corporation, in order to ensure effective planning of the preventive and protective measures defined in the written risk assessment. This safety system will aim at the improvement of matters related to the safety, health and well-being of the employees. In the case of temporary or mobile construction sites, the client or the project supervisor shall

ensure that prior to the setting up of a construction site a safety and health plan is drawn up, setting out the rules applicable to the construction site concerned and taking into account where necessary the industrial activities taking place on the site. This plan shall contain special measures concerning work involving particular risks, including working methods and technical measures regarding the management and handling of risks in the various phases of construction.

Comments/Remarks: The Cypriot legislation mentions a “Health and Safety System” only in the case of construction sites. However, the safety system put in place after the written risk assessment, essentially serves as one, as it also includes measures concerning the health of the employees.

References:

- The Safety and Health at Work (Essential Requirements for Temporary or Mobile Constructions) Regulations of 2015 (P.I.410/2015), Art. 5(1)(a), Art.5(3), Art.5(4)
- The Management of Safety and Health Issues at Work Regulations of 2002 (P.I.173/2002), Art.5(1)

5.1.2 Appointment of a person for health and safety

Summary/Citation: The employer shall ensure that the health and safety of workers is under the supervision of the following: a person responsible for Safety, a Safety Committee and representatives of employees for safety.

In workplaces with more than 200 employees, the employer shall appoint a person responsible for safety. This person works full-time with the exclusive task of ensuring safety and health, conducting reports and inspections, as well as training employees.

The Safety Committee is composed of: the representatives for safety, the employer or his or her representative, the person responsible for safety and the representative of the Medical Agency of the workplace, in case the later exists. The Committee takes part in the creation of safety rules in the workplace. It is responsible for examining complaints, as well as the information and training of the employees in workplace health and safety.

References:

- The Management of Safety and Health Issues at Work Regulations of 2002 (P.I. 173/2002), Art. 6, Art. 9
- The Safety Committees at Work Regulations of 1997 (P.I. 134/1997), Art. 3, Art. 4
- The Safety and Health at Work (Amendment) Law of 2011 (L.33 (I)/2011), Art. 10

5.1.3 Written risk assessment

Summary/Citation: The employer, taking into consideration the nature of the working environment, should assess the possible dangers for the safety and health of the employees when choosing work-equipment, when using chemicals and ensuring that the working activities and productions methods are in compliance with the risk assessment, promoting the safety and health of the employees in every sector.

The employer ought to compose a written risk assessment of the current dangers that exist in the working environment, including risks that concern employees who put themselves in special dangers, during work, as well as the risks posed to non-employees.

Cypriot labour law has specific provisions about the risks posed to young workers and pregnant workers. In these cases, the preventive and protective measures ought to be more specialized to cope with the risks those groups face.

References:

- The Management of Safety and Health Issues at Work Regulations of 2002 (P.I. 173/2002), Art.4

5.1.4 Safe operating work systems and procedures

Summary/Citation: The employer shall keep the workplace as well as the working methods safe and without risks for the well-being of the employees, in compliance with health and safety regulations. Employers should take all the necessary measures to ensure that the use, the operation and the transfer of objects and chemicals is also without risk for the safety and health of the employees.

When assigning an employee with a task, the employer shall take into account the knowledge and the skills a particular employee has concerning health and safety.

Employers shall make sure that work equipment and machinery is tested before being used by the employees. Cyclical checks and tests of the equipment shall occur, as well as immediate checks

after events that could reduce the safety of the work equipment, such as accidents, long periods of no use or natural disasters.

References:

- The Safety and Health at Work (Amendment) Law of 2011 (L.33(I)/2011), Art. 13(2), Art. 13(13)
- The Safety and Health at Work (Occupational Diseases Notification) Regulations of 2007 (P.I.530/2007), Art. 5
- The Minimum Requirements for Safety and Health (Use of Work Equipment at Work) Regulations of 2001 (P.I. 444/2001), Art. 6

5.1.5 Training and information on risks

Summary/Citation: The employer shall provide information, instructions and training to his/her employees in order to secure their safety and health in the instances of: their appointment; their transfer to another position; the introduction of new working equipment, new technologies, or new working methods.

Specifically, the employer shall ensure that the employees receive the necessary information regarding the risks for their safety and health that could occur in the workplace and the preventive and protective measures taken in order to prevent them, as well as the processes concerning first-aid, fire safety and emergency evacuations.

Employees who are responsible in the area of safety and health shall have full access to: the written risk assessment, the safety system or the risk management system; the preventive and protective measures and the safety and health archives; the reports of workplace accidents.

References:

- The Safety and Health at Work (Amendment) Law of 2011 (L.33 (I)/2011), Art.13 (2)
- The Management of Safety and Health Issues at Work Regulations of 2002 (P.I. 173/2002), Art. 8, Art. 12

5.1.6 Review or assessment of the results of preventive measures

Summary/Citation: Every employer shall conduct such arrangements in the workplace, according to the nature of the activities and the size of the corporation, in order to ensure effective

checking and review of the preventive and protective measures set in the safety system or risk management system.

In the case of temporary or mobile construction sites, the coordinator(s) for safety and health matters during the project execution stage shall make, or cause to be made, any adjustments required to the safety and health plan to take account of the progress of the work and any changes which have occurred.

References:

- The Safety and Health at Work (Essential Requirements for Temporary or Mobile Constructions) Regulations of 2015 (P.I.410/2015), Art.5(8)(a), Art.9(4)(d)
- The Management of Safety and Health Issues at Work Regulations of 2002 (P.I.173/2002), Art.5(1)

5.1.7 Consultation with workers in health and safety

No data available.

5.2 Obligation to implement a specific OSH management system or standard

No data available.

6. Employers' duty to ensure availability of expertise and competence in health and safety

6.1 OSH Competence

There is a complex system regarding OSH expertise and qualification of professionals in charge of OSH management at the workplace. Also a number of criteria need to be fulfilled in order to have the correct appointment of people and the correct composition of committees.

6.1.1 Requirement to access expert advice and/or support in health and safety

Summary/Citation: Every employer has to ensure the safety, health and welfare of employees at the workplace. One of the employer's duties, according to the EU legal framework and regulated

by the Safety and Health at Work Law 89(I) of 1996 is the requirement to access expert advice and support in health and safety issues.

References:

- The Safety and Health at Work (Amendment) Law of 2011 (L.33 (I)/2011), Art. 13(2)

6.1.1.1 Qualifications of experts or professional services

Summary/Citation: The appointment of the Safety Officer is justified by the relevant knowledge and experience that an individual possesses in respect of the health and safety issues at the respective workplace. The competence of an individual has to be examined through a training course which a Safety Officer has to undertake. Article 10 of Law 89(I)/1996 as amended stipulates that the Safety Officer should have adequate knowledge and experience in order to be able to handle all matters concerning the health and safety of workers. In order to reach this level of competence it is considered that any future Safety Officer should undertake a training course of at least 130 hours. Of these, 16 hours should be on risk assessment, followed by six hour sessions on each of the following topics: fire protection, chemical and biological agents, electrical risks, physical agents (noise, microclimate, radiations etc), workplace transport of staff, materials and machinery, first aid, personal protective equipment, principles of occupational health and psychosomatic risks. After fulfilling the above training requirements the trainee is given the status of Safety Officer following approval by the Minister of Labour.

The Department of Labour Inspection organises training courses regularly, and at times in association with foreign organisations or institutions

References:

- The Safety and Health at Work (Amendment) Law of 2011 (L.33 (I)/2011), Art. 10(3)
- OSH system at national level – Education, training and awareness raising, available at: https://oshwiki.eu/wiki/OSH_Cyprus_Education

6.2 Appointment of an OSH practitioner

Summary/Citation: The health and safety issues are managed by the employer himself if he or she employs less than 4 employees. Otherwise, if the number of people employed is more than 4, experts will be required. In the case where an employer engages more than 200 employees he or

she must appoint an individual responsible to deal with occupational health and safety issues. Specifically, a full time Safety Officer has to be appointed and furthermore a Safety Committee needs to be composed where the Safety officer will be participating as a member.

References:

- The Safety and Health at Work (Amendment) Law of 2011 (L.33 (I)/2011), Art. 10(1), Art. 40(1)
- The Management of Safety and Health Issues at Work Regulations of 2002 (P.I. 173/2002), Art. 6(5)
- The Strategy of Cyprus for Safety and Health at Work 2013 – 2020 available at: https://oshwiki.eu/wiki/Strategy_of_Cyprus_OSH_2013-2020

Related CEACR Comments:

- Labour Inspection Convention, 1947 (No.81) Direct Request adopted 2011, published 101st ILC session (2012)
- Labour Administration Convention, 1978 (No.150) Direct Request adopted 2010, published 100th ILC session (2011)

6.2.1 Workforce size threshold for the appointment of OSH practitioners

Summary/Citation: The law provides a minimum number of safety officers, safety representatives and safety committees depending on the number of workers employed at each establishment. According to Law 89(I)/1996 as amended, if a company employs only up to 4 employees, the employer can himself undertake health and safety issues, given that he has the means or the ability to do so. If not, he is required to seek help from experts. For companies that engage from 2 to 9 employees, the employer nominates one or more employees or appoints an expert to monitor OSH issues. In addition, the employees elect one safety representative. In companies engaging 10 to 199 employees, the employer is required to nominate a safety committee, whose members include the employer or his representative, a medical doctor or practitioner, a safety officer, if available, and, depending on the number of the workers in the company, representatives from the workforce. Companies with more than 200 employees must employ a full time safety officer and have a safety committee in which the safety officer takes part.

References:

- The Safety and Health at Work Law of 1996 (L.89 (I)/1996), Art. 8(1)-(2)
- The Safety and Health at Work (Amendment) Law of 2011 (L.33 (I)/2011), Art.7(1), Art.10(1)

Related CEACR Comments:

- Labour Inspection Convention, 1947 (No.81) Direct Request adopted 2011, published 101st ILC session (2012)

7. Workers' rights and duties

7.1 Duty to take reasonable steps to protect their own safety and health

Summary/Citation: Workers should take all the necessary steps to protect their own safety and health, as well as other people that might be affected by their omissions or acts at work. To this end, they have to act according to their training and to the instructions given by the employer.

References:

- The Safety and Health at Work (Amendment) Law of 2002 (L.25 (I)/2002), Art. 15(1)-(4)
- The Factories Law of 1956 (Cap.134), Art. 83
- The Management of Safety and Health Issues at Work Regulations of 2002 (PI 173/2002), Art. 13

Related CEACR Comments:

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request adopted 1994, published 81st ILC session (1994)
- Occupational Safety and Health Convention 1981(No. 155), Direct Request adopted 2001, published 90th ILC session (2002)
- Occupational Safety and Health Convention 1981(No. 155), Direct Request adopted 2010, published 100th ILC session (2011)
- Occupational Safety and Health Convention 1981(No. 155), Direct Request adopted 2015, published 105th ILC session (2016)

7.2 Duty to take reasonable steps to protect the safety and health of others

Summary/Citation: Workers should take all necessary steps to protect their own safety and health, as well as other people that might be affected by their neglects or acts at work. To this end they have to act according to their training and by the instructions given by the employer.

References:

- The Safety and Health at Work (Amendment) Law of 2002 (L.25 (I)/2002), Art. 15
- The Management of Safety and Health Issues at Work Regulations of 2002 (PI 173/2002), Art. 13(1), Art.13 (2) (d)-(f)

Related CEACR Comments:

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request adopted 1994, published 81st ILC session (1994)
- Occupational Safety and Health Convention 1981(No. 155), Direct Request adopted 2001, published 90th ILC session (2002)
- Occupational Safety and Health Convention 1981(No. 155), Direct Request adopted 2010, published 100th ILC session (2011)
- Occupational Safety and Health Convention 1981(No. 155), Direct Request adopted 2015, published 105th ILC session (2016)
- Labour Administration Convention, 1978 (No.150), Direct Request adopted 2000, published 89th ILC session (2001)
- Labour Administration Convention, 1978 (No.150), Direct Request adopted 2004, published 93rd ILC session (2005)

7.3 Supervisors' duty to take reasonable steps to protect the safety and health of others

Summary/Citation: A person, who has control over work places for persons not being under his or her employment, shall take all the necessary steps and measures to ensure that the premises provided for use are safe and without any risks to health and safety of persons involved. To this

extent, he or she has an obligation to alter, repair and maintain the premises. According to Article 16(1) of the Safety and Health at Work Law of 1996, Every person, who has, to any extent, control of non-domestic premises which are made available as places of work to persons not being in his employment, or has control of the means of access there to or egress therefrom or has the control of any plant or substance in such premises, shall take such measures, as to ensure, so far as is reasonably practicable, that the premises, all means of access thereto or egress therefrom and any plant or substances in the premises or, as the case may be, provided for use therein, are safe and without risks to health.

16(2) Where a person has, by virtue of any contract or tenancy, an obligation of any extent in relation to –

(a) the maintenance, alteration or repair of any premises to which subsection (1) applies or any means of access thereto or egress therefrom; or (b) the safety of or the protection against risks to health arising from plant or substances present in any such premises, that person shall be treated, as being a person who has the duties referred to in subsection (1) and has control of those premises or means of access there or egress therefrom, or substances related to his duties referred to in paragraphs (a) and (b).

References:

- The Safety and Health at Work Law of 1996 (L.89 (I)/1996), Art. 16(1)-(2)

Related CEACR Comments:

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request adopted 2001, published 90th ILC session (2002)
- Labour Inspection Convention, 1947 (No.81), Direct Request adopted 2011, published 101st ILC session (2012)

7.4 Senior officers' duty to take reasonable steps to protect the safety and health of others

No data available.

7.5 Self-employed persons' duty to take reasonable steps to protect their own and other people's health and safety

Summary/Citation: Self-employed persons shall take all necessary measures to ensure that he or she and other persons not being his or her employees, who may be affected, are not exposed to risks regarding their safety and health. To this extend he or she shall provide such information to the persons affected as necessary; receive written risk assessment and impose protecting and preventing measures. Also when necessary he or she shall provide Safety Signs to his work place and have adequate First Aid equipment.

References:

- The Safety and Health at Work (Amendment) Law of 2011 (L.33 (I)/2011), Art. 14(1)-(3)
- The Management of Safety and Health Issues at Work Regulations of 2002 (PI 173/2002), Art. 4(4)
- The Minimum Requirements for Safety and Health Signs at Work Regulations (P.I. 212/2000), Art. 4(5)
- The Health and Safety at Work Act (First Aid) Regulations of 2009 (P.I. 198/2009), Art. 7

Related CEACR Comments:

- Labour Administration Convention, 1978 (No.150) Direct Request adopted 2000, published 89th ILC session (2001)
- Labour Administration Convention, 1978 (No.150) Direct Request adopted 2004, published 93rd ILC session (2005)

7.6 Duty to comply with OSH-related requirements

Summary/Citation: Workers are under an obligation to follow the instructions of their employer and work in accordance with their training. If they do not comply with such instructions, they will be liable for an offence.

References:

- The Safety and Health at Work Law of 1996 (L.89 (I)/1996), Art. 54

- The Safety and Health at Work (Amendment) Law of 2002 (L.25 (I)/2002), Art. 15(1)
- The Management of Safety and Health Issues at Work Regulations of 2002 (PI 173/2002), Art. 13 (1)

Related CEACR Comments:

- Occupational Safety and Health Convention, 1981 (No.155) Direct Request adopted 2015, published 105th ILC session (2016)
- Promotional Framework for Occupational Safety and Health Convention, 2006 (No.187) Direct Request adopted 2015, published 105th ILC session (2016)
- Labour Inspection Convention 1947 (No. 81) Observation adopted 2008, published 98th ILC session (2009)

7.7 Right to enquire about risks and preventive measures

Summary/Citation: Employers should regularly consult workers or their delegates regarding health and safety at work. They have any right to ask the employer to take measures and submit proposals to mitigate any hazards or source of danger.

References:

- The Management of Safety and Health Issues at Work Regulations of 2002 (PI 173/2002), Art. 11

7.8 Right to remove themselves from a dangerous situation

Summary/Citation: Workers have the right to remove themselves from a dangerous situation without any sanction. They have the duty to immediately inform the employer of any situation that they believe presents an imminent or serious danger to the life or health of workers.

References:

- The Management of Safety and Health Issues at Work Regulations of 2002 (PI 173/2002), Art. 7(3) - (4)
- The Safety and Health at Work (Amendment) Law of 2002 (L.25 (I)/2002), Art. 15(3)
- The Safety and Health at Work (Amendment) Law of 2011 (L.33 (I)/2011), Art. 13(9)

- The Safety and Health at Work (Accidents and Hazardous Incidents) Regulations of 2007 (P.I. 531/2007), Art. 2(1)

Related CEACR Comments:

- Maternity Protection Convention, 2000 (No.183), Observation adopted 2013, published 103rd ILC session (2014)

7.9 Right to be reassigned to non-hazardous work

Summary/Citation: In cases where the working conditions or working hours do not guarantee the safety of a pregnant worker, the employer should move her to another job for a period necessary, or in cases where this is not feasible, to grant a leave to this worker from this work for as long as it is necessary.

References:

- The Maternity Protection (Safety and Health at Work) Regulations of 2002 (P.I. 255/2002), Art. 3(3), Art. 4(1)

Related CEACR Comments:

- Maternity Protection Convention, 2000 (No.183), Observation adopted 2013, published 103rd ILC session (2014)

7.9.1 Right to withdraw with compensation when workers are not reassigned to non-hazard work

Summary/Citation: In cases where it is not feasible to move the worker to another job, the worker in concern should be granted leave for as long as it is necessary for her safety or health, without any of her rights being affected. The employer in such cases must continue granting her payment for the whole period of her absence. This specifically refers to pregnant workers.

References:

- The Maternity Protection (Safety and Health at Work) Regulations of 2002 (P.I. 255/2002), Art. 3(4), Art. 4(2)

8 Consultation, collaboration and co-operation with workers and their representatives

8.1 National OSH committee, commission, council or similar body

Summary/Citation: The Cypriot Safety and Health Council was established in March 1965. The Council was from its early days chaired by the Minister of Labour, Welfare and Social Insurance. Its main objective, as laid down in the Council's Constitution, was to 'help, provide information, guide and supervise those involved in accident prevention and in the guarantee of safe working conditions and habits.'

Remarks/Comments: The Council's Constitution is not available, but extracts can be found on the website of the Department of Labour Inspection of the Ministry of Labour, Welfare and Social Insurance.

No legislative measure related to the Council had been enacted until the Safety and Health at Work Law 89(I) of 1996 providing for the organisation of safety committees at work places, and for the creation of a Cypriot Safety and Health Council was introduced to regulate the Council's constitution, main obligations and competences.

Today, the Council comes under the ambit of the Safety and Health at Work Law 89(I) of 1996. The Council's main duty is to consult with the Minister of Labour, Welfare and Social Insurance regarding national policies that are to be followed in the field of occupational safety and health.

References:

- Department of Labour Inspection, 'Safety and Health in Occupation: The Cypriot Safety and Health Council', available at: <http://www.mlsi.gov.cy/>
- The Safety and Health at Work (Amendment) Law of 2011 (L.33 (I)/2011), Art.5

8.1.1 Objectives, roles and/or functions

Summary/citation: The Cypriot Council for Safety and Health is a major institution whose main objective is to create the circumstances needed for the promotion of proactive measures in the field of safety and health, in particular with a view of preventing accidents at work. The Council is involved in a tripartite system comprised of the Minister, employers and employee representatives.

The State's employment laws do not contain detailed provisions related to the Council. In particular, the Safety and Health at Work Law 89(I) of 1996 as amended contains only one article which renders the institution of the Council discretionary and refers to the organ's main duties and objectives. According to Art. 5(3)(a)-(d), the Council shall have the following functions:

(a) To advise the Minister on matters concerning the prevention of accidents.

(b) To develop, propagate and maintain such activities as will influence, or create the conditions for, the improvement of the safety and health of workers and of the public in general.

(c) To submit to the Minister proposals or suggestions with regards to the measures to be adopted and the better and more effective methods of work to be used for the purpose of securing the safety and health of workers.

(d) To advise the Minister on matters concerning the making or the revision of Regulations in the light of knowledge and experience acquired from the study of local conditions, international developments and technological progress.

Comments/Remarks: Cypriot trade unions have been calling for the enhancement of the role of the Council by the State because the latter's role is extremely significant with regard to the enactment of protective employment legislation.

References:

- The Pan Cyprian Federation of Labour (PEO). PEO, 'European Week-Constructing Safety' (September 2004), available at: <http://www.peo.org.cy/412-europaikieudomada>
- The Safety and Health at Work (Amendment) Law of 2011 (L.33 (I)/2011), Art. 5(3) (a) – (d)
- The Ministry of Labour, Welfare and Social Insurance, Department of Labour Inspection, 'Organisation of Safety-Safety Committees', available at: http://www.mlsi.gov.cy/ORGANOSH_ASFALEIAS_booklet.pdf

8.1.2 Constitution and chairmanship modalities

Summary/citation: The Cypriot Council for Safety and Health is structured in a tripartite system. The Council is composed of the Chief Inspector of Safety and Health. The employees' bodies participating in the Council have, since the first relevant legislative instrument came into force in 1988, been the largest and most important trade unions of Cyprus. In accordance with the

constitution of the Council, these bodies are as follows: the Mines Service of the Ministry of Agriculture, Natural Resources and Environment; the Department of Agriculture of the Ministry of Agriculture, Natural Resources and the Environment, the Cyprus Employers and Industrialists Federation (OEB), the Cyprus Chamber of Commerce and Industry (CCCI), the Federation of Associations of Building Contractors Cyprus (OSEOK), the Cyprus Federation of Professional Craftsmen & Shopkeepers, the Pan-Cyprian Federation of Labour (PEO), the Cyprus Workers' Confederation (SEK), the Democratic Labour Federation of Cyprus (DEOK), the Pan-Cyprian Federation of Independent Trade Unions, the Pan-Cyprian Public Employees Trade Union (PASYDY), the Cyprus Union of Bank Employees (ETYK), the Cyprus Scientific and Technical Chamber (ETEK); and the Cyprus Safety and Health Association (CYSHA).

References:

- The Safety and Health at Work (Amendment) Law of 2011 (L.33 (I)/2011), Art. 5 (1)-(2)

8.2 Employers' duty to consult workers on risks

Summary/citation: Cypriot law provides for the employer's duty to consult workers on occupational health and safety matters. Overall, the employer must consult with the employees or their representatives when it comes to making changes in the workplace that will substantially affect safety and health at work, including, for example, the introduction of new working methods, procedures and equipment. The employer must further make arrangements for the appointment of competent persons who will help him or her comply with the legislation on occupational safety and health. The employer must organise educational programmes and training courses on safety and health.

References:

- The Safety and Health at Work (Amendment) Law of 2011 (L.33 (I)/2011), Art. 13(10)-(11)
- The Safety Committees at Work Regulations of 1997 (P.I. 134/1997), Art. 5(d)-(f)
- The Management of Safety and Health at Work Issues Regulations of 2002 (P.I. 173/2002), Art. 11(1) (a)-(b)

Related CEACR Comments:

- Minimum Age Convention, 1973 (No.138), Observation adopted 2014, published 104th ILC session (2015)

8.3 Workers' rights to select their representatives for health and safety matters

Summary/citation: Cypriot law provides for rights related to the appointment or election of representatives for health and safety matters. Overall, representatives are divided into safety representatives where the size of the workforce is small, safety committees which are constituted when a workplace has two or more safety representatives. Safety representatives are electable or selectable by their fellow employees as the safety committees are comprised of the safety representatives (and the employer). Every employee has the right to participate in the voting procedure. This is not explicitly stated in the law, but can be inferred from the general spirit of the law and the absence of any provision to the opposite.

References:

- The Safety and Health at Work (Amendment) Law of 2011 (L.33 (I)/2011), Art. 2(1), Art.7 (1)-(3)
- The Safety Committees at Work Regulations of 1997 (P.I. 134/1997) Art. 3 (1) (a)-(b), Art. 3 (2) (a) – (d)

8.3.1 Workforce size conditions for workers' representation in health and safety

Summary/citation: The organs that represent employees are safety representatives, safety committees, and safety officers. Unlike safety representatives, who are appointed, selected or elected by employees themselves in cases where at least two persons are employed by the same employer, safety committees are formed by the employer in cases where more than two representatives are in place.

Remarks/comments: The original version of The Safety and Health at Work Law 89(I) of 1996 did not create duties for the employer as regards safety committees. For example, the employer 'may' have formed a safety committee at a workplace, where more than 10 employees worked. This provision has now been revised, the term 'shall' has now replaced the word 'may', to make explicit that the employer is under an obligation to form the relevant body. The Safety Committees at Work Regulations (P.I.134 of 1997) contains a table that sets out that

where an employer employs 5-9 employees, the latter are entitled to 1 safety representative. 10-19 employees are entitled to 2 safety representatives. 20-49 employees are entitled to 3 safety representatives. For every additional 50 employees, the latter are entitled to 1 additional safety representative. For 200 or more employees the number of safety representatives increases as stated above.

In facilities where 10 or more persons are employed, the employer is under an obligation to form a safety committee. The latter is a joint committee whose role is advisory. The joint committee is comprised of the safety representatives elected by the employees at the relevant workplace and the employer or his/her representative, who also chairs the committee.

References:

- The Safety and Health at Work (Amendment) Law of 2011 (L.33 (I)/2011) Art. 7
- The Safety Committees at Work Regulations of 1997 (P.I. 134/1997) Art. 4 (1) (a)-(c)
- The Management of Safety and Health at Work Issues Regulations of 2002 (P.I. 173/2002), Art. 6(5)

8.3.2 Conditions of eligibility to represent workers in health and safety

Summary/citation: Cypriot law specifies a series of minimum conditions of eligibility for safety representatives, such as a minimum number of employment years in the same facility or for the same employer. Eligibility to represent workers as a safety representative is activated once an employee has worked at the relevant or a similar facility for at least 2 years. The law dictates that safety representatives must have good knowledge of the premises and be well-informed with regard to occupational safety and health matters (although it is not specified what good knowledge amounts to). Cypriot law has detailed provisions on the duties of representatives after they have been appointed or elected rather than on their eligibility conditions. This leaves selection criteria largely to the discretion of employees and/or the employer subject to the condition that safety representatives have worked at the same workplace for at least two years.

References:

- The Safety Committees at Work Regulations of 1997 (P.I. 134/1997) Art. 3(3) and 3(5)

- The Safety and Health at Work (Amendment) Law of 2011 (L.33 (I)/2011), Art. 10(2), Art. 10(3) (a)-(c)

8.4 OSH representatives' functions, rights and powers

8.4.1 Right to inspect the workplace

Summary/citation: The Safety and Health at Work Law 89(I) of 1996 as amended considers inspections as a duty rather than a right. The Act, rather than creating a right to inspect for safety representatives and committees, provides that the Minister may appoint any officer under whatever title or titles who will be entitled to enter and inspect workplaces so as to effectively enforce. The Regulations, however, refer explicitly to the relevant right of representatives from inside the workplace and declares that they shall conduct inspections on a regular basis so as to improve the working conditions and to secure safe methods of working.

References:

- The Safety Committees at Work Regulations of 1997 (P.I. 134/1997) Art. 3(4) (i), Art. 6(b)
- The Safety and Health at Work (Amendment) Law of 2011 (L.33 (I)/2011), Art. 40

8.4.2 Right to access OSH information

Summary/citation: Every employer must ensure the safety, health and welfare of all the employees. Part of this general obligation is the employer's duty to provide all relevant information that can safeguard the health and safety of employees. The rule does not refer to representatives of occupational safety and health in particular, but rather covers all employees.

Remarks/comments: Cypriot law generally prohibits disclosure of information, and includes safety and health matters as an exception to this prohibition. The use of the term 'may' instead of 'shall' is also noteworthy. However, The Safety and Health at Work Law (No. 89(I) of 1996) enables external actors, namely the Chief Inspector or Inspector to demand. The Safety Committees at Work Regulations P.I. 134 of 1997 and The Management of Safety and Health at Work Issues Regulations P.I. 173 of 2002 refer to the provision of information as an employer's duty rather than a representatives' right.

The Safety Committees at Work Regulations P.I. 134 of 1997 contain a disclaimer stating that the employer is under no obligation to disclose to the safety committee information related to commercial and industrial secrets. Furthermore, the employer is under no obligation to disclose to the committee information where this information concerns a particular person, unless the person concerned has consented to disclosure of the relevant information.

References:

- The Safety Committees at Work Regulations of 1997 (P.I. 134/1997) Art. 5(c) and Art.5 (g)
- The Management of Safety and Health at Work Issues Regulations of 2002 (P.I. 173/2002) Art. 8(1) (a)-(c) and 8(3) (a)-(c)

8.4.3 Right to be present at interviews

Summary/citation: There is no provision in Cypriot law that refers to the right to be present at interviews. The Health and Safety at Work Act touches upon the Inspector's or Chief Inspector's right to interview anyone who may be able to provide information allowing the presence of third persons.

Comments/Remarks: The law does not specify who these third persons may be. Nevertheless, it can be inferred that the persons concerned may be representatives as they are required to sign statements that the answers provided during the interviews are correct. It will usually be safety representatives that possess adequate knowledge to ascertain the truth or otherwise of such statements.

References:

- The Safety and Health at Work (Amendment) Law of 2011 (L.33 (I)/2011), Art. 44(1) (f)

8.4.4 Right to receive professional assistance from OSH experts

Comments/Remarks: Cypriot law is vague on the right to receive professional assistance from OSH expert, which it sets out as a duty of experts hired by the employer. Moreover, these experts are only hired if the relevant establishment lacks the conditions necessary that would allow representatives to carry out their duties.

References:

- The Management of Safety and Health at Work Issues Regulations of 2002 (P.I. 173/2002), Art. 6(9) (a)-(b)
- The Safety and Health at Work (Amendment) Law of 2011 (L.33 (I)/2011), Art. 40(3)

8.4.5 Right to accompany inspectors

Summary/citation: Safety representatives have to accompany inspectors while they are inspecting premises. Inspectors can also be accompanied by representatives of trade unions, upon consultation.

References:

- The Safety Committees at Work Regulations of 1997 (P.I. 134/1997), Art. 3(4) (a) and Art. 6(d)

8.4.6 Right to use facilities

Summary/citation: The Safety Committees at Work Regulations 1997 contain several provisions from which the right of safety representatives, who are members of the safety committee, to use premises and facilities to carry out their responsibilities can be inferred as, according to these Regulations, the employer shall provide them with all necessary facilities in order to effectively perform their duties.

References:

- The Safety Committees at Work Regulations of 1997 (P.I. 134/1997), Art. 4(3) (e) and (h) and Art 5(h)

8.4.7 Right to have time off work with pay to perform duties

Summary/citation: Cypriot law provides for the right to have time off work. The Law does not specify a precise number of hours or days. Rather it refers to 'sufficient time' without specifying what exactly this amount should be.

References:

- The Management of Safety and Health at Work Issues Regulations of 2002 (P.I. 173/2002) Art. 4(2), Art.4 (2) (b) and Art.11 (5)
- The Safety and Health at Work (Amendment) Law of 2011 (L.33 (I)/2011), Art. 13(2) (g)

8.4.8 Right to issue remedial notices

No data available.

Comments/Remarks: Cypriot law does not seem to confer such right on representatives themselves; instead it reserves this right for Inspectors.

References:

- The Safety and Health at Work Law of 1996 (L.89 (I)/1996), Art.47 (1)
- The Safety and Health at Work (Amendment) Law of 2011 (L.33 (I)/2011), Art. 45(1)

8.4.9 Right to resolve OSH issues in consultation with employers

Summary/citation: Employees have the duty to participate in consultation with employers on any action that may have substantial consequences on the safety and health of persons at work. Employees also have the right to request their employer to take appropriate measures and put forward relevant proposals to tackle any risk to their health and safety.

References:

- The Management of Safety and Health at Work Issues Regulations of 2002 (P.I. 173/2002) Art. 11(2) (a) and 11(3)

8.4.10 Right to direct that dangerous work cease

Summary/citation: The Safety and Health at Work Law 89(I) of 1996 establishes the right to direct that dangerous work cease for the Inspector, instead of safety representatives. It is The Management of Safety and Health at Work Issues Regulations P.I. 173 of 2002 that explicitly establishes this right for employees and their representatives, but they reserve the final word for the Inspector.

Comments/Remarks: Overall, the Inspector seems to have extensive powers in the area of notices and orders, be they Remedial Notices or a “Prohibition Notice” that dangerous activities cease, including prohibiting the use of certain premises or prohibiting the carrying out of certain activities until the risk is removed.

References:

- The Management of Safety and Health at Work Issues Regulations of 2002 (P.I. 173 of 2002), Art. 11(6)
- The Safety and Health at Work (Amendment) Law of 2011 (L.33 (I)/2011), Art.46

8.5 Right of workers' representatives from outside the undertaking to address OSH issues at the workplace

No data available.

8.5.1 Right to enter the workplace

No data available.

8.5.2 Right to investigate suspected non-compliance with OSH legislation

No data available.

8.5.3 Right to consult with workers

No data available.

8.5.4 Right to advise workers

No data available.

8.5.5 Right to initiate enforcement action

No data available.

8.6 Joint OSH Committee

Summary/Citation: Employers are required to consult with employees or their representatives on 'issues concerning safety and health at work', including ways of achieving effective cooperation in ensuring safe and healthy workplaces.

References:

- The Safety and Health at Work (Amendment) Law of 2011 (L.33 (I)/2011), Article 13(10)

8.6.1 Participation of workers' representatives in joint OSH committee

Summary/Citation: When the safety representative is elected by the majority of workers or the employer, he or she is responsible to participate in the Safety Committee meetings to represent his or her co-workers in matters related to occupational health and safety at work. The Safety Committee is not established if the employees are less than 10. It must be noted that the number of safety representatives depends on the existing number of the employer's workforce. If the number of employees is 2-9, 10-19 and 20-49 then 1, 2 or 3 representatives are appointed respectively. For every additional 50 employees, one safety representative is added to the Safety Committee.

References:

- The Safety and Health at Work (Amendment) Law of 2011 (L.33 (I)/2011), Article 13(10)
- The Safety Committees at Work Regulations of 1997 (P.I. 134/1997), Art.6 (a)

Related CEACR Comments:

- Labour Administration Convention 1978 (No. 150) Direct Request adopted 2004, published 93rd ILC session 2005

8.6.2 Conditions for establishing a joint OSH committee

Summary/Citation: If the number of employees at a workplace lies between 10 and 199, the employer is required to facilitate the formation of a Safety Committee, whose members include the employer or his or her representative, a medical doctor or practitioner, a Safety Officer and the respective (safety) representatives from the workforce.

References:

- The Safety and Health at Work Law of 1996 (L.89 (I)/1996), Article 8(1)
- The Safety and Health at Work Law (Amendment) of 2011, (L. 33(I)/2011), Article 10(a)

8.6.3 Objectives, roles and/or functions of joint OSH

Summary/Citation: The committee on occupational safety and health has the right to organise joint actions of the employer and workers to ensure compliance with the requirements of the occupational safety and health regulations, to prevent occupational injuries and diseases, and also

to organise inspections of working conditions and occupational safety and health at workplaces and inform workers of the results of these inspections and to collect proposals subject to the section of the collective agreement on occupational safety and health.

References:

- The Safety Committees at Work Regulations of 1997 (P.I. 134/1997), Art. 4(1) – (3)

8.6.4 Keeping Records of the work of joint OSH committees

Summary/Citation: Joint OSH committees should keep records of their meetings.

References:

- The Safety Committees at Work Regulations of 1997 (P.I. 134/1997), Art. 4(3) (a)-(b)

8.6.5 Sharing the minutes of joint OSH committees meetings

Summary/Citation: The employer is required to prepare and distribute an agenda, listing the topics to be discussed during committee meetings, with the safety committee.

References:

- The Safety Committees at Work Regulations of 1997 (P.I. 134/1997), Art. 5(e)

8.7 Mandatory training for members of joint OSH Committee(s)

Summary/Citation: The OSH representatives of workers and the workers in general shall receive adequate information, education and guidance regarding occupational health and safety.

References:

- The Safety Committees at Work Regulations of 1997(P.I. 134/1997), Art. 3(4) (h) and Art.4 (3) (j)

8.8 Protection against reprisals

No data available.

8.9 Immunity from civil and criminal liability for exercising OSH related rights and duties

Summary/Citation: No civil or criminal liability will be imposed on persons exercising in good faith their duties and responsibilities.

References:

- The Safety and Health at Work Law of 1996 (L.89 (I)/1996), Art. 50
- The Safety and Health at Work Law (Amendment) of 2011, (L. 33(I)/2011), Art.53

Related CEACR Comments:

- Labour Inspection Convention 1947 (No 81) Direct Request adopted 2012, published 102nd ILC session 2013

9. Specific hazards or risks

9.1 Biological hazards

Summary/Citation: The Safety and Health at Work (Biological Agents) Regulation 2001 covers four risk groups according to their level infection risk, as defined by Directive 2000/54/EC on the protection of workers from risks related to exposure to biological agents at work. The four risk groups are: 1) biological agents that are unlikely to cause human disease; 2) biological agents that can cause human disease and might be a hazard to workers or other persons, which however are unlikely to spread to the community, and in any case, there is usually effective prophylaxis or treatment available; 3) biological agents that can cause severe human disease and present a serious hazard to workers; it may present a risk of spreading to the community, but there is usually effective prophylaxis or treatment available; 4) biological agents that causes severe human disease and is a serious hazard to workers; it may present a high risk of spreading to the community; there is usually no effective prophylaxis or treatment available.

Comments/remarks: The Safety and Health at Work (Biological Agents) Regulation 2001, defines the obligations of employers, including the obligation to trace and assess risks, replace harmful biological agents, reduce the risk of exposure to harmful biological agents, and the risk of release of biological agents into the place of work, inform the competent authority, ensure hygiene standards, and individual protection, and provide information and training to employees on

potential risks to health; precautions to be taken to prevent exposure; hygiene requirements; wearing and use of protective equipment and clothing, and steps to be taken by workers in the case of incidents and to prevent incidents.

Reference:

- The Safety and Health at Work (Biological agents) Regulation 2001 (P.I.144/2001), Art.3 (1)-(2) Directive 2000/54/EC of the European Parliament and of the Council of 18 September 2000 on the protection of workers from risks related to exposure to biological agents at work, Art.2

9.2 Chemical hazards

Summary/Citation: The Safety and Health at Work (Chemical Agents) Regulations 2001 to 2015 lay down the minimum requirements for the protection of workers from risks to their health and safety arising, or likely to arise, from the effects of chemical agents that are present at the workplace or as a result of any work activity involving chemical agents. They set out the occupational exposure limit values and biological limit values, as well as the obligations of employers, including the determination and assessment of the risks associated with hazardous chemical agents, the general principles for the prevention of risks which employers must follow, and the specific protection and prevention measures which employers must take.

References:

- The Safety and Health at Work (Chemical Agents) Regulation of 2001(P.I.268/2001), Art.2 – 12
- The Safety and Health at Work (Chemical Agents) (Amendment) Regulation of 2004 (P.I. 55/2004), Art. 3 – 12
- The Safety and Health at Work (Chemical Agents) (Amendment) Regulation of 2007 (P.I.295/2007), Art. 1 – 3 Annex 1
- The Safety and Health at Work (Chemical Agents) (Amendment) Regulation of 2012 (P.I. 70/2012), Art. 1 – 2 Annex 1
- The Safety and Health at Work (Chemical Agents) (Amendment) Regulation of 2015 (P.I. 44/2015), Art. 2 – 4

9.2.1 Handling, storage, labelling and use

Summary/Citation: The Chemical Substances Law (Classification, Packaging and Labelling of Hazardous Substances and Mixtures) Regulations 2010 cover specifically the classification, packaging and labelling of chemical hazards to ensure that hazardous substances in the market are properly classified, packaged and labelled and that the safety of consumers and users is guaranteed.

Comments/remarks: The legislation set outs specific conditions concerning the packaging of such substances, such as the requirement that the box or container must be designed and manufactured in a way in as to preclude any loss of the contents, and the requirement that the packaging must be equipped with a safety seal system for children in specific cases. The legislation also regulates labelling, by setting out which specific information must be included in a legible and indelible manner in order for dangerous substances to be placed in the market.

References:

- The Chemical Substances Law (Classification, Packaging and Labelling of Hazardous Substances and Mixtures) Regulation of 2010 (P.I. 324/2010), Art. 7 and Art.8

9.2.2 Duty of manufacturers, suppliers and importers of chemicals in relation to the safety and health of users

Summary/Citation: The Safety and Health at Work (Chemical agents) Regulation 2001 as amended by the Safety and Health at Work (Chemical agents) (Amendment) Regulation 2015 includes a specific section (Section III, Article 13) on the obligations of manufacturers and suppliers of hazardous chemical substances, which includes inter alia, the duty of the manufactures or supplier of hazardous chemical agent to supply the employer, if he so requests, with all information on hazardous chemical agent.

References:

- The Safety and Health at Work (Chemical agents) Regulations of 2001 (P.I.268/2001), Section III, Art. 13
- The Safety and Health at Work (Chemical agents) (Amendment) Regulations of 2015 (P.I.44/2015), Art.5

9.3 Ergonomic hazards

Summary/Citation: Ergonomics should be taken fully into account from the employer when his or her employees are using work equipment, which includes machinery, appliances or tools or installations which are used for work. Moreover, software on personal computers should be adjusted to the employee using it during the processing of information, taking into account the basic principles of ergonomics.

References:

- The Minimum Safety and Health Requirements for the Use of Work Equipment by Workers at Work Regulations 2001 (P.I.444/2001), Art. 8
- The Minimum Requirements for Safety and Health at Work with Visual Display Screen Equipment Regulations of 2001 (P.I.455/2001), Art. 6, Art.7, Annex I Art. 3

9.4 Physical hazards

9.4.1 Pesticides

Summary/Citation: Cypriot law provides that the Ministry of Agriculture ought to take measures to inform the public regarding pesticides, particularly regarding their dangers and potential impact on human health. Legislation lays down the rules for the authorisation of commercial plant protection products and for the placement of such products on the market.

References:

- The Plant Protection Products Law of 2011(L.141 (I)/2011), Art.7, Art. 13
- The Sustainable Use of Pesticides Regulations of 2012 (P.I.193/2012), Art. 4, Art. 7

9.4.2 Ionising radiation

Summary/Citation: The Protection from Ionising Radiation and Nuclear Safety Laws 2002-2011 establish a general framework regarding protection from ionising radiation, radioactive waste management and nuclear safety. Its main purpose is to protect the health of workers, the general public and persons exposed to ionising radiation for medical purposes. It prohibits the import,

transport and possession of sources of ionising radiation, unless a relevant permission has been granted by the Ministry of Labour.

References:

- The Protection from Ionising Radiation Law of 2002, (L.115 (I)/2002), Art. 8
- The Protection from Ionising Radiation and Nuclear Safety (Amendment) Law of 2011 (L.127 (I)/2011), Art.3 (b)
- The Protection from Ionising Radiation (Basic Principles) Regulations of 2002, (P.I.494/2002) Art. 4, Art.6, Art.7 (1)-(2), Art. 14(1)
- The Protection from Ionising Radiation (Informing the General Public about Measures to be Applied in Case of Emergency) Regulations of 2002, (P.I.495/2002), Art.3, Art. 10(1)
- Protection from Ionising Radiation (Medical Exposure) Regulations of 2002 (P.I.497/2002), Art. 3, Art.5 (1)-(2)

9.4.3 Vibration and noise

Summary/Citation: The Safety and Health at Work Law of 1996 sets out the general provisions relating to the health and safety of workers, ranging from the general obligations of employers and employees, to specific provisions relating to issues such as noise, overcrowding, fire hazards etc. The legislation includes a specific provision on the protection of the hearing of workers.

The Safety and Health at Work (Protection from Vibrations) Regulations 2005 set out the exposure limits and action values, they require the employer to assess and, if necessary, measure the levels of mechanical vibration to which workers are exposed, provide that the risks arising from exposure to mechanical vibration shall be eliminated at their source or reduced to a minimum, and require the employer to ensure that workers who are exposed to the risks from mechanical vibration at work and/or their representatives receive information and training relating to the outcome of the risk assessment.

References:

- The Safety and Health at Work Law of 1996 (L.89 (I)/1996), Art. 37
- Safety and Health at Work (Protection from Noise) Regulations of 2006 (P.I.317/2006), Art.5 (1), Art.6, Art.7 (1)

- The Safety and Health at Work (Protection from Vibrations) Regulations of 2005 (P.I.332/2005), Art. 5(1) (a) and Art.6 (1)-(2)

9.4.4 Working at height

Summary/Citation: The Safety and Health at Work (Code of Practice regarding Working at Height) Decree of 2012 sets out the general principles of prevention for temporary work at a height, explains how to assess risks and choose work equipment, and explains the relevant information and legislation regarding the different types of equipment for temporary work at heights.

References:

- The Safety and Health at Work (Code of Practice for Work at Height) Order of 2012 (P.I.131/2012) Art. 1 – 2

9.4.5 Working in confined spaces

Summary/Citation: The Safety and Health at Work Law 1996 regulates working in confined spaces. It prohibits overcrowding at the workplace and provides that the number of persons present, as well as the space taken up by objects, must be taken into account when determining whether or not a space is overcrowded. The provisions also require adequate ventilation and suitable climatic conditions. The requirements regarding ventilation are also regulated in the Minimum Safety Standards for Health and Safety at the Workplace Regulations 2002.

References:

- The Safety and Health at Work Law of 1996 (L.89 (I)/1996), Art. 20
- The Safety and Health at Work (Amendment) Law of 2002 (L.25 (I)/2002), Art.21
- The Minimum Requirements for Safety and Health at the Workplace Regulations of 2002 (P.I.174/2002), Annex 1, Art. 6

9.4.6 Risks arising from poor maintenance of workplace facilities

Summary/Citation: The Minimum Safety Standards for Health and Safety at the Workplace Regulations 2002 set out the relevant provisions relating to the maintenance of workplace facilities, including the obligation for the employer to ensure the technical maintenance, restoration and

regular cleaning of the workplace, facilities and systems, including security systems and the facilities intended to eliminate dangers

References:

- The Minimum Requirements for Safety and Health at the Workplace Regulations of 2002 (P.I.174/2002), Art. 7

9.4.7 Exposure to extreme temperatures

Summary/Citation: The Safety and Health at Work (Code of Practice regarding Workers' Thermal Stress) Decree of 2014 explains the dangers arising from exposure to adverse thermal environments and sets out prevention and assessment measures concerning thermal stress.

References:

- The Safety and Health at Work (Code of Practice for the Protection of Workers from Heat Stress) Order of 2014 (P.I.291/2014), Art.1-3

9.4.8 Fire risks

Summary/Citation: The Safety and Health at Work Law 1996 provides that workplaces must have sufficient and suitable fire fighting equipment and suitable fire detection and fire alarm systems, according to various factors, such as the dimensions of the premises and the maximum number of persons present. The equipment and systems referred to above must be maintained and tested. The legislation also requires suitable signage to be present at the workplace, an adequate number of persons to be trained regarding the proper use of fire safety equipment, and that inflammable substances are stored in fireproof or fire resistant warehouses.

References:

- The Safety and Health at Work (Amendment) Law of 2002 (L.25 (I)/2002), Art. 33
- The Safety and Health at Work (Amendment) Law of 2011 (L.33 (I)/2011), Art. 32

9.4.9 Tobacco

Summary/Citation: The Protection of Health (Control of Smoking) Law of 2002 regulates smoking at the workplace. Employers are obliged to create and implement a written policy on smoking that will ensure that non-smokers are protected from smoke/tobacco at the workplace.

References:

- The Health Protection (Control of Smoking) Law of 2002 (L.75 (I)/2002), Art. 14

9.4.10 Asbestos

Summary/Citation: The Health and Safety at Work (Protection from Asbestos) Regulations of 2006 as amended by the Health and Safety at Work (Protection from Asbestos) (Amendment) Regulations of 2015, set out the obligations of employers, which include the obligation to ensure the safety and health of all employees while using asbestos, to ensure that employees are not exposed to asbestos, and in cases where exposure cannot be prevented, the employer must ensure that exposure to asbestos dust or material which contain asbestos at the workplace is minimised and in all cases below the value specified in the Regulations.

References:

- The Safety and Health at Work (Protection from Asbestos) Regulations of 2006 (P.I.316/2006), Art.4, Art.5, Art.9 (2)
- The Safety and Health at Work (Protection from Asbestos) (Amendment) Regulations of 2015 (P.I.46/2015), Art.1-3

Related CEACR Comments:

- Direct Request (CEACR) - adopted 2015, published 105th ILC session (2016) - Asbestos Convention, 1986 (No. 162)

9.4.11 Risks related to nanotechnology

No data available.

9.4.12 Contraction of HIV in the workplace

No data available.

9.5 Psychosocial hazards

9.5.1 Psychosocial Risks

Summary/Citation: The Health and Safety at Work Law 1996 includes in the definition of 'health' physical, mental and psychological elements and it imposes a general obligation on employers to ensure the safety, health and welfare at work of all employees.

References:

- The Safety and Health at Work Law of 1996 (L.89 (I)/1996), Art. 2(1)
- The Safety and Health at Work (Amendment) Law of 2011 (L.33 (I)/2011), Art. 13(1)

9.5.2 Occupational violence

Summary/Citation: Cypriot law does not include a specific provision on occupational violence; however, the Safety and Health at Work Law of 1996 explicitly states that "health", in relation to work, means not only the absence of disease or infirmity but includes those physical, mental and psychological elements affecting health which are directly related to safety and hygiene at work; Also the Safety and Health at Work Law 1996 as amended imposes a general obligation on employers to ensure the safety, health and welfare at work of all employees, according to Art.13.

Comments/Remarks: Cyprus has been harmonised with the provisions of the Directive 89/391/EEC on the Safety and Health at Work Laws of 1996-2011 and the Management of Safety and Health at Work Issues Regulations (P.I. 173/2002). In 2004, the European social partners (employers and trade unions) concluded the Framework Agreement on Work Stress. Declaring that harassment and violence at work are unacceptable, in 2007 the European social partners concluded the Framework Agreement on Harassment and Violence at Work. The Agreement contains a description of harassment and violence and how to prevent identify and manage these problems.

References:

- The Safety and Health at Work Law of 1996 (L.89 (I)/1996), Art.2 (1)
- The Safety and Health at Work (Amendment) Law of 2011 (L.33 (I)/2011), Art 13(1).
- Safety and Health at Work/Psychosocial Risks at Work available at:

<http://www.mlsi.gov.cy/mlsi/dli/dliup.nsf/All/69FE35342D7E7E96C2257DF00036C157?OpenDocument>

9.6 Other hazardous substances

Summary/Citation: Liquefied petroleum gas is generally considered a hazardous substance by Cypriot legislation. The Petroleum Law CAP. 272 of 1975 defines liquefied petroleum gas as a Class A type of petroleum and requires a permit to be granted in order to store it in containers, the capacity of which exceeds 450 litres.

Remarks/Comments: Cypriot law provides for an exception concerning permits, stating that in the case of liquefied petroleum gas which is stored in containers used for a specific purpose and whose total capacity is less than 450 litres.

References:

- The Petroleum (Amendment) Law of 2014 (Cap. 272) (L.152(I)/2014), Art. 4(6)
- The Essential Requirements (Pressure Equipment) Regulations of 2003 (P.I.311/2003), Annex I Art.3
- The Essential Requirements (Equipment and Protective Systems Intended for Use in Explosive Atmospheres) Regulations of 2003 (P.I.309/2003), Annex II Art. 1.0.1, 1.0.3, 1.0.4, 1.0.6

9.7 Machineries

Summary/Citation: Cypriot law regulates the design, manufacture and placing on the market of machinery and safety components and provides for the protection of persons operating machinery or other persons who may be affected by the existence of machines in one place. This protection is achieved by fulfilling two essential conditions:

- (A) enforcing basic safety and health requirements to be met by machinery and
- (B) the application of conformity assessment procedures.

These conditions allow the free disposal of the machines in the EEA market, thereby ensuring the safety and health of persons engaged in the transport, installation, adjustment, operation, cleaning and maintenance of equipment.

Remarks/Comments: Placing machinery on the market of the countries belonging to the European Economic Area (EEA), which includes the countries of the European Union (EU), Norway, Iceland and Liechtenstein, is governed by Directive 2006/42/EC of the European

Parliament and the Council of 17 May 2006 on the approximation of the Member States relating to machinery. For the incorporation of the provisions of this Directive, the Essential Requirements (Machinery) Regulations of 2008 (P.I. 428/2008) were enacted in Cyprus. These Regulations were issued under the Essential Requirements to be fulfilled by the Specific Product Categories Laws of 2002-2009.

References:

- The Essential Requirements (Machinery) Regulations of 2008 (P.I.428/2008), Art.2-17
- The Essential Requirements (Machinery) (Amendment) Regulations of 2011 (P.I.286/2011), Art.1-9

9.7.1 Risks related to machinery and tools

Summary/Citation: Risks related to machinery and tools, as mentioned in the User Manual of Work Relations, Health and Safety 2014, entail the collapse of all or part of the equipment which carried load during operation, or preparatory work for installation or placement before the start of its operation of lift, crane, moving or lifting platform, lifting mechanism or excavator and drilling machine.

Comments/remarks: The Minimum Requirements for Safety and Health (Use of Work Equipment at Work) (Amendment) Regulations of P.I. 497 of 2004 were issued by the Council of Ministers in Cyprus, under Article 38 of the Health and Safety at Work Act of 1996. These Regulations were issued to ensure compliance and harmonization with the 2001/45/EC Directive and took effect on 1st July 2006.

References:

- The Essential Requirements (Machinery) (Amendment) Regulations of 2011 (P.I. 286/2011), Art. 1(3)
- The Health and Safety at Work (Amendment) Law of 2002, (L.25 (I)/2002), Art.34 (1)
- The Minimum Requirements for Safety and Health (Use of Work Equipment at Work) Regulations of 2001 (P.I. 444/2001), Art. 4
- The Minimum Requirements for Safety and Health (Use of Work Equipment at Work) (Amendment) Regulations of 2004 (P.I. 497/2004), Art. 5(1)-(2)

- The Factories (Amendment) Law Cap.134 of 1989 (L.25/1989), Art. 26 and Art. 27

9.7.2 Duty of designers and/or manufacturers of machineries in relation to the occupational safety and health of operators' machineries

Summary/Citation: The designers and manufacturers of machineries are under a duty to make sure that the machine is constructed, created and installed in a way that is safe for use by all persons, when it is set up, during use, and during maintenance. Designers and manufacturers are responsible for testing the machines in advance of placement in the workplace to secure safe adequate standards of use by anyone.

References:

- The Health and Safety at Work (Amendment) Law of 2011 (L.33 (I)/2011), Art. 17(1)-(2)

9.7.3 Duty of designers, manufacturers, importers or suppliers of machineries to provide machineries information

Summary/Citation: Designers and manufacturers of machineries are required to provide sufficient information to people intending to use the machinery in the form of instructions for the safe use of the machinery during its use, deconstruction or disposal. Importers and suppliers are required by law to ensure that the machines are built in accordance to the standards set out in the legislation to protect employers from health and safety risks.

References:

- The Health and Safety at Work (Amendment) Law of 2011 (L.33 (I)/2011), Art. 17(1)-(2)
- The Minimum Requirements for Safety and Health (Use of Work Equipment at Work) Regulations of 2001 (P.I. 444/2001), Art.9

9.7.4 Duty to purchase machineries from authorised/certificated suppliers or only if approved/certificated

No data available

9.7.5 Maintenance of machinery and equipment

Summary/Citation: Maintenance of machinery and equipment is governed by the Machinery Inspection division of the Department of Labour Inspection, which specifically deals with inspection and the specification of machinery to be inspected, such as steam boilers, steam receivers, cranes, winches, overhead travelling cranes and air receivers, as well as setting the parameters and conditions for safe operation within the permitted weight limits specified by the manufacturer.

Comments/remarks: Further to the Limited Specifications in relation to Safety and Health (Use of Work Equipment) Regulations 2001 (444/2001) and the Minimum Requirements for Safety and Health at the Workplace Regulations of 2002 (P.I.174/2002), the employer will need to ensure that maintenance is carried out only by appropriately trained staff and that the equipment to be used for this maintenance is kept in good condition. Furthermore, the employer needs to ensure that the maintenance is carried out in accordance to the user's manual and the instructions provided by the supplier for each piece of machinery. To this effect, before any maintenance is carried out, the employer needs to ensure that an appropriate sign is displayed on the machinery explaining that it is under maintenance.

References:

- The Factories Law Cap. 134 Consolidated Version, Art. 37 – 43
- The Minimum Requirements for Safety and Health (Use of Work Equipment at Work) Regulations of 2001 (P.I. 444/2001), Annex I Art. 2
- The Minimum Requirements for Safety and Health at the Workplace Regulations of 2002 (P.I.174/2002) Art.7 (b)-(d)

9.7.5.1 List of equipment where applicable

Summary/Citation: The Machinery Inspection and Certification Unit, which operates with personnel at the Headquarters as well as at the District Offices of the Department of Labour Inspection is responsible for the inspection of:

Cranes and Lifting devices, once every 12 months,
Steam boilers, once every 12 months,

Steam receivers, once every 26 months,

Air receivers, once every 26 months.

The Inspectors of the Department of Labour Inspection carry out *ex officio* inspections of the machinery by implementing an inspection schedule which is based on a system of prescribed priorities. Any owner of machinery may request the inspection of his or her machinery by an Inspector of the corresponding District Labour Inspection Office. The inspection takes place in the area where the machinery is installed or used following a prior consultation between the owner and the Inspector. Immediately after the inspection, the Inspector issues an Inspection Report or a Test and Examination Certificate, according to the machinery and the type of work performed. The Inspection Report or the Test and Examination Certificate are mailed to the owner or the person declared to be the representative of the owners soon after the prescribed fees are paid.

The Health and Safety at Work (Operation, Maintenance and Audit of Lifts) Regulations of 2012 (P.I. 533/2012) require that periodic audit and maintenance of lifts is carried out by private auditors and maintenance persons respectively. This legal provision is implemented by the Minister of Labour and Social Insurance, through the Department of Labour Inspection.

References:

- Machinery that Ought to be Inspected by the Inspection and Certification Unit of the Ministry of Labour, available at: <http://www.mlsi.gov.cy/OpenDocument>
- Health and Safety at Work (Operation, Maintenance and Audit of Lifts) Regulations of 2012 (P.I. 533/2012)

9.8 Provisions to protect workers in specific condition of vulnerability

Yes.

9.8.1 Protection of pregnancy at work

Summary/Citation: The Protection of Maternity Laws ensures that pregnant workers are entitled to time off, without loss of pay, in order to attend antenatal examinations, if such examinations have to take place during working hours and provided that they have notified their employer in time and by producing a medical certificate upon return to work. Dismissal or notice of dismissal to a pregnant worker is prohibited, provided that the said worker has notified her pregnancy to

her employer in writing. The employer should determine and take all necessary preventive and/or protective measures in order to ensure the safety and health of pregnant workers. The Maternity Protection (Safety and Health at Work) Regulations of 2002 require employers to assess the risks and the appropriate protective decisions to be taken if pregnant women are or will be part of workforce. This is due to the risk that the nature of a particular job may be dangerous to the health and safety of a pregnant due to risks related to physical, biological or chemical hazards. To achieve the above, the legislation requires that the employer make changes to the work environment or the hours of employment for the particular person so that she will not face exposure to risks or harm whilst in employment.

If the avoidance of the aforementioned hazards is not possible, then the employer is required to find an alternative employment for the pregnant (in the sense of adjusting her working hours or even changing her working post, duties or responsibilities so that she is not exposed to any danger) that would preserve her safety and well-being for the time period that is deemed appropriate to avoid any infringement on her rights, otherwise she is required to take paid leave for a time period long enough to ensure her well-being and safety.

References:

- The Equal Treatment of Men and Women in Employment and Vocational Training Law of 2002 (N.205 (I)/2002), Art. 11
- The Maternity Protection (Safety and Health at Work) Regulations of 2002 (P.I. 255/2002), Art. 3, Art.4
- The Protection of Maternity (Amendment) Law of 2016 (N.118 (I)/2016), Art.3 (1), (2), (4), (6),
- The Protection of Maternity (Amendment) Law of 2011 (N.70 (I)/2011), Art. 5A, Art.4 (1)

9.8.2 Protection of lactating women at work

Summary/Citation: The employer should determine and take all necessary preventive and/or protective measures in order to ensure the safety and health of workers who have recently given birth or are breastfeeding. The Maternity Protection (Safety and Health at Work) Regulations of 2002 require employers to assess the risks and the appropriate protective decisions to be taken if lactating or breastfeeding women are or will be part of workforce. This is due to the risk that the

nature of a particular job may be dangerous to the health and safety of a lactating woman due to risks related to physical, biological or chemical hazards.

To achieve the above, the legislation requires that the employer make changes to the work environment or the hours of employment for the particular person so that she will not face exposure to risks or harm whilst in employment.

If the avoidance of the aforementioned hazards is not possible, then the employer is required to find an alternative employment for the lactating woman (in the sense of adjusting her working hours or even changing her working post, duties or responsibilities so that she is not exposed to any danger) that would preserve her safety and well-being for the time period that is deemed appropriate to avoid any infringement on her rights, otherwise she is required to take paid leave for a time period long enough to ensure her well-being and safety.

References:

- The Maternity Protection (Safety and Health at Work) Regulations of 2002 (P.I. 255/2002), Art. 3, Art.4
- The Protection of Maternity (Amendment) Law of 2016 (N.118 (I)/2016), Art.3 (1), (2), (4), (6),
- The Protection of Maternity (Amendment) Law of 2011 (N.70 (I)/2011), Art. 5A, Art.4 (1)

9.8.3 Limits to women's access to specific occupations, undertakings or shifts

Summary/Citation: The Equal Treatment for Men and Women in Employment and Vocational Training Law 2009 provides for the protection and promotion of the principle of equality between men and women in employment and vocational training and, within the scope of this objective, it protects working women against any kind of discrimination on grounds of sex.

Comments/remarks: Given that pregnancy is a biological state exclusive to women, any less favourable treatment of pregnant women and women who have recently given birth or are breastfeeding, for reasons of pregnancy, must also be directly connected to their gender. Therefore, according to the established case-law of the Court of Justice of the European Communities, discrimination against a working woman for reasons of pregnancy is a direct

discrimination on grounds of sex and it is examined under the provisions of the Equal Treatment for Men and Women in Employment and Vocational Training Laws.

References:

- The Equal Treatment of Men and Women in Employment and Vocational Training Law (Amendment) 2009 (N.39 (I)/2009), Art.5 (1), Art.8 (1)-(2).

Related CEACR Comments:

- Discrimination (Employment and Occupational) Convention, 1958 (No.111), Direct Request adopted 2015, published 105th ILC session 2016

9.8.4 Limits to workers' access to specific occupations, undertakings or shifts by reason of age

Summary/Citation: The Protection of Young People at Work (Law No 48(I) of 2001) provides for the Protection of young persons at work, was amended by the Law 15(I)/2012. The Safety and Health at Work (Protection of Young People) Regulations of 2012 (P.I. 77/2012) have been enacted in order to set limitations in relation to the procedure to be followed for granting a permit to children to participate in cultural activities, including reference to their hours of work, types of work, submission of complaints etc. The employment of children under 15 years of age is prohibited except for purposes of vocational or occupational training as well as for employment in cultural, artistic, sports or advertising activities. Children having attained the age of 14 and completed compulsory education may be placed under a combined work-training scheme under special licence issued by the Ministry of Labour and Social Insurance.

Comments/remarks: Provision of domestic services in a private household and at any work considered as not being harmful, damaging or dangerous to adolescents in a family undertaking are excluded from the scope of application of the legislation. Employment of a child in cultural, artistic, sports or advertising activities is permitted subject to a licence being issued by the Ministry of Labour and Social Insurance. The maximum weekly working hours are 36 for children, who have attained the age of 14 and completed compulsory education, and 38 for adolescents (over 15 years of age and under 18). Employment of children between 13.00 one day and 07.00 the

following day is prohibited. For adolescents the period of prohibition is limited between 23.00 and 07.00. Daily rest is 14 hours for children and 12 hours for adolescents.

References:

- The Protection of Young Persons at Work Law of 2001 (Law 48(I)/2001), Art.11, 12, 15
- The Protection of Young Persons at Work (Amendment) Law of 2012 (Law 15(I)/2012), Art.13
- The Safety and Health at Work (Protection of Young People) Regulations of 2012 (P.I. 77/2012), Art.7 (1), (2), (6), Art. 8

Related CEACR Comments:

- Minimum Age Convention, 1973(No. 138), Observation adopted 2014, published 104th ILC session 2015
- Minimum Age Convention, 1973(No. 138), Direct Request adopted 2014, published 104th ILC session 2015

10 Recording, notification and investigation of accidents/incidents and diseases

10.1 Duty to record and/or investigate the causes of work accidents, near misses incidents and cases of occupational diseases

10.1.1 Work-related accidents

Summary/Citation: The employer, responsible for the notification of the accident, should immediately inform the relevant District Labour Inspection Office, in the fastest practical way, to enable the investigation of the accident before the accident scene has been modified. After that, the accident should also be reported in writing, within 15 days of the date of the accident. If the accident notification form is received by the relevant District Inspection Office, more than 15 days after the accident, the responsible person may receive a written warning, if he or she has contravened the legislation involuntarily for the first time or has been prosecuted. The victim of an accident or other affected person may request, personally or through his or her

representative to have a copy of the investigation report, if such a report has been prepared, by sending a written request to the relevant District Labour Inspection Office.

When the victim of an accident or other person sues any person for damages he or she may request, through court procedures, the submission of information collected by the Inspector during the investigation of the accident.

Comments/Remarks: The Safety and Health at Work (Accidents and Dangerous Occurrences Notification) Regulations of 2007 (P.I. 531/2007) came into effect on the 7 December 2007 and substituted the previous Accidents and Occupational Diseases (Notification) Law, Section 176.

References:

- The Safety and Health at Work (Accidents and Dangerous Occurrences Notification) Regulations of 2007 (P.I. 531/2007), Art 2, Art. 4

10.1.2 Near miss incidents

Summary/Citation: A dangerous occurrence or near miss incident should be notified by the person who has the control of the place of work or the person who directs or conducts activities in this area. These occurrences include the collapse or overturning of lifting machinery (e.g. crane, lift, hoist) or any other load-bearing equipment, such as an excavator or a drilling machinery, the collapse of a scaffolding, a building or a structure, any fall of ground, explosion or bursting of a pressure vessel (e.g. steam boiler, steam receiver, air receiver), electrical short circuit followed by fire, contact with overhead electric lines, leakage of flammable or other dangerous substances, release of biological agents, and fire or explosion.

Remarks/Comments: The Safety and Health at Work (Accidents and Dangerous Occurrences Notification) Regulations of 2007 (P.I. 531/2007), which came into effect on 7 December 2007, have substituted the previous Accidents and Occupational Diseases (Notification) Law, Section 176.

References:

- The Safety and Health at Work (Accidents and Dangerous Occurrences Notification) Regulations of 2007 (P.I. 531/2007), Art. 2, Art. 5

10.1.3 Occupational diseases

Summary/Citation: Every employer shall keep an archive containing the details of every case where an employee has been infected, or believes that has been infected, by a work-related disease.

References:

- The Safety and Health at Work (Occupational Diseases Notification) Regulations of 2007 (P.I.530/2007), Art.5

10.2 Employers' duty to notify OSH authorities of work related death and/or injuries to health

Summary/Citation: According to Safety and Health at Work (Accidents and Dangerous Occurrences Notification) Regulations of 2007 (P.I. 531/2007), the person who has the control of the working place where the occurrence happened or the person who is managing or conducting the activities in this area is responsible to give notice of a work related death or injury to health of an employee. The implementing rules of these Regulations shall provide for the procedure to be followed for the notification of an occupational disease. This procedure shall require with the completion and submission of the accident notification form, which consists part of the common form "Claim for an Injury benefit/Accident Notification".

Comments/Remarks: The Accidents and Occupational Diseases (Notification) Law CAP. 176, has been abolished. The Safety and Health at Work (Accidents and Dangerous Occurrences Notification) Regulations of 2007 (P.I. 531/2007) and The Safety and Health at Work (Notification of Occupational Diseases) Regulations of 2007 (P.I. 530/2007) have substituted this Law.

References:

- The Safety and Health at Work (Accidents and Dangerous Occurrences Notification) Regulations of 2007 (P.I. 531/2007), Art 6, Art. 9

11 OSH inspection and enforcement of OSH legislation

11.1 Appointment of OSH inspectors

Summary/Citation: Inspectors and a Chief Inspector may be appointed by the Minister of Labour, Welfare and Social Insurance in order to ensure compliance with OSH legislation.

Comments/Remarks: It is the prerogative and in the discretion of the Minister of Labour, Welfare and Social Insurance to appoint the Chief Inspector and other Inspectors.

References:

- The Safety and Health at Work (Amendment) Law of 2011 (L.33 (I)/2011), Art. 40(1)
- The Control of Atmospheric Pollution Law of 2002 (L.187 (I)/2002), Art. 24
- The Protection from Ionising Radiation Law of 2002 (L. 115(I)/2002), Art. 28(1)
- The Genetically Modified Microorganisms (Contained Use) Law of 2004 (L. 15(I)/2004), Art. 17
- The Control of Working and Resting Times of Drivers of Certain Vehicles Law of 2007 (L.86 (I)/2007), Art. 13

Related CEACR Comments:

- CEACR's Report (NORMLEX): Direct Request (CEACR) - adopted 2015, published 105th ILC session (2016) on Convention No.187

11.2 OSH inspectors' powers

Sometimes.

11.2.1 Power to enter workplaces

Summary/Citation: An Inspector or a Chief Inspector has the right at any reasonable time and without prior notice to enter any premises (excluding domestic premises) which he or she has reason to believe it is necessary for him or her to enter or, in a situation which in his or her opinion may cause an imminent risk of severe personal bodily harm or damage to the environment.

Special provisions apply to domestic premises: An Inspector or a Chief inspector may enter such premises only if the owner of the premises has given his or her prior consent. In cases where the

owner has not given his or her consent, an Inspector or a Chief Inspector may enter the domestic premises only if the Court has granted an order allowing him to enter the property.

Comment/Remarks: The Law does not define what "at any reasonable time" means.

References:

- The Safety and Health at Work (Amendment) Law of 2011 (L.33 (I)/2011), Art. 44(1) (a)-(c), Art.44(1)(g)
- The Control of Atmospheric Pollution Law of 2002 (L.187 (I)/2002), Art. 25(1) (a)-(b)
- The Protection from Ionising Radiation Law of 2002 (L. 115(I)/2002), Art. 29(1)
- The Genetically Modified Microorganisms (Contained Use) Law of 2004 (L. 15(I)/2004), Art. 19
- The Control of Working and Resting Times of Drivers of Certain Vehicles Law of 2007 (L.86 (I)/2007), Art. 14

Related CEACR Comments:

- Direct Request (CEACR) - adopted 2015, published 105th ILC session (2016) on Convention No.155
- Direct Request (CEACR) - adopted 2010, published 100th ILC session (2011) on Convention No.155

11.2.2 Power to inspect and carry out any examination, test or enquiry

Summary/Citation: Inspectors or a Chief Inspector (along with police officers or other officials) have the power to carry out any examination, test or enquiry considered necessary to ensure that the OSH legislation is enforced. They also may:

- a) examine and/or make a copy of any document, book or record which is required for the purposes of inspection or examination;
- b) request from any person more information about the enforcement of OSH legislation at the premises being inspected;

- c) request from any person working on the premises under inspection to help him by any reasonably available means for the purposes of examination, test, measurement, check or inspection - in particular, to ensure safe access to any part of the premises;
- d) take and record any sample, measurement or photograph;
- e) give guidelines in order to ensure that the premises, or anything in it, are left undisturbed for as long as is reasonably necessary for the purpose of examination, test, measurement or check;
- f) request to dismantle, examine or process any object or substance which he has reason to believe has caused or may cause a danger;
- g) request the seizure or retention of any object or substance for a period which is considered to be reasonable and necessary for the purposes of examination.

References:

- The Safety and Health at Work (Amendment) Law of 2011 (L.33 (I)/2011), Art. 44(1) (b)-(l)
- The Control of Atmospheric Pollution Law of 2002 (L. 187(I)/2002), Art. 25(1) (c)-(l), Art. 25(2)-(3)
- The Protection from Ionising Radiation Law of 2002 (L. 115(I)/2002), Art. 29(2), Art.29 (4)
- The Genetically Modified Microorganisms (Contained Use) Law of 2004 (L. 15(I)/2004), Art. 19
- The Control of Working and Resting Times of Drivers of Certain Vehicles Law of 2007 (L.86 (I)/2007), Art. 14

11.2.3 Power to investigate

Summary/Citation: Inspectors or Chief Inspectors (along with police officers or other officials) have the power to conduct investigations considered necessary to ensure that the OSH legislation is enforced. They may also:

- a) examine and/or make a copy of any document, book or record which is required for the purposes of inspection or examination;
- b) request from any person more information about the enforcement of OSH legislation on the premises which are being inspected;

- c) request assistance from any person working on the premises being inspected in particular, ensuring safe access to any part of the premises by any reasonably available means for the purposes of investigation;
- d) take and record any sample, measurement or photograph;
- e) give guidelines in order to ensure that the premises, or anything on it, are left undisturbed for as long as is reasonably necessary for the purpose of investigation; and
- f) investigate any accident, occupational disease or hazardous incident at the workplace which is related to the OSH legislation.

References:

- The Safety and Health at Work (Amendment) Law of 2011 (L.33 (I)/2011), Art. 44(1) (b)-(m)
- The Control of Atmospheric Pollution Law of 2002 (L.187 (I)/2002), Art. 25(1) (g)-(h), Art. 25(2)
- The Protection from Ionising Radiation Law of 2002 (L. 115(I)/2002), Art. 29(2)-(4)
- The Genetically Modified Microorganisms (Contained Use) Law of 2004 (L. 15(I)/2004), Art. 19
- The Control of Working and Resting Times of Drivers of Certain Vehicles Law of 2007 (L.86 (I)/2007), Art. 14

11.2.4 Duty to provide advice on OSH

Summary/Citation: Advice to workers and to employee representatives is understood by the Safety and Health at Work Law 89(I) of 1996 as amended as the possibility for Inspectors to provide information to employees in general or affected persons in particular. Relevant information covers activities taking place in the premises and any event that may have an impact on the safety and health of employees.

References:

- The Safety and Health at Work (Amendment) Law of 2011 (L.33 (I)/2011), Art.51(2)

11.3 OSH inspectors' enforcement powers

Sometimes.

11.3.1 Power to issue orders or notices

Summary/Citation: Inspectors or Chief Inspectors have the power to issue notices when it is required. They may also issue:

- a) an 'Improvement Notice' requesting employers to change working conditions within a specific period of time (not less than 14 days) and comply with the OSH legislation;
- b) a 'Prohibition Notice' (directly applicable) directing that the use of premises, installations or workplace or any activity which causes or may cause a risk of serious bodily harm cannot be carried out unless the matters giving rise to the inspector's opinion have been remedied.

References:

- The Safety and Health at Work (Amendment) Law of 2011 (L.33 (I)/2011), Art. 45, Art. 46
- The Protection from Ionising Radiation Law of 2002 (L. 115(I)/2002), Art. 31, Art. 32
- The Genetically Modified Microorganisms (Contained Use) Law of 2004 (L. 15(I)/2004), Art. 20, Art. 21

11.3.2 Power to impose financial penalties

No data available.

11.3.3 Power to revoke or suspend licenses or authorisations

No data available.

11.3.4 Power to require the cessation of dangerous work

No data available.

11.3.5 Power to initiate prosecutions

Summary/Citation: Inspectors have the right to initiate enforcement action. If the Court is satisfied that the Inspector's complaints have a legitimate basis, it shall order complete or partial prohibition of use of premises or subject the employer to an obligation to take appropriate measures in order to eliminate relevant risks. Cypriot law provides for two sets of legitimate

grounds that invoked by the Inspector, namely the impossibility of risk-less use of the premises or the risk involved in the tasks taking place at the workplace.

References:

- The Safety and Health at Work Law of 1996 (L.89 (I)/1996), Art.52(1)(a)-(b)

11.3.6 Power to conduct prosecutions

No data available.

11.3.7 Other enforcement powers

No data available.

11.4 Application of sanctions by courts

11.4.1 Financial penalties for legal persons

Summary/Citation: A fine not exceeding:

- a) €80,000 in cases where the legal person is convicted;
- b) €2,000 in cases where the legal person failed to comply with the Court Order, which demanded the person to comply with the OSH legislation within a specified period of time – legal entities are liable for offences which are provided by the OSH legislation.

Special provisions apply to the control of atmospheric pollution for conviction and for non-compliance with the Court Order (a maximum limit of 2000 Cypriot Pounds is applied in both cases); the Protection from Ionising Radiation and Nuclear Safety (for conviction 20000 Cypriot Pound (max.) and for non-compliance with the Court Order 500 Cypriot Pounds (max.)); the Genetically Modified Microorganisms (Contained Use) for conviction 20000 Cypriot Pounds (max.) and for non-compliance with the Court Order 500 Cypriot Pounds (max.).

Comments/Remarks: Not in all Regulations, Laws/Acts, Decree or Orders there is a change in the currency from Cypriot pounds to Euros. However, the application of the new currency is given automatically when necessary by the competent authorities.

References:

- The Safety and Health at Work (Amendment) Law of 2011 (L.33 (I)/2011), Art. 53(1)-(6)

- The Control of Atmospheric Pollution Law of 2002 (L.187 (I)/2002), Art. 27(5), Art. 28(2)
- The Protection from Ionising Radiation Law of 2002 (L. 115(I)/2002), Art. 41
- The Genetically Modified Microorganisms (Contained Use) Law of 2004 (L. 15(I)/2004), Art. 28(1), Art. 28(4) (b)
- The Control of Working and Resting Times of Drivers of Certain Vehicles (Amendment) Law of 2016 (L.87 (I)/2016), Art. 17

11.4.2 Financial penalties for natural persons

Summary/Citation: A fine not exceeding:

- a) €80,000 in cases where the natural person is convicted;
- b) €2,000 in cases where the natural person failed to comply with the Court Order, which demanded the person to comply with the OSH legislation within a specified period of time.

Special provisions apply to the control of atmospheric pollution (maximum 2000 Cypriot Pounds); the Protection from Ionising Radiation and Nuclear Safety (for conviction 20000 Cypriot Pounds (max.) and for non-compliance with the Court Order 500 Cypriot Pounds (max.)); the Genetically Modified Microorganisms (Contained Use) for conviction 20000 Cypriot Pounds (max.) and for non-compliance with the Court Order 500 Cypriot Pounds (max.); the Control of Working and Resting Times of Drivers of Certain Vehicles.

Comments/Remarks: Not in all Regulations, Laws/Acts, Decree or Orders there is a change in the currency from Cypriot pounds to Euros. However, the application of the new currency is given automatically when necessary by the competent authorities.

References:

- The Safety and Health at Work (Amendment) Law of 2011 (L.33 (I)/2011), Art. 53
- The Control of Atmospheric Pollution Law of 2002 (L.187 (I)/2002), Art. 27(5), Art. 28(2)
- The Protection from Ionising Radiation Law of 2002 (L. 115(I)/2002), Art. 41
- The Genetically Modified Microorganisms (Contained Use) Law of 2004 (L. 15(I)/2004), Art. 28
- The Control of Working and Resting Times of Drivers of Certain Vehicles (Amendment) Law of 2016 (L.87 (I)/2016), Art. 17

11.4.3 Non-financial sanctions

Summary/Citation: In case of conviction of any person for an offence, the Court may order the immediate termination or suspension of the operation of the enterprise.

References:

- The Control of Atmospheric Pollution Law of 2002 (L.187 (I)/2002), Art. 28(1)

11.4.4 Criminal liability

Summary/Citation: Any person may be prosecuted for: a) manslaughter under the Criminal Code in case where this person has caused by a serious negligence the death of another person; b) negligent act that cause injury.

References:

- The Criminal Code Law (Cap.154), Art. 237
- The Criminal Code (Amendment) Law of 2000 (Cap. 154) (L.181(I)/2000), Art. 210
- The Control of Atmospheric Pollution Law of 2002 (L.187 (I)/2002), Art. 31

11.4.5 Terms of imprisonment for natural persons

Summary/Citation: Imprisonment for a term not exceeding:

- a) 4 years in cases where the natural person is convicted;
- b) 1 month in cases where the natural person failed to comply with the Court Order, which demanded the person to comply with the OSH legislation within a specified period of time.

Special provisions apply to:

- (a) the control of atmospheric pollution maximum 2 years for conviction– maximum 1 month for non-compliance with Court Order);
- (b) the Protection from Ionising Radiation and Nuclear Safety Laws of 2002 to 2011 (maximum 2 years for conviction– maximum 1 month for non-compliance with Court Order);
- (c) the Genetically Modified Microorganisms (Contained Use) (maximum 2 years for conviction – maximum 1 month for non-compliance with Court Order);
- (d) the Control of Working and Resting Times of Drivers of Certain Vehicles

References:

- The Safety and Health at Work (Amendment) Law of 2011 (L.33 (I)/2011), Art. 53(1) - (6)
- The Control of Atmospheric Pollution Law of 2002 (L.187 (I)/2002), Art. 27(5), Art. 28(2)
- The Protection from Ionising Radiation Law of 2002 (L. 115(I)/2002), Art. 41(1) and (4)
- The Genetically Modified Microorganisms (Contained Use) Law of 2004 (L. 15(I)/2004), Art. 28(1), Art. 28(4) (b)
- The Control of Working and Resting Times of Drivers of Certain Vehicles (Amendment) Law of 2016 (L.87 (I)/2016), Art. 17

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1. Description of national OSH regulatory framework

1.1. Description of OSH regulatory framework

Summary/citation: The Safety, Health and Welfare at Work Act 2005 form the legal foundation of the existing system. The 2005 Act is the principle legislation concerning occupational safety and health in Ireland.

Replacing the Safety, Health and Welfare at Work Act 1989, the 2005 Act implemented Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to improve the safety and health of workers at work and Council Directive 91/383/EEC of 25 June 1991 on measures to improve the safety and health at work of workers with a fixed-duration or temporary employment relationship. It also implemented Convention No. 155 on Occupational Safety and Health, 1981.

The underlying rationale and purpose of the 2005 Act has its roots in the 1983 Report of the Commission of Inquiry on Safety, Health and Welfare at Work. Additionally, the 2005 Act implemented the main principles of the ILO's 1981 Occupational Safety and Health Convention. The 2005 Act is supplemented by the Safety, Health and Welfare at Work (General Application) Regulations 2007 to 2012.

The Law Reform Commission has prepared a revised version of the 2005 Act, which is 'an administrative consolidation of the Act'. This revised version incorporates into a single text all of the amendments which have been made to the 2005 Act. The full text of this revised version is available on the website of the Law Reform Commission.

The State's legislative framework has also been 'greatly influenced' by several European Union Directives and European Union Regulations on safety and health.

References:

- [Safety, Health and Welfare at Work Act, 2005 \(No. 10 of 2005\).](#)
- [Website of the Law Reform Commission of Ireland.](#)
- [Website of the Health and Safety Authority: Acts: Safety, Health and Welfare Act 2005 \(No. 10 of 2005\).](#)

- Safety, Health and Welfare at Work (General Application) Regulations 2007 (S.I. No. 299/2007)

2. Scope, coverage and exclusions

2.1. Health and safety covers physical and psychological health

Summary/citation: Section 8(1) of the Safety, Health and Welfare at Work Act 2005 states that '[e]very employer shall ensure, as far as is reasonably practicable, the safety, health and welfare at work of his or her employees.'

Remarks/comments: The 2005 Act does not define health, safety or welfare. However, the decision of the European Court of Justice (ECJ) in *UK v Council* makes it clear that these concepts are to be given a broad interpretation. In this case, the Court referred to the World Health Organization's definition of health which defines health as 'a state of complete physical, mental and social wellbeing'.

Furthermore, the fact that section 2(1) of the 2005 Act defines 'personal injury' as including 'any impairment of physical or mental condition' means that it can be concluded that the legislation covers both physical and psychological health.

Additionally, 'physical or mental impairment' is also specifically referred to in Section 23(4) of the 2005 Act which deals with medical fitness to work. Section 23(4): 'If an employee referred to in subsection (1) becomes aware that he or she is suffering from any disease or physical or mental impairment which, should he or she perform a work activity referred to in subsection (2), would be likely to cause him or her to expose himself or herself or another person to danger or risk of danger, he or she shall immediately notify the employer concerned or a registered medical practitioner nominated by that employer who shall in turn notify the employer.'

References:

- Case C-84/94 UK v Council [1996] ECR I-5755.
- Safety, Health and Welfare at Work Act, 2005 (No. 10 of 2005). (§ 2(1), § 8(1), § 23(4))

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

2.2. Definition of worker

2.2.1. Coverage of particular categories of workers

Summary/citation: Section 2(1) of the Safety, Health and Welfare at Work Act 2005 defines an 'employee' as a person who has entered into or works under a contract of employment. This includes a fixed-term and a temporary employee.

References:

- Safety, Health and Welfare at Work Act, 2005 (No. 10 of 2005). (§ 2(1), § 13(1))

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

2.2.1.1. Migrant workers

Summary/citation: No provisions exclude migrant workers from the definitions set out in the Safety, Health and Welfare at Work Act 2005, although this is not explicitly set out within the Act itself. Regulation (EEC) No. 1612/68 of the Council implements Article 45(2) of the Treaty on the Functioning of the European Union which abolishes any discrimination between workers of Member States in employment, remuneration, and other conditions of work and employment. In Ireland, this Directive was transposed into the European Communities (Free Movement of Persons) (No. 2 Regulations) 2006 amended by Statutory Instrument 310 of 2008 and amended by Statutory Instrument 146 of 2011.

Remarks/comments: Research commissioned by the Health and Safety Authority identifies migrant workers as a high risk group due to the fact that they are more likely to be employed in sectors with existing health and safety concerns. The European Network on Free Movement of Workers has reported that the prohibition on discrimination against EU migrant workers is actively respected in Ireland. However, concerns have been expressed that exceptions contained in anti-discrimination laws may be too wide to ensure adequate protection for migrant workers.

References:

- Safety, Health and Welfare at Work Act, 2005 (No. 10 of 2005).
- Employment Equality Act (No. 21 of 1998). (§ 6(2)(h))

- [Website of the Citizens Information Board website.](#)
- [The Health and Safety Authority and the Institute for Employment Studies, 'Irish and Non-Irish](#)
- [National Construction Workers: Research on Differences of Approach to Health and Safety at Work?](#)
- [Protection of Employees \(Part-Time Work\) Act, 2001 \(No. 45 of 2001\).](#)

Related CEACR Comments

- [Occupational Safety and Health Convention, 1981 \(No. 155\) Direct Request 2016](#)

2.2.1.2. Domestic workers

Summary/citation: No provisions exclude domestic workers from the definitions set out in the Safety, Health and Welfare at Work Act 2005, although this is not explicitly set out within the Act itself. Having ratified the ILO Domestic Workers Convention, 2011 (No. 189) in July 2014, Ireland utilises the ILO definition of a domestic worker which Article 1(b) of this Convention sets out as being 'any person engaged in domestic work within an employment relationship' on more than an occasional or sporadic basis. Additionally, in 2007, the Workplace Relations Commission (then the Labour Relations Commission) produced a Code of Practice for Protecting Persons Employed in Other People's Homes which sets out the rights of persons employed in private homes. The employment rights of domestic workers include the right to work in a safe and healthy workplace. Domestic workers have broadly the same employment rights as other workers, with access to employment being the only area in which their rights differ from those of other workers.

References:

- [Safety, Health and Welfare at Work Act, 2005 \(No. 10 of 2005\).](#)
- [Workplace Relations Committee, Code of Practice for Protecting Persons Employed in Other People's Homes.](#)
- [Website of the Citizens Information Board website.](#)

Related CEACR Comments

- [Occupational Safety and Health Convention, 1981 \(No. 155\) Direct Request 2016](#)

2.2.1.3. Home workers

Summary/citation: No provisions exclude homeworkers from the definitions set out in the Safety, Health and Welfare at Work Act 2005, although this is not explicitly set out within the Act itself. Homeworkers are classified as a category of lone workers. An employer has the same responsibility for the safety and health of employees who work from home as for any other category of employees. An employer is obliged to accept liability for accident or injury of a homeworker as for any other employee.

Restrictions/obligations: Section 19 of the Safety, Health and Welfare at Work Act 2005 requires an employer to carry out a risk assessment which 'shall determine whether or not an employee may work alone.' Furthermore, employers are obliged to be aware of any specific legislation on lone workers which is applicable to their specific industry.

References:

- [Website of the Health and Safety Authority.](#)
- [Safety, Health and Welfare at Work Act, 2005 \(No. 10 of 2005\). \(§ 19\)](#)

Related CEACR Comments

- [Occupational Safety and Health Convention, 1981 \(No. 155\) Direct Request 2016](#)
- [Home Work Convention, 1996 \(No. 177\) Direct Request 2011](#)

2.2.1.4. Self-employed persons

Summary/citation: A self-employed person is defined by section 2(1) of the Safety, Health and Welfare at Work Act 2005 as 'a person who works for profit or gain otherwise than under a contract of employment, whether or not the person employs other persons.' Section 7 of the 2005 Act provides that '[t]he relevant statutory provisions apply, where appropriate, to a self-employed person as they apply to an employer and as if that self-employed person was an employer and his or her own employee and references in the relevant statutory provisions to an employer shall be read as references to a self-employed person'.

References:

- [Safety, Health and Welfare at Work Act, 2005 \(No. 10 of 2005\). \(§ 2\(1\), § 7\)](#)

2.3. Definition of employer

Summary/citation: Section 2(1) of the Safety, Health and Welfare at Work Act 2005 defines 'employer' as 'the person with whom the employee has entered into or for whom the employee works under (or, where the employment has ceased, entered into or worked under) contract of employment'. This definition 'includes a person (other than an employee of that person) under whose control and direction an employee works, and includes where appropriate, the successor of the employer or an associated employer of the employer'.

Restrictions/obligations: Sections 8 – 12 of the 2005 Act set out the general duties of employers, with Section 8 being particularly relevant. Those duties include the duties to:

- To ensure the safety, health, and welfare at work of its employees (section 8(1)).
- To manage and conduct work activities in a manner which ensures the health and safety of employees in the workplace (section 8(2)(a)).
- To prevent any improper conduct or behaviour that is a potential risk to health, safety, and welfare at work of employees (section 8(2)(b)).
- To ensure that the design, provision, and maintenance of the workplace is in a condition which will not endanger its employees (section 8(2)(c)(i)).
- To ensure the design, provision, and maintenance of safe means of access to and egress from it (section 8(2)(c)(ii)).
- To maintain plant and machinery (section 8(2)(c)(iii)).
- To ensure the safety and the prevention of risk to health at work of employees relating to the use of any article or substance or the exposure to noise, vibration or ionising or other radiations or any other physical agent (section 8(2)(d)).
- To provide systems of work for employees that are planned, organised, performed, maintained, and revised as necessary so that they are without risk to health (section 8(2)(e)).
- To provide and maintain facilities and arrangements for the welfare of employees at work (section 8(2)(f)).
- To provide information, instruction, training, and supervision for employees (section 8(2)(g)).
- To determine and implement the safety, health and welfare measures necessary for the protection of safety, health and welfare of employees when identifying hazards and carrying out a risk assessment under section 19 or when preparing a safety statement under section 20 and to ensure

that the measures take account of changing circumstances and the general principles of prevention specified in Schedule 3 (section 8(2)(h)).

- To have regard to the general principles of prevention in Schedule 3, where risks cannot be eliminated or adequately controlled or in such circumstances as may be prescribed, to provide and maintain such suitable protective clothing and equipment as is necessary to ensure the safety, health, and welfare at work of employees (section 8(2)(i)).
- To prepare and revise, as appropriate, adequate plans and procedures to be followed and measures to be taken in the case of an emergency or serious and imminent danger (section 8(2)(j)).
- To report accidents and dangerous occurrences, as may be prescribed, to the Health and Safety Authority or to a person prescribed under section 33, as appropriate (section 8(2)(k)).
- To obtain, where necessary, the services of a competent person to ensure the safety, health, and welfare at work of employees (section 8(2)(l)).
- To ensure the working conditions of any fixed-term or temporary employee are such as will protect his or her safety, health, and welfare at work. (section 8(4)).
- To ensure employees who may not be literate understand information regarding occupational safety, health and welfare (section 9).
- To ensure instruction, training, and supervision is provided in a form and manner and, as appropriate, language that is reasonably likely to be understood by the employee concerned (section 10(1)(a)).
- To ensure employees receive, during time off from their work, where appropriate, and without loss of remuneration, adequate safety, health and welfare training (section 10(1)(b)).
- To prepare plans, procedures, and measures for dealing with emergencies or serious and imminent dangers (section 11).
- To manage the undertaking so as to ensure that individuals at the place of work (other than employees) are not exposed to risks to their safety, health or welfare (section 12).

Most of the duties set out in these sections are restricted by the requirement that the employer must only do what is 'reasonably practicable'. Section 2(6) of the 2005 Act defines 'reasonably practicable' in relation to the duties of an employer as meaning 'that an employer has exercised all due care by putting in place the necessary protective and preventive measures, having identified

the hazards and assessed the risks to safety and health likely to result in accidents or injury to health at the place of work concerned and where the putting in place of any further measures is grossly disproportionate having regard to the unusual, unforeseeable and exceptional nature of any circumstance or occurrence that may result in an accident at work or injury to health at that place of work.'

References:

- Safety, Health and Welfare at Work Act, 2005 (No. 10 of 2005). (§ 2(1), § 2(6), § 8, § 9, § 10, § 11, § 12, § 33)

2.4. Exclusion of branches of economic activity

2.4.1. Agriculture

Summary/citation: The Health and Safety Authority has issued a Code of Practice for Preventing Injury and Occupational Ill Health in Agriculture by virtue of section 60 of the Safety, Health and Welfare at Work Act 2005 and with the consent of the Minister of State at the Department of Enterprise, Trade and Employment. The aim of the Code is to improve the level of safety and health among people employed within the agricultural sector. It provides practical guidance in relation to observance of the 2005 Act, including sections 19 and 20. The Code of Practice incorporates a Risk Assessment Document and a Safety System of Work Plan (SSWP). The former includes a risk assessment form for farms with three or less employees, highlights major risks in farming, and provides a checklist of safety measures to be carried out. The latter is a non-exhaustive list of hazards and controls.

Restrictions/obligations: Section 61 of the 2005 Act provides that the Code of Practice (and any code of practice bearing the seal of the HSA) may be admissible as evidence in criminal proceedings where the code gives practical guidance on observing any of the relevant statutory provisions.

References:

- Safety, Health and Welfare at Work Act, 2005 (No. 10 of 2005). (§ 60, § 61)
- The Agricultural Code of Practice: SSWP.
- The Agricultural Code of Practice: Risk Assessment Document.

- The Agricultural Code of Practice for Preventing Injury and Occupational Ill Health in Agriculture.

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

2.4.2. Construction

Summary/citation: The construction industry is regulated by Statutory Instrument No. 291 of 2013, Safety, Health and Welfare at Work (Construction) Regulations 2013 which came into force on 1 August 2013. The purpose of S.I. 291 of 2013 is to set out the main requirements for the protection of the safety, health, and welfare of persons working on construction sites. It regulates design and management; the general duties of contractors and others; excavations, shafts, earthquakes, underground works, and tunnels; cofferdams and caissons; compressed air; explosives, general health hazards; construction work on or adjacent to water; transport, earthmoving, and materials-handling machinery and locomotives; demolition; and roads.

References:

- National Irish Safety Organisation, 'New Construction Regulations'.
- Safety, Health and Welfare at Work (Construction) Regulations 2013 (S.I. No. 291/2013)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016
- Safety Provisions (Building) Convention, 1937 (No. 62) Direct Request 2016

2.4.3. Services

Summary/citation: The services industry is regulated by the Safety, Health and Welfare at Work Act 2005 and the Safety, Health and Welfare at Work (General Application) Regulations 2007 as amended. The Health and Safety Authority has published a document – 'Safe Hospitality: Safety, Health and Welfare in Hotels, Restaurants, Catering and Bars, Part 7 of which outlines the duties, obligations, and requirements set out in 2005 Act and the 2007 Regulations as they relate to the services industry.

References:

- The Health and Safety Authority, 'Safe Hospitality: Safety, Health and Welfare in Hotels, Restaurants, Catering and Bars – Part 7'.

- The Health and Safety Authority, 'Safe Hospitality: Safety, Health and Welfare in Hotels, Restaurants, Catering and Bars – Part 1'.

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

2.4.4. Public sector

Summary/citation: The Health and Safety Authority defines the public sector as 'that part of the economy that provides government services' and as including local and central government. The Authority provides guidelines relating to safety, health, and welfare in the education, healthcare, and local and central government sectors in particular.

Remarks/comments: In Ireland, the public sector accounts for approximately 335,000 employees or 17% of the 1.98 million workforce. In 2006, the Health and Safety Authority, in association with the Forum Group, developed a safety and health audit tool for the healthcare sector to assist in the continuous development and implementation of a safety and health management system for the healthcare sector. The Authority has also developed a suite of online health and safety courses for teachers and students in both primary and post-primary education sectors; the courses are available at hslearning.ie.

References:

- Central Statistics Office Quarterly National Household Survey, Quarter 3 2015.
- The Health and Safety Authority, 'Auditing a Safety and Health Management System: A Safety and Health Auditing Tool for the Healthcare Sector' (2006).
- Local Government section of the Health and Safety Authority website.
- Education Sector section of the Health and Safety Authority website.
- Public Sector section of the Health and Safety Authority website.

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

2.4.5. Other

Summary/citation: Chemicals, diving, docks, fishing, mining, offshore, and petrol stations sectors are all included. The website of the Health and Safety Authority provides specific guidelines and information pertaining to each individual industry.

References:

- [Your Industry section of the website of the Health and Safety Authority.](#)

Related CEACR Comments

- [Safety and Health in Mines Convention, 1995 \(No. 176\)](#) Direct Request 2016

2.5. Definition of occupational accident

Summary/citation: Section 2(1) of the Safety, Health and Welfare at Work Act 2005 defines 'accident' as 'an accident arising out of or in the course of employment which, in the case of a person carrying out work, results in personal injury'.

References:

- [Safety, Health and Welfare at Work Act, 2005 \(No. 10 of 2005\). \(§ 2\(1\)\)](#)

2.6. Definition of occupational disease

2.6.1. List of occupational diseases

Summary/citation: Part 4 of Statutory Instrument No. 102 of 2007 sets out the list of prescribed diseases for the purposes of the regulations.

Restrictions/obligations: Special provisions apply to pneumoconiosis, byssinosis, occupational asthma, vibration-induced white finger, and occupational deafness.

References:

- [Website of the Department of Social Protection.](#)
- [Social Welfare \(Consolidated Occupational Injuries\) Regulations 2007.](#)

2.6.2. Mechanism for compensating other diseases as occupational ones

Summary/citation: The Personal Injuries Assessment Board Act 2003 applies to 'a civil action by an employee against his or her employer for negligence or breach of duty arising in the course of the employee's employment with that employer' (section 3(a)). The 2003 Act provides that all personal injury claims, including occupational claims, must be made through the Personal Injuries Assessment Board. An employee can make an application to the Personal Injuries Assessment Board under section 11 of the 2003 Act in writing or by electronic mail.

Remarks/comments: In Ireland, employers' liability insurance is not compulsory. It provides cover to enable employers to meet the cost of compensation for employees' injuries or illness which occur while the employees are working for the employers. Employers' liability insurance only applies where the employer's negligence was found to have caused the particular injury or illness.

The Occupational Injuries Benefit Scheme is a group of benefits for people injured or incapacitated by an accident at work or while travelling directly to or from work. The scheme also covers people who have contracted a disease as a result of the type of work in which they are engaged. The benefits which are available are: Injury Benefit, Disablement Benefit, Incapacity Supplement, Constant Attendance Allowance, and Medical Care Scheme.

References:

- Personal Injuries Assessment Board Act 2003 (Act No. 46 of 2003). (§ 3(a), § 11)
- Personal Injuries Assessment Board Rules 2004.
- Personal Injuries Assessment Board (Amendment) Act 2007 (No. 35 of 2007).

3. Institutions and programmes relating to OSH administration and/or enforcement

3.1. Competent national authority for safety and health at work

Summary/citation: The Health and Safety Authority is the primary statutory body tasked with enforcing OSH law in Ireland. The Health and Safety Authority is given statutory grounding under the Safety, Health and Welfare At Work Act, 2005

- Website of the Health and Safety Authority.
- Safety, Health and Welfare at Work Act, 2005 (No. 10 of 2005).

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

12. 3.1.1 Objectives, roles and/or functions

Summary/citation: The Safety, Health and Welfare At Work Act, 2005 sets out the key roles and objectives for the Health and Safety Authority. The principal functions of the Health and Safety Authority are to make adequate arrangements for the enforcement of statutory OSHA law; to promote, encourage and foster a preventative approach to health and safety at work; to provide information relating to safety, health and welfare at work; and to promote, sponsor, evaluate, and publish research, surveys, and studies relating to hazards and risks to safety and health within the workplace (or arising from work activities).

- Safety, Health and Welfare at Work Act, 2005 (No. 10 of 2005). (§ 34(1))

3.1.2 Chairperson and composition

Summary/citation: The Safety, Health and Welfare At Work Act, 2005 outlines the rules relating to governance of the Health and Safety Authority.

The Health and Safety Authority is governed by the Minister for Enterprise, Trade and Employment, who appoints three persons nominated by organizations representing employees, three persons nominated by persons representing employers, and four persons representative of relevant Government Departments, State Agencies, and other bodies consists of a chairperson and ten ordinary members.

The chairperson holds office for a term of three years.

References:

- Safety, Health and Welfare at Work Act, 2005 (No. 10 of 2005). (§ 33, 37)

3.2 National OSH research programme or institute

Summary/citation: The Health and Safety Authority is the primary statutory body tasked with promoting, sponsoring, and evaluating Occupational Safety and Health law in Ireland. In addition to this, the Health and Safety Authority promotes research in the field.

References:

- Website of the Health and Safety Authority.

3.2.1 Objectives, roles and/or functions

Summary/citation: The principal functions of the Health and Safety Authority are to make adequate arrangements for the enforcement of statutory Occupational Safety and Health law; to promote, encourage and foster a preventative approach to health and safety at work; to provide information relating to safety, health and welfare at work; and to promote, sponsor, evaluate, and publish research, surveys, and studies relating to hazards and risks to safety and health within the workplace (or arising from work activities).

References:

- Safety, Health and Welfare at Work Act, 2005 (No. 10 of 2005). (§ 34)

3.2.2 Governance board constitution and chairmanship

Summary/citation: The Health and Safety Authority is governed by the Minister for Enterprise, Trade and Employment, who appoints the Chief Executive of the Health and Safety Authority. The Chief Executive deals with the general administration and business of the authority.

References:

- Safety, Health and Welfare at Work Act, 2005 (No. 10 of 2005). (§ 39)

3.2.3 Source of funding

Summary/Citation: The Health and Safety Authority is provided funds by the Oireachtas with the consent of the Minister for Finance. The Authority also has the power, with the consent of the Minister of Enterprise, Trade and Employment and the Minister for Finance, may seek funding from other sources. Additionally the Authority has the power to borrow and set fees for service.

References:

- Safety, Health and Welfare at Work Act, 2005 (No. 10 of 2005). (§ 45, § 46, § 47)

3.3 National OSH programme

Summary/citation: The Chief Executive holds the responsibility of submitting a strategy statement to the Health and Safety Authority. The Authority is then responsible for submitting this plan to the Minister for Enterprise, Trade and Employment for their approval. The most

recent publication was the Strategy Statement 2016-2018. The expected outcomes for the current statement are reducing workplace-related death and injury, active employer and employee engagement, increased awareness on hazards, and better transposition of EU regulations in domestic law.

References:

- The Health and Safety Authority. 'Strategy Statement 2016-2018'
- Safety, Health and Welfare at Work Act, 2005 (No. 10 of 2005). (§ 39(5)a, § 43)

3.3.1 Consultation on the national OSH programme

Summary/citation: The Health and Safety Authority carries out public consultations prior to decision making with relevant stakeholders and the public. Stakeholders are invited to make submissions to the Authority, who will evaluate them. A report will be made to the Minister thereafter.

The Public Consultation procedures are outlined in the Health and Safety Authority's Strategy Statement 2016-18.

It notes; "The Authority engaged in a very extensive programme of stakeholder and public consultation during the development of this strategy. This involved surveys, interviews and a series of workshops with employers, employees, representative bodies, government departments and other agencies, our own staff and an open consultation process for the public. This process attracted comment from a large range of individuals and organisations and many of these have been reflected in the strategy."

References:

- Safety, Health and Welfare at Work Act, 2005 (No. 10 of 2005). (§ 44)
- The Health and Safety Authority. 'Public Consultation Policy'.
- The Health and Safety Authority. 'Strategy Statement 2016-2018' (page 16)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

4. Employers' duties and responsibilities to protect the safety and health of workers and others

4.1 Duty to ensure the health and safety of employees

Summary/citation: Section 8 of the Health, Safety and Welfare at Work Act 2005 sets out in legislation an employer's duty to ensure the health and safety of employees in the workplace. S8(1) states: Every employer shall ensure, so far as is reasonably practicable, the safety, health and welfare at work of his or her employees.

References:

- Safety, Health and Welfare at Work Act, 2005 (No. 10 of 2005). (§ 8)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

4.2 Duty to protect the health and safety of people other than their own employees

Summary/citation: Section 12 of the Act states that every employer shall manage and conduct his or her undertaking in such a way as to ensure, so far as is reasonably practicable, that in the course of the work being carried on, individuals at the place of work (not being his or her employees) are not exposed to risks to their safety, health or welfare.

References:

- Safety, Health and Welfare at Work Act, 2005 (No. 10 of 2005). (§ 12)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

4.3 Collaboration among two or more employers at the same workplace

Summary/citation: Under the Safety, Health and Welfare at Work Act 2005, there is a duty on employers to co-operate. This duty extends to complying and implementing relevant statutory provisions, coordinating actions relating to the protection from risks of safety, and to inform relevant parties of risk arising from their work.

References:

- Safety, Health and Welfare at Work Act, 2005 (No. 10 of 2005). (§ 21)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

4.4 Surveillance of workers' health in relation to work

Summary/Citation: The Safety, Health and Welfare At Work Act requires employers to ensure that employees are protected against any dangers which may specifically affect them. Section 22 of the Act requires every employer to ensure that health surveillance is made available to all employees with regard to risks to health, safety and welfare that may exist in the work place.

In addition to the above, employees may be required by employers to submit tests for intoxicants under the supervision of a medical practitioner.

- Safety, Health and Welfare at Work Act, 2005 (No. 10 of 2005). (§ 13(1)c, § 22)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

4.4.1 Specific hazards for which surveillance is required

Summary/Citation: An employer must identify and assess the hazards in the workplace and be in possession of a written assessment of such risks. This also includes any particular or unusual threat which may affect the workforce. The Safety, Health and Welfare at Work (Quarries) Regulations, 2008 requires that the health surveillance must be made available before employees are assigned to particular work activities in the workplace where a risk assessment identifies health surveillance is required.

References:

- Safety, Health and Welfare at Work Act, 2005 (No. 10 of 2005). (§ 10(1)d, § 19, § 22(1))
- Safety, Health and Welfare at Work (Quarries) Regulations 2008 (§ 63)

4.5 Surveillance of the working environment and working practices

Summary/Citation: Every employer must ensure that supervision of employees is provided in a form and manner that is likely to be understood by those concerned. Where competency requirements are prescribed, the employer must provide for the release of workers during working hours and without loss of pay for the purposes of attending safety training with regards to their

work. The employer must also ensure that the work place is, as is reasonably practicable, without risk to health and safety by its design, provision and maintenance.

References:

- Safety, Health and Welfare at Work Act, 2005 (No. 10 of 2005). (§ 8(2)c, § 8(4), § 10(1)a)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

4.6 Duty to provide personal protective equipment

Summary/Citation: Section 8(2)(i) of the Safety, Health and Welfare At Work Act sets out the employer's duty where risks cannot be eliminated or adequately controlled to provide suitable protective clothing and equipment as is necessary to ensure the safety, health and welfare at work of employees. All training regarding the use of this protective equipment must be given in a manner and language that can clearly be understood by the employee.

References:

- Safety, Health and Welfare at Work Act, 2005 (No. 10 of 2005). (§ 8(2)(i))

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016
- Safety Provisions (Building) Convention, 1937 (No. 62) Direct Request 2016

4.7 Duty to ensure the usage of personal protective equipment

Summary/Citation: Under the Safety, Health and Welfare At Work Act the employer must, where risks cannot be eliminated or controlled, provide and maintain suitable clothing and protective equipment as is necessary to protect their employees. It is the employees own duty to ensure that they use their protective equipment as per section 13 with regard to their training given by the employer.

References:

- Safety, Health and Welfare at Work Act, 2005 (No. 10 of 2005). (§ 8(2)(i), § 13(1)g)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

4.8 Duty to provide first-aid and welfare facilities

4.8.1 Arrangements for first-aid

Summary/Citation: Every employer has a duty to prepare the necessary plans and procedures to be followed in case of emergency or serious danger. This includes the necessary measures to be taken for first aid, fire-fighting and the evacuation of employees and any other individuals present, accounting for the nature of work being carried out and the size of the work place.

References:

- Safety, Health and Welfare at Work Act, 2005 (No. 10 of 2005). (§ 11(1)a)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

4.8.2 Sanitary installations

Summary/Citation: Section 20 of the Safety, Health and Welfare at Work (General Application) Regulations 2007 states that employees are entitled to adequate and suitable sanitary and washing facilities which the employer must maintain in a clean state. The employer must provide an adequate number of bathrooms and washbasins, with both hot and cold running water close in proximity to workstations, changing rooms, rest rooms and shower facilities. Separate use of lavatories for women and men must be provided when so required for reason of propriety. Regulation 20(d) provides that adequate showers must be provided for employees if required due to the nature of the work being carried out, or for health reasons. Further, separate facilities must be provided for men and women, must be equipped with hot and cold water, and be sufficiently large enough to allow employees to wash themselves in hygienic conditions.

- Safety, Health and Welfare at Work (General Application) Regulations 2007 (S.I. No. 299/2007) (§ 20(a), § 20(c), § 20(d),)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

4.8.3 Drinking water

Summary/Citation: Employers are obligated to provide an adequate source of potable water within the workplace as per section 18(d) of the Regulations. These water points must be maintained, accessible, and should be provided in a number suited to the size of the workforce.

References:

- Safety, Health and Welfare at Work (General Application) Regulations 2007 (S.I. No. 299/2007) (§ 18(d))

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

4.8.4 Rest and eating areas

Summary/Citation: Section 19 of the Safety, Health and Welfare at Work (General Application) Regulations provide that an employer must supply rest rooms large enough for the relevant workforce, and adequately equipped with clean surfaces and seats with backs. This need for resting or break rooms would arise where physical activity or work is conducted in a hostile environment where there is exposure to fume, noise, heat or cold, or dust. These rest areas are to ensure that employees do not spend all their work hours in hazardous conditions. This section also provides that where a restaurant or canteen is provided as a rest area, that employees be permitted to use the facilities without being obligated to make purchases.

References:

- Safety, Health and Welfare at Work (General Application) Regulations 2007 (S.I. No. 299/2007) (§ 19)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

5 Employers' duty to organize prevention formally along generally accepted OSH management principles and practices

5.1 Elements of an OSH management system

5.1.1 Policy or plan specifying responsibilities and arrangements for health and safety

Summary/citation: Employers have a duty to compile a safety statement, outlining how to promote the health and welfare of employees, and these statements are subject to review based on updated risk assessments carried out. Safety statements are to be made available to employees at their place of work, and brought to the attention of employees on an annual basis.

“20.—(1) Every employer shall prepare, or cause to be prepared, a written statement (to be known and referred to in this Act as a “safety statement”), based on the identification of the hazards and the risk assessment carried out under section 19, specifying the manner in which the safety, health and welfare at work of his or her employees shall be secured and managed.”

References:

- Safety, Health and Welfare at Work Act, 2005 (No. 10 of 2005). (§ 20(1))

5.1.2 Appointment of a person for health and safety

Summary/citation: A duty of care is owed by employers to their employees, and employers are responsible for their employees' health and safety while carrying out their occupation, as far as is reasonably practicable. Employers ensure this by hiring a competent person when required.

“8. — (2)(l) obtaining, where necessary, the services of a competent person (whether under a contract of employment or otherwise) for the purpose of ensuring, so far as is reasonably practicable, the safety, health and welfare at work of his or her employees.”

- Safety, Health and Welfare at Work Act, 2005 (No. 10 of 2005). (§ 25(1), § 27(1))

5.1.3 Written risk assessment

Summary/citation: Employers are required to carry out a risk assessment of hazards that would put employees at risk while carrying out their occupational duties and outline what employees should do to avoid these risks. Employers must identify risks and hazards and let these be known in a written assessment.

“19.—(1) Every employer shall identify the hazards in the place of work under his or her control, assess the risks presented by those hazards and be in possession of a written assessment (to be known and referred to in this Act as a “risk assessment”) of the risks to the safety, health and welfare at work of his or her employees, including the safety, health and welfare of any single

employee or group or groups of employees who may be exposed to any unusual or other risks under the relevant statutory provisions.”

References:

- Safety, Health and Welfare at Work Act, 2005 (No. 10 of 2005). (§ 19(1))

5.1.4 Safe operating work systems and procedures

Summary/citation: A duty of care is owed by employers to their employees, and employers are responsible for their employees’ health and safety while carrying out their occupation, as far as is reasonably practicable.

“8.—(1) Every employer shall ensure, so far as is reasonably practicable, the safety, health and welfare at work of his or her employees.

(2) Without prejudice to the generality of subsection (1), the employer's duty extends, in particular, to the following:

(a) managing and conducting work activities in such a way as to ensure, so far as is reasonably practicable, the safety, health and welfare at work of his or her employees;

(b) managing and conducting work activities in such a way as to prevent, so far as is reasonably practicable, any improper conduct or behaviour likely to put the safety, health or welfare at work of his or her employees at risk,(...)

(e) providing systems of work that are planned, organised, performed, maintained and revised as appropriate so as to be, so far as is reasonably practicable, safe and without risk to health.”

References:

- Safety, Health and Welfare at Work Act, 2005 (No. 10 of 2005). (§ 8(1), § 8(2))

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

5.1.5 Training and information on risks

Summary/citation: The Safety, Health and Welfare Act 2005 has outlined numerous methods to prevent risk and for employees to be aware of these risks. The employer has a duty of care to

their employees to ensure these risks are known through identifying risks and by providing training when required.

“8.—(1) Every employer shall ensure, so far as is reasonably practicable, the safety, health and welfare at work of his or her employees.

(2) Without prejudice to the generality of subsection (1), the employer's duty extends, in particular, to the following:

(g) providing the information, instruction, training and supervision necessary to ensure, so far as is reasonably practicable, the safety, health, and welfare at work of his or her employees.”

“9.—(1) Without prejudice to the generality of section 8 , every employer shall, when providing information to his or her employees under that section on matters relating to their safety, health and welfare at work ensure that the information—

(a) is given in a form, manner and, as appropriate, language that is reasonably likely to be understood by the employees concerned, and

(b) includes the following information—

(i) the hazards to safety, health and welfare at work and the risks identified by the risk assessment,

(ii) the protective and preventive measures to be taken concerning safety, health and welfare at work under the relevant statutory provisions in respect of the place of work and each specific task to be performed at the place of work, and

(iii) the names of persons designated under section 11 and of safety representatives selected under section 25 , if any.

(2) Where an employee of another undertaking is engaged in work activities in an employer's undertaking, that employer shall take measures to ensure that the employee's employer receives adequate information concerning the matters referred to in subsection (1).”

References:

- Safety, Health and Welfare at Work Act, 2005 (No. 10 of 2005). (§ 8(1), § 8(2)(g), § 9(1), § 9(2))

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

5.1.6 Review or assessment of the results of preventive measures

No data available.

5.1.7 Consultation with workers in health and safety

Summary/citation: Regarding employers and employees interaction with trade unions, a joint safety and health agreement can be drafted by the representatives of the employer and the employees which then can be submitted for approval by the Health and Safety Authority. If approved, the joint safety and health agreement will be published in the *Iris Oifigiúil*, the official Irish State gazette.

Employers have a duty to consult their Employees to ensure a high standard of safety, health and welfare at the work place.

“24.—(6) Where the Authority approves of a joint safety and health agreement, it shall publish a notice of approval in *Iris Oifigiúil* and in at least 2 daily newspapers circulating in the State, and that notice shall—

- (a) identify the agreement,
- (b) specify the matters relating to safety, health and welfare at work or the relevant statutory provisions in respect of which the agreement is approved and published, and
- (c) specify the date on which the agreement shall come into operation.”

“26.—(1) Every employer shall, for the purpose of promoting and developing measures to ensure the safety, health and welfare at work of his or her employees and ascertaining the effectiveness of those measures—

- (a) consult his or her employees for the purpose of making and maintaining arrangements which will enable the employer and his or her employees to co-operate effectively for those purposes,
- (b) in accordance with the arrangements referred to in paragraph (a), consult with his or her employees, their safety representatives or both, as appropriate, in advance and in good time regarding—

- (i) any measure proposed to be taken in the place of work which may substantially affect the safety, health and welfare of those employees, including measures to be taken under the relevant statutory

provisions,

- (ii) the designation of employees under section 11 ,
- (iii) activities arising from or related to the protection from and the prevention of risks to safety, health and welfare at work,
- (iv) the hazard identification and the risk assessment to be carried out under section 19,
- (v) the preparation of a safety statement under section 20,
- (vi) the information to be provided to employees under section 9,
- (vii) the information required to be kept or notified to the Authority in respect of accidents and dangerous occurrences referred to in section 8 (2)(k),
- (viii) the appointment of persons referred to in section 18,
- (ix) the planning and organisation of the training referred to in section 10, or
- (x) the planning and introduction of new technologies particularly in relation to the consequences of the choice of equipment and working conditions and the working environment for the safety, health and welfare of employees.”

References:

- Safety, Health and Welfare at Work Act, 2005 (No. 10 of 2005). (§ 24(6), § 26(1)(a)-(x))

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

5.2 Obligation to implement a specific OSH management system or standard

No.

6 Employers' duty to ensure availability of expertise and competence in health and safety

6.1 OSH competence

No data available.

6.1.1 Requirement to access expert advice and/or support in health and safety

Summary/Citation: An employer shall appoint a competent person/s to perform functions relating to the protection from and prevention of risks to health and safety. The definition of 'competent persons' is given in Section 2(1)(2)a of the Safety, Health and Welfare at Work Act 2005, it notes; "a person is deemed to be a competent person where, having regard to the task he or she is required to perform and taking account of the size or hazards (or both of them) of the undertaking or establishment in which he or she undertakes work, the person possesses sufficient training, experience and knowledge appropriate to the nature of the work to be undertaken."

In addition to this, when defining a competent person, the 2005 Act requires that attention is given to the framework of qualifications outlined in the Qualifications and Quality Assurance (Education and Training) Act 2012 when appropriate.

References:

- Qualifications and Quality Assurance (Education and Training) Act 2012 (Act No. 28 of 2012). (§ 43)
- Safety, Health and Welfare at Work Act, 2005 (No. 10 of 2005). (§ 18(1), § 2(1)(2)a)

6.1.1.1 Qualifications of experts or professional services

Summary/Citation: The definition of 'competent persons' is given in Section 2(1)(2)a of the Safety, Health and Welfare at Work Act 2005, it notes; "a person is deemed to be a competent person where, having regard to the task he or she is required to perform and taking account of the size or hazards (or both of them) of the undertaking or establishment in which he or she undertakes work, the person possesses sufficient training, experience and knowledge appropriate to the nature of the work to be undertaken."

In addition to this, when defining a competent person, the 2005 Act requires that attention is given to the framework of qualifications outlined in the Qualifications and Quality Assurance (Education and Training) Act 2012 when appropriate.

References:

- Qualifications and Quality Assurance (Education and Training) Act 2012 (Act No. 28 of 2012). (§ 43)

- Safety, Health and Welfare at Work Act, 2005 (No. 10 of 2005). (§ 18(1), § 2(1)(2)a)

6.2 Appointment of an OSH practitioner

Summary/citation: “An employer shall, for the purpose of complying with the relevant statutory provisions, appoint one or more competent persons to perform such functions as are specified by the employer, relating to the protection from and the prevention of risks to safety, health and welfare at work”.

Restrictions/obligations: An employee appointed as a competent person shall be allowed adequate time, with no loss of remuneration, to enable him or her to perform such functions as are specified by the employer.

References:

- Safety, Health and Welfare at Work Act, 2005 (No. 10 of 2005). (§ 18(1), § 18(2))

6.2.1 Workforce size threshold for the appointment of OSH practitioners

Summary/citation: Every employer shall ensure that the number of competent persons appointed, the time available to them and the means at their disposal to perform their functions are adequate having regard to the size of the place of work, the risks to which employees are exposed and the distribution of those risks in the place of work

References:

- Safety, Health and Welfare at Work Act, 2005 (No. 10 of 2005). (§ 18(3))

7 Workers' rights and duties

7.1 Duty to take reasonable steps to protect their own safety and health

Summary/Citation: While the Health, Safety and Welfare at Work Act 2005 imposes duties of care on employers to manage and achieve a safe working environment, employees are expected to be alert and are also required to operate in a safe and responsible manner to ensure their own safety is maintained.

In relation to their own safety, §13 of the Act provides that an employee shall, while at work shall — “(1) (a) comply with the relevant statutory provisions, as appropriate, and take reasonable care to protect his or her safety, health and welfare...”

“(1) (b) ensure that he or she is not under the influence of an intoxicant to the extent that he or she is in such a state as to endanger his or her own safety...”

“(1) (e) not engage in improper conduct or other behaviour that is likely to endanger his or her own safety, health and welfare at work...”

“(1) (g) having regard to his or her training and the instructions given by his or her employer, make correct use of any article or substance provided for use by the employee at work or for the protection of his or her safety, health and welfare at work, including protective clothing or equipment...”

(1) (h) requires an employee to report to his or her employer any work being carried on, any defect with machinery or any contravention of the relevant statutory provisions “which may endanger the safety, health and welfare at work of the employee...of which he or she is aware”

“(2) An employee shall not, on entering into a contract of employment, misrepresent himself or herself to an employer with regard to the level of training as may be prescribed.”

§23(1) notes that a class or classes of employees that is prescribed by the employer to undergo an assessment by a registered medical practitioner “shall co-operate with such a medical assessment.”

It is argued that the undertaking of such examinations is within the best interests of the employees, especially if it is assessed whether they are capable or fit enough to perform the prescribed work activities expected.

Remarks/comments: At present, any aspect of an employee’s contract of employment that permits testing if requested by the employer is a matter of agreement between the individual employee and employer and is outside of the remit of the Health & Safety Authority.¹ Therefore, it is in the interests of an employer to warrant its employees to undertake “any appropriate, reasonable or proportionate tests for intoxicants’ deemed necessary if it is perceived such influence is a risk to safety. This is because employers will be held liable by the courts for any injuries or damage caused by an employee who turns up to work still under the influence.

References:

- Safety, Health and Welfare at Work Act, 2005 (No. 10 of 2005). (§ 13(1), § 13(2), § 23(1))

7.2 Duty to take reasonable steps to protect the safety and health of others

Summary/Citation: Under §13 of the 2005 Act, it is stated employees ought to;

“(1) (a) comply with the relevant statutory provisions, as appropriate, and take reasonable care to protect...the safety, health and welfare of any other person who may be affected by the employee's acts or omissions at work”

“(1) (b) ensure that he or she is not under the influence of an intoxicant to the extent that he or she is in such a state as to endanger [the] safety, health or welfare at work...of any other person”

“(1) (e) not engage in improper conduct or other behaviour that is likely to endanger [the] safety, health and welfare at work...of any other person”

“(1) (h) requires an employee to report to his or her employer any work being carried on, any defect with machinery or any contravention of the relevant statutory provisions “in manner which may endanger the safety, health and welfare...of any other person of which he or she is aware”

Remarks/comments: The same provisions set out above in the 2005 and 2014 Acts respectively also apply to duties employees have towards other employees and others. Just as adherence by the provisions set out in §13 apply to protecting their own safety, compliance with such provisions also extends to the safety of their fellow employees. Moreover, the statute in force places legally based responsibility on employees towards not only themselves but others on matters affecting safety, health and welfare in the workplace.

While no actual definition of improper conduct is specified in the legislation, Irish precedent has identified violence, bullying and horseplay whilst at work as coming under the generic term. When working with potentially dangerous machinery, horseplay can have serious consequences and all varieties of this type of conduct are prohibited by §13.

References:

- Safety, Health and Welfare at Work Act, 2005 (No. 10 of 2005). (§ 13(1))

7.3 Supervisors' duty to take reasonable steps to protect the safety and health of others

Summary/Citation: §15 of the Safety, Health and Welfare at Work Act 2005 concerns the duties of those “who have control over places of work to those who work there”. It provides that these individuals shall ensure;

“...so far as is reasonably practicable, that the place of work, the means of access thereto, or egress therefrom, and any article or substance provided for use in the place of work, are safe and without risk to health.”

A separate provision within the Act sets out the responsibilities of those monitoring the health and safety at construction sites specifically. §17 of the 2005 Act expands upon the duties of those who commission construction projects, or those involved in the design or building of construction projects. As per the Act, this position should be awarded to a “competent person or persons” for the purpose of ensuring that the envisaged project “is designed and is capable of being constructed to be safe and without risk to health”. (§17(1) & (2))

Further detail on the safety duties on various individuals within this industry (i.e. the client, project design supervisor, the project construction supervisor, on-site contractor, assigned employee safety representative, safety officer, safety advisor and general employee body) is provided within the Construction Regulations 2013 (S.I No. 291 of 2013 respectively. 2 A similar theme is echoed throughout the responsibilities of each organ which is the maintenance of a health and safety plan that is to contain information on any factor likely to affect the health, safety and welfare of employees on site). Other duties assigned exclusively to each of the aforementioned safety positions can be explored at the link below.

References:

- [Safety, Health and Welfare at Work Act, 2005 \(No. 10 of 2005\). \(§ 15, § 17\(1\), § 17\(2\), \)](#)
- [Safety, Health and Welfare at Work \(Construction\) Regulations 2013 \(S.I. No. 291/2013\)](#)

7.4 Senior officers' duty to take reasonable steps to protect the safety and health of others

Summary/Citation: Effective safety and health management starts with the carrying out of workplace-specific risk assessments, writing them down and implementing the improvements that they identify as necessary. These assessments and the collating of this safety statement are required

by §19 and 20 of the 2005 Act and must be included in the undertaking's safety statement and, where applicable, in the safety and health plans for construction sites. Additionally, §80 provides that where an act has been committed, is deemed to constitute an offence and "has been authorised, or consented to by, or is attributable to connivance or neglect on the part of, a person, being a director, manager or other similar officer of the undertaking," that person will be guilty of an offence and shall be liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

Directors are defined by §2(c) as persons "in accordance with whose directions or instructions the directors of the undertaking concerned are accustomed to act." They are obliged to assess the extent to which the policies set out in the company's risk assessment and safety statement have been applied efficiently. In assessing that statement, directors should analyse the relevance of the objectives of the statement to the operations of the undertaking.

References:

- Safety, Health and Welfare at Work Act, 2005 (No. 10 of 2005). (§ 2(c), § 19, § 20, § 80)

7.5 Self-employed persons' duty to take reasonable steps to protect their own and other people's health and safety

Summary/Citation: §7 provides that 'where appropriate,' the duties assigned to an employer will apply to an independent contractor;

"...as if that self-employed person was an employer and his or her own employee and references in the relevant statutory provisions to an employer shall be read as references to a self-employed person."

Accordingly, §12 of the 2005 Act provides that employers (including the self-employed) owe a duty of care to those who are not their employees but may be exposed to risks to their health, safety and welfare at the place of work while work is being carried on. This also applies where the public has access to the place of work while work is in progress.

References:

- Safety, Health and Welfare at Work Act, 2005 (No. 10 of 2005). (§ 7, § 12)

7.6 Duty to comply with OSH-related requirements

Summary/Citation: §13(f) of the 2005 Act provides that employees ought to; “...attend such training and, as appropriate, undergo such assessment as may reasonably be required by his or her employer or as may be prescribed relating to safety, health and welfare at work or relating to the work carried out by the employee.”

§13(g) of the 2005 also states that; “...having regard to his or her training and the instructions given by his or her employer, make correct use of any article or substance provided for use by the employee at work or for the protection of his or her safety, health and welfare at work, including protective clothing or equipment.”

References:

- Safety, Health and Welfare at Work Act, 2005 (No. 10 of 2005). (§ 13(f), § 13(g))

7.7 Right to enquire about risks and preventive measures

Summary/Citation: §9 of the 2005 Act provides that employers have a duty to provide information to their employees relating to safety, health and welfare at work. The information should; be reasonably likely to be understood by the employees concerned, include information regarding hazards identified in the risk assessments, and should include the protective and preventative measures taken to ensure safety, health and welfare at work.

More recently in Irish law, employees have been encouraged to make protective disclosures on a range of ‘relevant wrongdoings’ within the workplace. The scope of what comes under the realm of disclosures includes “threats to health and safety or the environment” or “any attempt to conceal information in relation to such wrongdoings”. In fact, “an employer shall not penalise or threaten penalisation against an employee, or cause or permit any other person to penalise or threaten penalisation against an employee, for having made a protected disclosure.” (Protected Disclosures Act 2014, §5(1)(d) & §12(1))

Remarks/comments: Due to the inclusion of the duty for employers to provide information to their employees regarding risks to safety and health, it can be said there is a correlative right of employees to inquire about that information.

References:

- Safety, Health and Welfare at Work Act, 2005 (No. 10 of 2005). (§ 26)
- Protected Disclosures Act 2014 (§ 5(1), § 12(1))

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

7.8 Right to remove themselves from a dangerous situation

Summary/Citation: §11 provides that where an emergency or serious and imminent danger is present, an employer shall;

“(2)(b) save in exceptional cases for the reasons specified in the plans and procedures referred to in subsection (1), refrain from requiring employees to carry out or resume work where there is still a serious and imminent danger to their safety and health.”

“(2)(c) ensure that, in the absence of appropriate guidance or instruction and having regard to the knowledge of the employee and the technical means at his or her disposal, and where the employee’s immediate superior responsible cannot be contacted, the employee concerned may take appropriate steps to avoid the consequences of the danger.”

Furthermore §11(3) provides that;

“In the event of serious, imminent and unavoidable danger, an employer shall—

(a) take action and give instructions to enable employees to either or both stop work and immediately leave the place of work and to proceed to a safe place, and

(b) ensure that an employee who leaves a place of work is not penalised because of such action.”

§27 (3) (f) of the 2005 Act provides that;

“...an employer shall not penalise or threaten penalisation against an employee [...] in circumstances of danger which the employee reasonably believed to be serious and imminent and which he or she could not reasonably have been expected to avert, leaving (or proposing to leave) or, while the danger persisted, refusing to return to his or her place of work or any dangerous part of his or her place of work, or taking (or proposing to take) appropriate steps to protect himself or herself or other persons from the danger.”

§27(6) of the 2005 Act provides that;

“For the purposes of subsection (3)(f), in determining whether the steps which an employee took (or proposed to take) were appropriate, account shall be taken of all the circumstances and the means and advice available to him or her at the relevant time.”

References:

- Safety, Health and Welfare at Work Act, 2005 (No. 10 of 2005). (§ 11(2), § 11(3), § 27(3), § 27(6))

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

7.9 Right to be reassigned to non-hazard work

Summary/Citation: In relation to pregnant employees and their exposure to potentially hazardous work, §149(a) of the Safety, Health and Welfare at Work (General Application) Regulations 2007 provides that

“...an employer shall assess any risk to the safety or health of employees and any possible effect on the pregnancy of, or breastfeeding by, employees, resulting from any activity at that employer's place of work likely to involve a risk of exposure to any agent, process or working condition...”

Accordingly §149(b) of the same Regulation states that where such risk to health, safety or welfare of the pregnant individual is identified, the employer must “take the preventive and protective measures necessary to ensure the safety and health of such employees and avoid any possible effect on such pregnancy or breastfeeding.” §149(c) (iii) expands upon this obligation noting that an employer shall “ensure that any such employee is not required to perform duties for which the assessment reveals such risk.”

In the event that the risk presented is unavoidable, §150 asserts that the employer must “provide the employee concerned with other work” by temporarily “adjusting the working conditions or the working hours, or both, of the employee concerned so that exposure to such risk is avoided.

References:

- Safety, Health and Welfare at Work (General Application) Regulations 2007 (S.I. No. 299/2007) (§ 149(a), § 149(b), § 150)

7.9.1 Right to withdraw with compensation when workers are not reassigned to non-hazard work

No data available.

8 Consultation, collaboration and co-operation with workers and their representatives

8.1 National OSH committee, commission, council or similar body

Summary/Citation: Under the Safety, Health and Welfare at Work Act, 2005 the National Authority for Occupational Safety and Health is changed in title to the Health and Safety Authority (HSA), adopting and developing any existing powers of the former body. The HSA is responsible for ensuring legislative cooperation by employers and providing standards for the implementation of effective occupational health and safety measures.

The conferred functions of the Authority are outlined in the Safety, Health and Welfare at Work Act, 2005, providing also for the establishment by the Authority of an advisory committee from time to time “to advise it in relation to any of its functions and may determine the membership, term of office and terms of reference and regulate the procedure of any such committee.”

References:

- Safety, Health and Welfare at Work Act, 2005 (No. 10 of 2005). (§ 32(1)a, § 32(1)b, § 38(1))

8.1.1 Objectives, roles and/or functions

Summary/Citation: Under the Safety, Health and Welfare at Work Act, 2005 the principal functions of the Authority include:

1. promoting good practices of health and safety at work;
2. inspecting places of work and ensuring compliance with relevant health and safety laws;
3. investigating accidents and other complaints related to health and safety in the workplace;
4. promoting research on health and safety in the workplace;
5. publishing codes of practice and information documents;

References:

- Safety, Health and Welfare at Work Act, 2005 (No. 10 of 2005). (§ 34(1)a-m)

8.1.2 Constitution and chairmanship modalities

Summary/Citation: The Safety, Health and Welfare at Work Act, 2005 creates the position of chief executive officer of the Authority known as the Chief Executive. The Chief Executive is appointed and may be removed from office by the Authority with the consent of the Minister for Enterprise, Trade and Employment.

As per Section 38(1) of the 2005 Act, which provides for the establishment of an advisory committee on matters of occupational safety, health and welfare as it sees fit, the Authority will also appoint a chairperson and deputy chairperson of the advisory committee.

References:

- Safety, Health and Welfare at Work Act, 2005 (No. 10 of 2005). (§ 38(1), § 39(1))

8.2 Employers' duty to consult workers on risks

Summary/Citation: For the purposes of fulfilling his or her duties to develop measures to ensure the safety, health and welfare at work and to ascertain the effectiveness of the measures being undertaken, under the 2005 Act, every employer must:

1. consult his or her employees for the purpose of making and maintaining arrangements which will enable the employer and his or her employees to co-operate effectively for those purposes;
2. in accordance with the arrangements referred to in paragraph (a), consult with his or her employees, their safety representatives or both, as appropriate, in advance and in good time regarding—

“(i) any measure proposed to be taken in the place of work which may substantially affect the safety, health and welfare of those employees, including measures to be taken under the relevant statutory provisions,

(ii) the designation of employees under section 11,

(iii) activities arising from or related to the protection from and the prevention of risks to safety, health and welfare at work,

- (iv) the hazard identification and the risk assessment to be carried out under section 19,
- (v) the preparation of a safety statement under section 20,
- (vi) the information to be provided to employees under section 9,
- (vii) the information required to be kept or notified to the Authority in respect of accidents and dangerous occurrences referred to in section 8 (2)(k),
- (viii) the appointment of persons referred to in section 18,
- (ix) the planning and organisation of the training referred to in section 10, or
- (x) the planning and introduction of new technologies particularly in relation to the consequences of the choice of equipment and working conditions and the working environment for the safety, health and welfare of employees.”

Restrictions/obligations: The Safety, Health and Welfare at Work Act, 2005 further requires that, where reasonably practicable, any action considered necessary or appropriate be adopted further to any representation made to an employer by an employee in relation to the matters outlined above or any other matter relating to the occupational safety, health or welfare of workers.

References:

- Safety, Health and Welfare at Work Act, 2005 (No. 10 of 2005). (§ 26(1), § 26(4))

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

8.3 Workers' right to select their representatives for health and safety matters

Summary/Citation: Employees may select and appoint a representative for occupational health and safety matters, known as a safety representative. On agreement with the employer, more than one safety representative may be appointed to make up a safety committee to represent employees at the place of work in consultation with the employer or a representative of the employer on matters relating to occupational health and safety.

Restrictions/obligations: Where one or a number of safety representatives have been appointed under provisions of the Safety, Health and Welfare at Work Act, 2005, at least one such safety representative must be appointed by the employees.

- Safety, Health and Welfare at Work Act, 2005 (No. 10 of 2005). (Schedule 4 § 4, § 25(1))

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

8.3.1 Workforce size conditions for workers' representation in health and safety

Summary/Citation: Schedule 4 to the Safety, Health and Welfare at Work Act, 2005 outlines the required ratios for workforce size to safety representatives. The minimum number of safety representatives to make up a safety committee is three members and the number of safety representatives selected should not exceed the lesser of either one for every twenty persons employed in a place of work at the time the committee is formed, or a total of ten persons.

Restrictions/obligations: Where the number of members of which a safety committee is comprised is:

- (a) 4 or less, one member of the committee may be appointed by the employer, and the remaining members of the committee may be selected and appointed by the employees,
- (b) not more than 8 and not less than 5, 2 members of the committee may be appointed by the employer, and the remaining members may be selected and appointed by the employees, and
- (c) more than 8, 3 members of the committee may be appointed by the employer and the remaining members may be selected and appointed by the employees.

References:

- Safety, Health and Welfare at Work Act, 2005 (No. 10 of 2005). (Schedule 4 § 2, Schedule 4 § 3)

8.3.2 Conditions of eligibility to represent workers in health and safety

Summary/Citation: A member of a safety committee must, at any given time, be a current employee in the place of work concerned to be eligible to be a safety representative.

References:

- Safety, Health and Welfare at Work Act, 2005 (No. 10 of 2005). (Schedule 4 § 5(c))

8.4 OSH representatives' functions, rights and powers

8.4.1 Right to inspect the workplace

Summary/Citation: A safety representative may inspect the whole or any part of the place of work—

1. after giving reasonable notice to the employer, or
2. immediately, in the event of an accident or where there exists imminent danger to the health, safety or welfare of any worker

Restrictions/obligations: A safety representative may investigate accidents or dangerous occurrences provided that he or she does not interfere with the performance of any statutory obligation that is required to be performed by any person and that reasonable notice is given to the employer.

References:

- Safety, Health and Welfare at Work Act, 2005 (No. 10 of 2005). (§ 25(2)a, § 25(2)b, § 25(2)c)

8.4.2 Right to access OSH information

Summary/Citation: Safety representatives are entitled to receive advice and information from inspectors on matters relating to the occupational health, safety and welfare of workers and places of work.

Subject to the place of work and occupational hazard in question, such information and documents obtained in the process of a safety inspection may be privileged.

Restrictions/obligations: Information and documentation will not be privileged to the extent that their disclosure is required for the purpose of an emergency involving public safety.

- Safety, Health and Welfare at Work Act, 2005 (No. 10 of 2005). (§ 25(2)(i))
- Chemical Weapons Act 1997 (§ 11(1), § 11(2), § 11(3),)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

8.4.3 Right to be present at interviews

Summary/Citation: At the discretion of the inspector concerned, where an employee is interviewed by an inspector with respect to an accident or dangerous occurrence at a place of work, a safety representative may attend the interview where the employee so requests.

- Safety, Health and Welfare at Work Act, 2005 (No. 10 of 2005). (§ 25(2)f)

8.4.4 Right to receive professional assistance from OSH experts

No data available.

8.4.5 Right to accompany inspectors

Summary/Citation: A safety representative may, at the discretion of the inspector concerned, accompany an inspector who is investigating an accident or dangerous occurrence. A safety representative may also accompany an inspector who is carrying out an inspection of the place of work for purposes other than investigating a dangerous occurrence.

- Safety, Health and Welfare at Work Act, 2005 (No. 10 of 2005). (§ 25(2)d, § 25(2)e)

8.4.6 Right to use facilities

Summary/Citation: On a request being made by a safety committee, an employer shall consult with the safety committee for the purpose of reaching an agreement concerning:

1. facilities for holding meetings of the safety committee, and
2. the frequency, duration and times of meetings of the safety committee

References:

- Safety, Health and Welfare at Work Act, 2005 (No. 10 of 2005). (Schedule 4 § 6)

8.4.7 Right to have time off work with pay to perform duties

Summary/Citation: A safety representative shall be permitted to have such time off his or her work, without loss of remuneration, as is reasonable to perform his or her duties. Reasonable time includes time to acquire the knowledge and training necessary to discharge his or her duties as a safety representative and to discharge those functions.

Restrictions/obligations: “Subject to the terms of any agreement between the employer and a safety committee, meetings of the safety committee shall be held from time to time on such days as the committee shall decide and such meetings may be held during normal working hours, without loss of remuneration to the members of the committee if the following conditions are satisfied, namely:

- (i) except in the case of an emergency such meeting shall not be held more frequently than once every three months;
- (ii) the duration of each such meeting shall not exceed one hour;
- (iii) the number of members of the safety committee attending such a meeting shall be at least such as is required to form a quorum, and
- (iv) the times at which the meetings of the safety committee are held shall be compatible with the efficient operation of the place of work.”

References:

- Safety, Health and Welfare at Work Act, 2005 (No. 10 of 2005). (§ 25(5), Schedule 4 § 7)

8.4.8 Right to issue remedial notices

No data available.

8.4.9 Right to resolve OSH issues in consultation with employers

Summary/Citation: “Every employer shall consider any representations made to him or her by the safety representative in relation to the matters specified in this section or any other matter relating to the safety, health and welfare at work of his or her employees and, so far as is reasonably practicable, take any action that he or she considers necessary or appropriate with regard to those representations.”

“(d) the employer shall be entitled to attend personally, or to nominate a person or persons to attend on his or her behalf at each meeting of the safety committee,

(e) the employer or his or her nominee or nominees shall attend the first meeting of the safety committee and shall, as soon as may be after it is available, present to the members of the safety committee the statement required under section 20 , and

(f) the safety committee shall consider any representations made to it by the employer on matters affecting the safety, health and welfare of persons employed in the place of work.”

In a situation in which arrangements for a process of joint decision-making, involving the employer and employees, exists, such consultation as is necessary to reach conclusion is statutorily required.

References:

- Safety, Health and Welfare at Work Act, 2005 (No. 10 of 2005). (Schedule 4 § 5(d), Schedule 4 § 5(e), Schedule 4 § 5(f), § 25(4), § 26(6))

8.4.10 Right to direct that dangerous work cease

No data available.

8.5 Right of workers' representatives from outside the undertaking to address OSH issues at the workplace

8.5.1 Right to enter the workplace

No data available.

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

8.5.2 Right to investigate suspected non-compliance with OSH legislation

No data available.

8.5.3 Right to consult with workers

No data available.

Related CEACR Comments

Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

8.5.4 Right to advise workers

No data available.

8.5.5 Right to initiate enforcement action

No data available.

8.6 Joint OSH Committee

Yes.

8.6.1 Participation of workers' representatives in joint OSH committee

Summary/Citation: "Where, in a place of work by agreement of the employer, there is a group of persons (by whatever name known) representative of the employer and the employees that constitutes a safety committee in compliance with Schedule 4 and that exists for the purpose of consultation regarding the safety, health and welfare at work of the employees, consultation within that group of persons may, to such extent as may be agreed between the employer and his or her employees, fulfil the requirements of subsections (1) and (2)."

In addition to the above, an employer must consult safety representatives relating to any proposed measures which will affect the health and safety of employees. Lastly, Schedule 4 addresses this, it states; "Should they so wish the employees employed in a place of work to which section 26 applies may select and appoint from amongst their number members of a safety committee to perform the functions assigned to safety committees under this Act."

References:

- Safety, Health and Welfare at Work Act, 2005 (No. 10 of 2005). (§ 26(1)b, § 26(3), Schedule 4(1))

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

8.6.2 Conditions for establishing a joint OSH committee

Summary/Citation: Employees may consult their employer on matters relating to health and safety at work. A consultation conducted by a safety committee which is representative of the employer and the employees may fulfill the obligations set forth in Section 26(1) and (2) of the 2005 Act. Additionally, an employer is obliged to give employees involved in such an arrangement time off for their duties.

The workplace size threshold for establishing committees is addressed in Schedule 4 of the Safety, Health and Welfare at Work Act 2005, it states;

"2. The number of members of a safety committee shall not be less than 3 and shall not exceed one for every 20 persons employed in a place of work at the time when the committee is appointed or 10, whichever is the less.

3. Where pursuant to paragraph 2 the number of members of which a safety committee is to be comprised is—

(a) 4 or less, one member of the committee may be appointed by the employer, and the remaining members of the committee may be selected and appointed by the employees,

(b) not more than 8 and not less than 5, 2 members of the committee may be appointed by the employer, and the remaining members may be selected and appointed by the employees, and

(c) more than 8, 3 members of the committee may be appointed by the employer and the remaining members may be selected and appointed by the employees.

5. Where a safety committee is appointed under section 26 the following provisions shall have effect—

(d) the employer shall be entitled to attend personally, or to nominate a person or persons to attend on his or her behalf at each meeting of the safety committee."

References:

• Safety, Health and Welfare at Work Act, 2005 (No. 10 of 2005). (§ 26(2), § 26(3), § 26(5)d, Schedule 4(2), Schedule 4(3), Schedule 4(5)d)

8.6.3 Objectives, roles and/or functions of joint OSH committees

Summary/Citation: The functions of the safety committee are outlined in Schedule 4 of the Safety, Health and Welfare at Work 2005 - it states;

"5. Where a safety committee is appointed under section 26 the following provisions shall have effect—

(a) the safety committee shall assist the employer and employees concerned in relation to the relevant statutory provisions

(f) the safety committee shall consider any representations made to it by the employer on matters affecting the safety, health and welfare of persons employed in the place of work."

References:

- Safety, Health and Welfare at Work Act, 2005 (No. 10 of 2005). (Schedule 4(5)a, Schedule 4(5)f)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

8.6.4 Keeping record of the work of joint OSH committees

No data available.

8.6.5 Sharing the minutes of joint OSH committees meetings

No data available.

8.7 Mandatory training for members of joint OSH committee(s)

Summary/Citation: “An employer shall give to a safety representative such time off from his or her work as is reasonable having regard to all the circumstances, without loss of remuneration, to enable the safety representative—

(a) to acquire, on an ongoing basis, the knowledge and training necessary to discharge his or her functions as a safety representative, and

(b) to discharge those functions.”

- Safety, Health and Welfare at Work Act, 2005 (No. 10 of 2005). (§ 25(5))

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

8.8 Protection against reprisals

Summary/Citation: Section 27 of the Safety, Health and Welfare at Work Act, 2005 protects employees generally against penalisation for any involvement in safety and health measures. This includes an employee acting as a safety representative or involved in the safety consultation and safety-committee processes.

“An employer shall not penalise or threaten penalisation against an employee for—

(a) acting in compliance with the relevant statutory provisions,

- (b) performing any duty or exercising any right under the relevant statutory provisions,
- (c) making a complaint or representation to his or her safety representative or employer or the Authority, as regards any matter relating to safety, health or welfare at work,
- (d) giving evidence in proceedings in respect of the enforcement of the relevant statutory provisions,
- (e) being a safety representative or an employee designated under section 11 or appointed under section 18 to perform functions under this Act, or
- (f) subject to subsection (6), in circumstances of danger which the employee reasonably believed to be serious and imminent and which he or she could not reasonably have been expected to avert, leaving (or proposing to leave) or, while the danger persisted, refusing to return to his or her place of work or any dangerous part of his or her place of work, or taking (or proposing to take) appropriate steps to protect himself or herself or other persons from the danger.”

Penalisation by the employer includes:

- “(a) suspension, lay-off or dismissal (including a dismissal within the meaning of the Unfair Dismissals Acts 1977 to 2001), or the threat of suspension, lay-off or dismissal,
- (b) demotion or loss of opportunity for promotion,
- (c) transfer of duties, change of location of place of work, reduction in wages or change in working hours,
- (d) imposition of any discipline, reprimand or other penalty (including a financial penalty), and
- (e) coercion or intimidation.”

Restrictions/obligations: The dismissal of an employee shall be deemed to be an unfair dismissal for the purposes of the Unfair Dismissals Act if it results wholly or mainly from penalisation as referred to above.

“Where the reason (or, if more than one, the principal reason) for the dismissal of an employee is that specified in subsection (3)(f), the employee shall not be regarded as unfairly dismissed if the employer shows that it was (or would have been) so negligent for the employee to take the steps which he or she took (or proposed to take) that a reasonable employer might have dismissed him or her for taking (or proposing to take) them.”

References:

- Safety, Health and Welfare at Work Act, 2005 (No. 10 of 2005). (§ 27)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

8.9 Immunity from civil and criminal liability for exercising OSH related rights and duties

Summary/Citation: § 27(2) of the Safety, Health and Welfare at Work Act 2005 refers only to the protection of safety representatives from penalisation by the employer through penalties including coercion or intimidation.

References:

- Safety, Health and Welfare at Work Act, 2005 (No. 10 of 2005). (§ 27(2))

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

9 Specific hazards or risks

9.1 Biological hazards

Summary/Citation: In regards to Biological Safety Hazards, the prominent piece of legislation is the Safety, Health and Welfare at Work (Biological Agents) Regulations 2013. This lays down the minimal requirements for protection of workers against biological agents. This is applicable in any scenario, in which, a worker is exposed to biological agents as a direct result of their work.

This Act (Safety, Health and Welfare at Work (Biological Agents) Regulations 2013) lays out the duties of the employee and employer, the protective and preventive measures which must be taken, a notification procedure, special measures for health care, veterinary care, and laboratory facilities.

References:

- Safety, Health and Welfare at Work (Biological Agents) Regulations 2013 (S.I. No. 572 of 2013)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

9.2 Chemical hazards

Summary/Citation: Ireland has a range of legislation addressing chemical hazards in the work place. The listed legislation holds prevention and control as paramount when address this issue. More specifically, the preferred method of control appears to be elimination and substitution in regards to protecting employees from dangerous substances.

References:

- Safety, Health and Welfare at Work Act, 2005 (No. 10 of 2005).
- Chemicals Act 2008 (No. 13 of 2008).
- Safety, Health and Welfare at Work (Exposure to Asbestos) Regulations 2006

9.2.1 Handling, storage, labelling and use

Summary/Citation: As is the case in EU Member States, Ireland has implemented the Classification, Packaging and Labelling Regulation. This includes a number of measures that can be taken in regards to labelling of chemicals and related materials. The main methods highlighted in the Regulation are as follows; Pictograms (outlined in Article 19 and 26), Hazard Statements (Article 21 and 27), Precautionary Statements(Article 22 and 28), and Supplemental Information (Article 25).

References:

- European Communities (Classification, Packaging and Labelling) (Revocation) Regulations 2015 (S.I. No. 196/2015)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

9.2.2 Duty of manufacturers, suppliers and importers of chemicals in relation to the safety and health of users

Summary/Citation: Our legislative engagement on this issue derives from the Registration, Evaluation, Authorisation and Restriction of Chemicals Regulation and the Classification,

Packaging and Labelling Regulation. Under the above Regulations the main duties relating to importers are as follows;

The importer must;

1. submit registration to the European Chemical Agency for each substance imported in to the EU exceeding 1 tonne per year.
2. make an inquiry to the European Chemical Agency to confirm whether another company has already imported the substance in question.
3. supply safety data sheets for all hazardous chemicals placed on the EU Market.
4. notify the Irish National Poison Centre in order to use their emergency number for the purposes of the Safety Data Sheets highlighted in Point 3.
5. not import substances contained within Annex XVII of the Registration, Evaluation, Authorisation and Restriction of Chemicals Regulation unless granted prior approval from the EU Commission. Additionally, the importation of a chemical highlighted in Annex XVII is prohibited, unless it is for a purpose outlined in the same.
6. package, label and classify all hazardous substances.
7. must notify the European Chemical Agency of the labelling and classification of the substance within the first month of importation.

The Regulations mentioned above, also outline the duties of the supplier as follows;

The distributor must;

1. pass important health and safety information down the supply chain.
2. ensure all substances they bring to market has been registered by their suppliers.
3. Ensure if the substance they are providing contains 0.1% or more of a substance of very high concern, outlined by the European Chemicals Agency, they must provide customer with adequate information relating to the safe use of the substance.
4. Keep all information needed to carry out duties under the Registration, Evaluation, Authorisation and Restriction of Chemicals Regulation for at least a 10-year period.
5. Label and package the substance correctly in accordance with the requirements set forth in the Classification, Packaging and Labelling Regulation.

References:

- European Communities (Classification, Packaging and Labelling) (Revocation) Regulations 2015 (S.I. No. 196/2015)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

9.2.3 Pesticides

Summary/Citation: The primary regulatory body in relation to pesticides in Ireland is the Pesticide Control Service, which falls under the Department of Agriculture. This body established regulatory systems which prove to ensure relevant EU Law is respected in relation to pesticides, in particular the below Regulation and Directive.

References:

- European Communities (Sustainable Use of Pesticides) Regulations 2012 (S.I. No. 155/2012)

9.3 Ergonomic hazards

Summary/Citation: The Safety, Health and Welfare at Work (General Application) Regulations 2007, is the primary form of address to Ergonomic Hazards. Section 31 outlines the employers obligations in relation to display screen equipment. These obligations extend to; evaluating workstations to identify risks to eye sight and physical problems, remedy any risks identified during the evaluation, ensure workstations are compliant with minimum requirements, plan the schedule of employees who periodically use display screens in order to reduce such a workload, provide relevant information regarding measures applicable to the workstations, and to provide training to employees before they commence their work on the workstations.

Section 28 addresses the handling of loads and the associated responsibilities of the employer. These duties include; to implement mechanical equipment to avoid the need for manual handling, in circumstances where manual handling cannot be avoided the employer must take appropriate measures to reduce the associated risks, organise workstations pursuant to reducing manual handling risks, and employers must provide employees engaging in manual handling with information relating to the weight of the load and the centre of gravity of each of the same.

In addition to the above, employers have further obligations to ensure protection against ergonomic hazards. Employers must provide suitable facilities in the event an employee has a reasonable opportunity for sitting without detriment to their work, such facilities should be provided (Section 18(c)). In addition to this, the working posture of an employee should be accounted for when having regard for the health and safety of employees (Section 28(g)). If a seat is provided, appropriate accessories, depending on the duration of the ergonomic constraints on the job, should be included (Section 111(b)). Employers have a duty to ensure employees do not pass over fragile surfaces, when work can be carried safely in more appropriate ergonomics conditions (Section 115(a)). Lastly, an employ has a responsibility to must take account of appropriate ergonomic design when choosing work equipment (138(b)).

References:

- [Safety, Health and Welfare at Work \(General Application\) Regulations 2007 \(S.I. No. 299/2007\) \(§ 18\(c\), § 28\(g\), § 58, § 69, § 72, § 111\(b\), § 115\(a\), § 138\(b\)\)](#)

9.4 Physical hazards

9.4.1 Ionising radiation

Summary/Citation: The Radiological Protection act 1991 acts as the paramount authority in regards to ionising radiation. The act addresses;

1. Regulation of Practices and Work Activities
2. Justification, Optimisation and Dose Limitation
3. Estimation of Effective Dose
4. Protection of Exposed Workers, Apprentices and Students
5. Work Activities involving Natural Radiation Sources
6. Radiation Protection of the Population for Practices in Normal Circumstances
7. Intervention and Emergency Preparedness
8. Notifications, Notices and Revocations

References:

- [Radiological Protection Act, 1991 \(Ionising Radiation\) Order, 2000. \(S.I. No. 125 of 2000\).](#)

9.4.2 Vibration and noise

Summary/Citation: The Safety, Health and Welfare at Work (Control of Vibration at Work) Regulations 2006 is the primary method of address to the risk of vibration and noise. The Act provides oversight in the following areas in relation to vibration and noise;

1. Exposure Limit Values and Action Values.
2. Determination and Assessment of Risks.
3. Provisions aimed at Avoiding or Reducing Exposure.
4. Employee Information and Training.
5. Health Surveillance.
6. Transitional Periods.

References:

- Safety, Health and Welfare at Work (Control of Vibration at Work) Regulations 2006 (S.I. No. 370 of 2006)

9.4.3 Working at height

Summary/Citation: The Safety, Health and Welfare at Work (Work at Height) Regulations 2006 is the relevant piece of legislation dealing with working at height. The Act provides guidance in relation to the following aspects of working at height;

1. Weather conditions.
2. Avoidance of risks from work at height.
3. Selection of work equipment for work at height.
4. Requirements for particular work equipment.
5. Fragile surfaces.
6. Falling objects.
7. Danger areas.
8. Inspection of work equipment.
9. Checking of places of work at height.

References:

- Safety, Health and Welfare at Work (Work at Height) Regulations 2006 (S.I. No. 318 of 2006)

Related CEACR Comments

- Safety Provisions (Building) Convention, 1937 (No. 62) Direct Request 2016

9.4.4 Working in confined spaces

Summary/Citation: The Safety, Health and Welfare at Work (Confined Spaces) Regulations 2001 is the most relevant piece of legislation in Ireland in relation to working in confined spaces.

Section 5, more specifically, outlines the regulation of work in confined spaces. This section states;

5.1 A person shall not enter a confined space to carry out work or any duty connected with that work (which work or duty is referred to in this Regulation and in Regulation 6 as a “work activity”) for any purpose unless it is not reasonably practicable to achieve that purpose without such entry.

5.2 Without prejudice to paragraph (1), a person shall not enter a confined space to carry out a work activity in that confined space unless an identification and evaluation of the risks to safety and health arising from such entry or such work activity have been made.

5.3 (a) Without prejudice to paragraph (1), a person shall not enter a confined space to carry out a work activity in that confined space unless there has been provided a system of work, which has been planned, organised, performed and maintained so as to render that work safe and without risks to health.

(b) Any person involved in carrying out the system of work required under subparagraph (a) of this paragraph, shall be provided with adequate information, instruction and training appropriate to the particular characteristics of the work activity involved.

In addition to the above, the Act outlines the duties of the employer and emergency arrangements.

References:

- Safety, Health and Welfare at Work (Confined Spaces) Regulations, 2001 (S.I. No. 218 of 2001).

9.4.5 Risks arising from poor maintenance of workplace facilities

Summary/Citation: The Safety, Health and Welfare at Work (General Application) Regulations 2007 place a duty on employers to ensure the workplace is clean and maintains appropriate level

of health and safety. Additionally, there is an obligation to ensure the floor is cleaned by a suitable method.

References:

- Safety, Health and Welfare at Work (General Application) Regulations 2007 (S.I. No. 299/2007) (§ 18(a), § 18(b))

9.4.6 Exposure to extreme temperatures

Summary/Citation: Employers have a duty to ensure that the temperature of the work place is 'appropriate for human beings' and the working methods and physical demands are included in this consideration. The Safety, Health and Welfare at Work (General Application) Regulations 2007 set out the minimum temperature for different working environments; 17.5°C for sedentary office work and 16°C for offices where a substantial amount of work is done sitting. Temperature measuring facilities must be available to employees.

References:

- Safety, Health and Welfare at Work (General Application) Regulations 2007 (S.I. No. 299/2007) (§ 7)

9.4.7 Fire risks

Summary/Citation: The Safety, Health and Welfare at Work Act 2005 is the leading authority on the subject of fire risks from an occupational safety perspective. The Act addresses this risk in these instances; Section 11, and Section 58.

Section 11 states that employers must prepare and revise emergency plans and measure for firefighting and the evacuation of the workplace. Plans for first aid, fire fighting, and evacuation must be made. Employees must be designated roles in this process and the employer holds the duty to ensure the training and equipment is adequate.

Section 58 notes the Minister for Enterprise, Trade and Employment may make regulations relating to the necessary precautions relating to the risk of 'fire, fire-safety rules and procedures and the provision and maintenance of fire-protection equipment in places of work.'

References:

- [Safety, Health and Welfare at Work Act, 2005 \(No. 10 of 2005\). \(§ 11\(1\), § 58\)](#)

9.4.8 Tobacco

Summary/Citation: Section 47(1) of the Public Health (Tobacco) Act, 2002 as amended by Section 16 of the Public Health (Tobacco) (Amendment) Act, 2004 is highly relevant when address tobacco in an occupation health and safety context. This Section prohibits the smoking of a tobacco product in a specified place. For the purposes of this act the following qualify as a specified place;

1. a place of work,
2. an aircraft, train, ship or other vessel, public
3. service vehicle, or a vehicle used for the
4. carriage of members of the public for reward
5. other than a public service vehicle, insofar as
6. it is a place of work,
7. a health premises, insofar as it is a place of work,
8. a hospital that is not a health premises, insofar as it is a place of work,
9. a school or college, insofar as it is a place of work,
10. a building to which the public has access, either as of right or with the permission of the owner or occupier of the building, and which belongs to, or is in the occupation of—
 - (i) the State,
 - (ii) a Minister of the Government,
 - (iii) the Commissioners of Public Works in Ireland, or
 - (iv) a body established by or under an Act of the Oireachtas, insofar as it is a place of work,
11. a cinema, theatre, concert hall or other place normally used for indoor public entertainment, insofar as it is a place of work,
12. a licensed premises, insofar as it is a place of work, or
 - (i) a registered club, insofar as it is a place of work.

References:

[Public Health Tobacco \(Amendment\) Act, 2004 \(No. 6 of 2004\).](#)

9.4.9 Asbestos

Summary/Citation: The Safety, Health and Welfare at Work (Exposure to Asbestos) Regulations, 2006, (S.I. No. 386 of 2006) as amended by The Safety, Health and Welfare at Work (Exposure to Asbestos) (Amendment) Regulations, 2010 (S.I. No. 589 of 2010) is the leading piece of legislation in Ireland which address asbestos in the workplace. The most relevant provision contained within the act are as follows;

1. The Act applies to all places of work where asbestos containing materials may be present.
2. The Act relates to all employees and non-employees who are at risk of exposure.
3. Employers must prevent exposure via the use of written risk assessment. (Section 6 & 7)
4. Employers are required to introduce preventative measures, for example reducing the number of personnel. (Section 10, 11, 12, 14, & 17)
5. Air Monitoring is required.
6. Employers must take all reasonable steps to identify asbestos-containing materials prior to demolition, maintenance or repair. (Section 6)

In addition to the above there are requirements relating to medical professionals for health assessments, retaining records of risk assessments, and providing adequate information and training to employees liable to be exposed to asbestos.

References:

- [Safety, Health and Welfare at Work \(Exposure to Asbestos\) Regulations 2006](#)

9.4.10 Risks related to nanotechnology

No data available.

9.4.11 Contraction of HIV in the workplace

No data available.

9.5 Psychosocial hazards

9.5.1 Psychosocial risks

No data available.

9.5.2 Occupational violence

Summary/Citation: Under the Safety Health and Welfare at Work Act 2005 and the Safety Health and Welfare (General Application) Regulations 2007, employers are required to ensure the safety, health and welfare of their employees via;

1. Identifying hazards.
2. Assessing the risks to health and safety from violence at work.
3. Implementing appropriate safeguards.

References:

- Safety, Health and Welfare at Work (General Application) Regulations 2007 (S.I. No. 299/2007)
- Safety, Health and Welfare at Work Act, 2005 (No. 10 of 2005).

9.6 Other hazardous substances

Summary/Citation: Safety, Health and Welfare at Work (General Application) Regulations 2007 address a number of hazardous substances. For example Regulation 62(4) address the need for respiratory protection in order to prevent harm from hazardous fumes emitted from blast furnaces or harmful dusts

References:

- Safety, Health and Welfare at Work (General Application) Regulations 2007 (S.I. No. 299/2007)
(Regulation 62(4))

9.7 Machineries

9.7.1 Risks related to machinery and tools

Summary/Citation: Section 8(2)(c)iii of the Safety, Health and Welfare at Work Act 2005 requires employers to ensure machinery is maintained to a standard which would be safe and would not present a risk to the health of the user.

Additionally, the Minister for Enterprise, Trade and Employment may make regulations dealing with requirements imposed on employers to ensure health and safety relating to the maintenance and design of machinery and other articles. 'Articles' is defined in the Safety, Health and Welfare at Work Act 2005 as "any plant, machine, machinery, appliance, apparatus, tool or any other work equipment for use or operation (whether exclusively or not) by persons at work, (b) any article designed for use as a component in, part of or to control any such plant, machine, machinery, appliance, apparatus, work equipment, tool or any other work equipment." In turn, this means any provision referring to 'articles' is also relating to machinery.

References:

- Safety, Health and Welfare at Work Act, 2005 (No. 10 of 2005). (§ 2(1), § 8(2)(c)iii, Schedule 7 Section 59(1)(b)iii)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

9.7.2 Duty of designers and/or manufacturers of machineries in relation to the occupational safety and health of operators of machineries

Summary/Citation: Duties are imposed onto designers, manufacturers, and importers these duties extend to; ensure the article is free from risk to health when used in a proper manner and comply with the relevant statutory provisions. In addition to this, there is a duty to ensure the article undergoes appropriate levels of testing.

References:

- Safety, Health and Welfare at Work Act, 2005 (No. 10 of 2005). (§ 16(1)a, § 16(1)b)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

9.7.3 Duty of designers, manufacturers, importers or suppliers of machineries to provide machineries information

Summary/Citation: Designers, manufactures and importers are under a duty to provide adequate information about the article to the person it is supplied in order to ensure the safe use of the article. Any revisions made to the information must also be provided to the person who the article is supplied. Adequate information for the purposes of the above includes information about the operation of the article for which it has been designed, manufactured or tested and any conditions to ensure its safe installation, maintenance, disposal, cleaning, dismantling, and use.

References:

- Safety, Health and Welfare at Work Act, 2005 (No. 10 of 2005). (§ 16(1)c, § 16(1)d, § 16(2)a, § 16(2)b)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

9.7.4 Duty to purchase machineries from authorised/certificated suppliers or only if approved/certificated

No data available.

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

9.7.5 Maintenance of machinery and equipment

Summary/Citation: Articles must be maintained to a safe condition and be compliant with relevant statutory provisions.

References:

- Safety, Health and Welfare at Work Act, 2005 (No. 10 of 2005). (§ 16(1)e)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

9.7.5.1 List of equipment where applicable

No data available.

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

9.8 Provisions to protect workers in specific condition of vulnerability

9.8.1 Protection of pregnancy at work

Summary/Citation: The Safety, Health and Welfare at Work (General Application) Regulations 2007, Part 6, Chapter 2, Protection of Pregnant, Post Natal and Breastfeeding Employees is highly relevant for the purposes of the protection of pregnancy at work. This Act is application in the circumstance where the employee has informed their employer they are pregnant, or have recently given birth. In this scenario, the employer is obliged to conduct a risk assessment in order to identify any hazards relevant to a pregnancy.

A number of protective and preventative measures are outlined in the 2007 Regulations. When a risk assessment previously mentioned highlights a risk to an employee's safety and it is not feasible to ensure the safety of the employees, adjustments must be made to the working conditions or working hours.

Schedule 8 of the 2007 Regulations highlight a number of biological and chemical agents which fall within the definition of 'agents' within Section 149- 151. Different agents are relevant depending on the employee is pregnant, post natal and breastfeeding.

References

- Safety, Health and Welfare at Work (General Application) Regulations 2007 (S.I. No. 299/2007) (§ 149, § 150, Schedule 8)

9.8.2 Protection of lactating women at work

Summary/Citation: The Safety, Health and Welfare at Work (General Application) Regulations 2007, Part 6, Chapter 2, Protection of Pregnant, Post Natal and Breastfeeding Employees is highly relevant for the purposes of the protection of pregnancy at work. This Act is application in the circumstance where the employee has informed their employer they are pregnant, or have recently given birth. In this scenario, the employer is obliged to conduct a risk assessment in order to identify any hazards relevant to a pregnancy.

A number of protective and preventative measures are outlined in the 2007 Regulations. When a risk assessment previously mentioned highlights a risk to an employee's safety and it is not feasible to ensure the safety of the employees, adjustments must be made to the working conditions or working hours.

Schedule 8 of the 2007 Regulations highlight a number of biological and chemical agents which fall within the definition of 'agents' within Section 149- 151. Different agents are relevant depending on the employee is pregnant, post natal and breastfeeding.

- Safety, Health and Welfare at Work (General Application) Regulations 2007 (S.I. No. 299/2007) (§ 149, § 150, Schedule 8)

9.8.3 Limits to women's access to specific occupations, undertakings or shifts

Summary/Citation: An employer is under an obligation to transfer an employee to day time work if a medical practitioner certifies that it is necessary for the health and safety of the employee. If such a transfer is not feasible, the employer must grant an employee leave or extend the period of maternity leave.

References:

- Safety, Health and Welfare at Work (General Application) Regulations 2007 (S.I. No. 299/2007) (§ 151(2)a, § 151(2)b)

9.8.4 Limits to workers' access to specific occupations, undertakings or shifts by reason of age

Summary/Citation: A child within the meaning of the Safety, Health and Welfare at Work (General Application) Regulations 2007 is a resident in the State who is under 16 years of age. An employer cannot employ such a person where a risk assessment reveals that; the work is beyond the physical or psychological capabilities of said person, the work involves harmful exposure to agents, involves exposure to radiation, involves risks which cannot be avoided by a child, or involves a risk to health resulting from extreme heat or cold. Schedule 7 further addresses what form of agents Section 145 is concerning.

References:

- Safety, Health and Welfare at Work (General Application) Regulations 2007 (S.I. No. 299/2007) (§ 143, § 145)

Related CEACR Comments

- Minimum Age Convention, 1973 (No. 138) Observation 2000
- Minimum Age Convention, 1973 (No. 138) Direct Request 2012

10 Recording, notification and investigation of accidents/incidents and diseases

10.1 Duty to record and/or investigate the causes of work accidents, near misses incidents and cases of occupational diseases

10.1.1 Work-related accidents

Summary/Citation: The employer shall record the details of the accident as per section 8(2)(k) of the Safety, Health and Welfare at Work Act 2005.

An accident is defined by the Health and Safety Authority as an unplanned event resulting in personal injury or property damage. For example: laceration, broken bone, concussion, unconsciousness, ill-health or immediate sickness due to exposure to dangerous substances, fumes or gases, fire, explosion, chemical spill where there is a risk of environmental pollution, building or property damage.

Per section 26 of the 2005 Act, employers are required to consult with their employees and safety representatives in good time regarding the info to be kept recorded or notified to the Authority in respect of accidents or dangerous occurrences.

References:

- Ibec For Irish Business, 'Accident Investigation'.
- Safety, Health and Welfare at Work (General Application) Regulations, 1993 (S.I. No. 44 of 1993) (§ 59(1)a, § 59(1)b, § 61)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

10.1.2 Near miss incidents

Summary/Citation: An incident, commonly referred to as a “near miss”, is defined as an incident where there was no injury or property damage but where the potential for serious consequences existed.

Per schedule 12 of the General Application Regulations 1993, a dangerous occurrence is defined as an incident that results in:

- the collapse, overturning, failure, explosion, bursting, electrical short circuit discharge or overload, or malfunction of any work equipment,
- the collapse or partial collapse of any building or structure under construction or in use as a place of work,
- the uncontrolled or accidental release, the escape or the ignition of any substance,
- any unintentional ignition or explosion of explosives.

Per section 26 of the 2005 Act, employers are required to consult with their employees and safety representatives in good time regarding the info to be kept recorded to the Authority in respect of accident or dangerous occurrences.

References:

- The Health and Safety Authority, ‘Dangerous Occurrence Reporting’.
- Safety, Health and Welfare at Work (General Application) Regulations, 1993 (S.I. No. 44 of 1993) (§ 59(1)c)

10.1.3 Occupational diseases

Summary/Citation: The current list of occupational diseases is as follows: prescribed diseases, International Labour Office (ILO) list, the European schedule, and the list associated with the European Occupational Diseases Statistics project.

Defined in Ireland in the Social Welfare (Consolidated Occupational Injuries) Regulations 2007, Occupational disease is defined by the ILO as 'a disease contracted as a result of an exposure over a period of time to risk factors arising from work activity'.

Occupationally related diseases need to be identified as early as possible through periodically conducted health surveillance.

The cause for the occupational accident or injury resulting in a prescribed occupational disease should be notified as soon as is practicable after its occurrence, as per section 49(1) of the Social Welfare (Consolidated Occupational Injuries) Regulations 2007.

A notice must contain record of: the injured person's name, address, occupation of the injured person, the date and time of the accident or signs of illness noted, the place where the accident occurred, the cause and nature of the injury. If the person giving the notice is not the injured person, he or she must also provide his or her name, address and occupation particulars

References

- Safety, Health and Welfare at Work Act, 2005 (No. 10 of 2005). (§ 2(1), § 23(3), § 23(4))
- Social Welfare (Consolidated Occupational Injuries) Regulations 2007. (§ 49(2))

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

10.2 Employers' duty to notify OSH authorities of work related death and/or injuries to health

Summary/Citation: The person responsible for reporting the accident is the person having control of the place of work at which the accident/incident occurred. The law imposes obligations on an employer not only to take all such actions as are reasonably printable to safeguard the health and safety of their employees, but also to be able to show that they are doing so, by producing adequate written policies and procedures.

Per section 26 of the 2005 Act, employers are required to consult with their employees and safety representatives in good time regarding the information to be notified to the Authority in respect of accidents or dangerous occurrences.

The responsible person, as defined by section 58(1)(a) of the Safety, Health and Welfare at Work (General Application) Regulations 1993, must report all accidents in the workplace to the employer.

Where general injuries are sustained at a place of work as a result of which a person cannot perform their normal work for more than three consecutive days, excluding the day of the accident, the incident is notified and reported to the Occupational Health and Safety Authority. Where injuries sustained are related to a place of work and the person requires medical treatment, the incident is reported to the Occupational Health and Safety Authority if it is not related to a pre-existing medical condition and treatment.

Where injuries are sustained as a result of a road traffic accident at work involving members of the public, the accident is reported only if it relates to vehicle loads or to the construction or maintenance of roads or structures adjacent to roads.

Should the outcome of a dangerous occurrence be death, the responsible person shall supply the Authority with the deceased's name, the location and the particulars of the accident. As soon as possible, the responsible person shall also send a written report in the approved form to the Authority of the death, injury, condition, accident or dangerous occurrence. Schedule 12, General Application Regulations 1993 lists 'dangerous occurrences' of the kind which is not reportable by reason of death or injury occurs, an employer/self-employed person must, as soon as practicable, send in the Incident Report Form (IR1) to the Health and Safety Authority.

The Department of Social Protection in Ireland is responsible for the available benefit scheme insuring against prescribed occupational diseases, and must be notified and receive the Injury Benefit application within 21 days of the employee becoming ill.

Health and Safety Authority: The Minister may make regulations under section 58 of the 2005 Act, prescribing the Authority and the persons to report to the Authority that in turn may undertake investigations and monitoring compliance with set standards.

The employee must notify the employer concerned or a registered medical practitioner nominated by that employer who shall in turn inform both the employer and the employee of his opinion 'by the quickest practicable means'. Consequently, the employer shall immediately take appropriate

action per his or her duties under section 8 of the Safety, Health and Welfare at Work Act 2005 and section 50 of the Social Welfare (Consolidated Occupational Injuries) Regulations 2007.

References:

- Safety, Health and Welfare at Work Act, 2005 (No. 10 of 2005). (§ 26, § 58, § 63)

Related CEACR Comments

- Labour Inspection Convention, 1947 (No. 81) Observation 2016
- Labour Inspection Convention, 1947 (No. 81) Direct Request 2016
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

11 OSH inspection and enforcement of OSH legislation

11.1 Appointment of OSH inspectors

Summary/Citation: The Health and Safety Authority (HSA) is responsible for enforcing and promoting safety and health at work. HSA is a state-sponsored body and it reports to the Minister for Enterprise, Trade and Employment.

HSA inspectors are appointed by the HSA or by a person prescribed under Part 5, Chapter 1, section 33 (Safety, Health and Welfare at Work Act, 2005).

References:

- Safety, Health and Welfare at Work Act, 2005 (No. 10 of 2005). (§ 33, § 62)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

11.2 OSH inspectors' powers

11.2.1 Power to enter workplaces

Summary/Citation: Inspectors have the power to enter in any place “which he or she has reasonable grounds for believing is used as a place of work”.

Restrictions/obligations: However, an inspector cannot enter in a dwelling place without “the consent of the occupier” or without a warrant from a District Court.” This warrant can be issued under Section 64(7) of the Safety, Health and Welfare at Work Act 2005. In some cases, the inspector also needs to be accompanied by a member of the Gardaí.

References:

- Safety, Health and Welfare at Work Act, 2005 (No. 10 of 2005). (§ 64(1)a, § 64(5), § 64(7), § 64(8))

Related CEACR Comments

- Labour Inspection Convention, 1947 (No. 81) Observation 2016
- Labour Inspection Convention, 1947 (No. 81) Direct Request 2016

11.2.2 Power to inspect and carry out any examination, test or enquiry

Summary/Citation: OSH inspectors can make “inquiry into, search, examine and inspect that place and any work activity, installation, process or procedure at that place which is subject to the relevant statutory provisions”.

Restrictions/obligations: Their powers include to:

- Direct that the premises, or anything in it, be left undisturbed for as long as is reasonably necessary for the purpose of any inspection or investigation
- Take copies of any records in paper or electronic format and require reasonable assistance to access any records held on a computer system or can take the original records.
- Require that assistance and facilities to enable the inspector to exercise his/her powers are provided.
- Summon a person by written notice at a specified time and place to give such information (e.g. any article, substance, work activity, installation or procedure) or produce records required by the inspector.
- Require any person, whom the inspector reasonably believes to be able to give information, to answer such questions relevant for the inspection or the investigation and to sign a declaration of the truth of the answers;

- Examine and investigate any relevant circumstances, including taking samples, measurements, photographs/recordings, secure evidence/statements, requiring access to documents/records;
- Require removing or dismantling articles/substances appearing to be a source of danger.
- Install, where appropriate, use and maintain in, at or on the place monitoring instruments, systems and seals for the purposes of the relevant statutory provisions
- Require a person they consider may have committed an offence to provide their name and address to him/her, and of their supplier.

References:

- Safety, Health and Welfare at Work Act, 2005 (No. 10 of 2005). (§ 64(1)a)

Related CEACR Comments

- Labour Inspection Convention, 1947 (No. 81) Observation 2016
- Labour Inspection Convention, 1947 (No. 81) Direct Request 2016

11.2.3 Power to investigate

Summary/Citation: In cases of accident, incident, personal injury or situation or any other matter, the HSA can direct any of its staff or any other competent person to undertake an investigation and/ or to make a report (a “special report”) of the investigation to the Authority.

References:

- Safety, Health and Welfare at Work Act, 2005 (No. 10 of 2005). (§ 70)

11.2.4 Duty to provide advice on OSH

Summary/Citation: The Health and Safety Authority (HSA) must “make any arrangements that it considers appropriate for providing information and advice on matters relating to safety, health and welfare at work”: section 33 of the Work Act 2005. In addition, the HSA inspectors also provide advice during the inspections.

References:

- A Short Guide to The Safety, Health and Welfare at Work Act, 2005 (Page 14)

Related CEACR Comments

- [Labour Inspection Convention, 1947 \(No. 81\)](#) Observation 2016
- [Labour Inspection Convention, 1947 \(No. 81\)](#) Direct Request 2016

11.3 OSH inspectors' enforcement powers

11.3.1 Power to issue orders or notices

Summary/Citation: If an inspector is of the opinion that an activity involves or is likely to involve a risk to the safety, health or welfare of persons, s/he may give a written direction for an 'Improvement Plan'. The employer has a month to submit an 'Improvement Plan' explaining the proposed remedial actions. The inspector has a month to confirm whether the 'Improvement Plan' is adequate or to direct to revise it in a period specified in the notice. Once accepted the 'Improvement Plan' must be implemented.

If an inspector believes that a statutory provision has been contravened or a Direction was not respected, s/he "may serve a written notice". An Improvement Notice identifies the relevant statutory provision contravened, and requires remedying the contravention or the matters occasioning that notice in a period of time not less than 14 days.

References:

- [Safety, Health and Welfare at Work Act, 2005 \(No. 10 of 2005\)](#). (§ 65, § 66)
- [Chemicals \(Amendment\) Act 2010 \(No. 32 of 2010\)](#). (§ 12, § 15)
- [Chemicals Act 2008 \(No. 13 of 2008\)](#). (§ 14)

Related CEACR Comments

- [Labour Inspection Convention, 1947 \(No. 81\)](#) Observation 2016
- [Labour Inspection Convention, 1947 \(No. 81\)](#) Direct Request 2016

11.3.2 Power to impose financial penalties

Summary/Citation: The Occupational Safety and Health inspector can impose "On-the Spot" fines of up to €1,000 per offence for certain offences to be prescribed in the Regulations. If the fine is not paid in due time, the inspector may institute a prosecution against this person.

References:

- Safety, Health and Welfare at Work Act, 2005 (No. 10 of 2005). (§ 79)

11.3.3 Power to revoke or suspend licenses or authorisations

Summary/Citation: The Occupational Safety and Health inspector can revoke authorisations. Indeed, an 'authorisation under this section shall cease when the Authority or a person prescribed under section 33, as the case may be, revokes the authorisation'.

References:

- Safety, Health and Welfare at Work Act, 2005 (No. 10 of 2005). (§ 62(3))

Related CEACR Comments

- Labour Inspection Convention, 1947 (No. 81) Observation 2016
- Labour Inspection Convention, 1947 (No. 81) Direct Request 2016

11.3.4 Power to require the cessation of dangerous work

Summary/Citation: The Occupational Safety and Health inspector has the power to require a temporary cessation of work or activity under some conditions. When an inspector is of the opinion that an activity involves, or is likely to involve, a risk of serious personal injury to any person, the inspector may serve a Prohibition Notice.

Prohibition Notice requires the immediate cessation of the activity that has created the risk, from the reception of the Prohibition Notice until the risk is remedied. If there is an appeal, the Notice takes effect “on the later of the day next following the day on which the notice is confirmed on appeal”. When activities are carried on in contravention of the Notice, the Authority may also apply to the High Court for an order prohibiting the continuance of such activities.

References:

- Chemicals Act 2008 (No. 13 of 2008). (§ 16)
- Safety, Health and Welfare at Work Act, 2005 (No. 10 of 2005). (§ 67)

Related CEACR Comments

- Labour Inspection Convention, 1947 (No. 81) Observation 2016
- Labour Inspection Convention, 1947 (No. 81) Direct Request 2016

11.3.5 Power to initiate prosecutions

Summary/Citation: The Occupational Safety and Health inspectors can initiate prosecutions when activities are carried on in contravention of a Prohibition Notice. The Authority may apply to the High Court for an order prohibiting the continuance of such activities. In addition, an inspector may institute a prosecution against a person who did not pay “On-the-Spot” fines.

References:

- Safety, Health and Welfare at Work Act, 2005 (No. 10 of 2005). (§ 68, § 79)

11.3.6 Power to conduct prosecutions

Summary/Citation: The Health and Safety Authority has the power to conduct prosecution. Indeed, 'summary proceedings in relation to an offence under any of the relevant statutory provisions may be brought and prosecuted by the Authority'.

References:

- Safety, Health and Welfare at Work Act, 2005 (No. 10 of 2005). (§ 82(1))

11.3.7 Other enforcement powers

Summary/Citation: Inspectors' enforcement duties extend beyond the provisions of 'the Safety, Health and Welfare at Work Act 2005' to include duties under other health and safety related Acts, such as the Chemicals Act 2008, and the ADR Carriage of Dangerous Goods by Road Regulations.

References:

- Chemicals Act 2008 (No. 13 of 2008).
- Safety, Health and Welfare at Work Act, 2005 (No. 10 of 2005).

11.4 Application of sanctions by courts

11.4.1 Financial penalties for legal persons

Summary/Citation: Financial penalties imposed to a company are addressed towards employers. Therefore, financial penalties for legal persons are the same than the ones mentioned for natural

persons in Section 78 of the Safety, Health and Welfare at Work Act 2005. The penalties for legal persons are as follow:

For summary proceedings the maximum penalty is 3,000 and/or up to six months of imprisonment. These offences are tried in the District Court.

For indictment proceedings the maximum penalty is 3,000,000 and/or up to two years of imprisonment. These offences are tried in Circuit Courts.

References:

- Safety, Health and Welfare at Work Act, 2005 (No. 10 of 2005). (§ 39(7), § 77(1), § 77(2), § 77(8), § 77(9)a, § 78)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

11.4.2 Financial penalties for natural persons

Summary/Citation: Penalties for natural persons are as follow:

For summary proceedings the maximum penalty is 3,000 and/or up to six months of imprisonment. These offences are tried in the District Court.

For indictment proceedings the maximum penalty is 3,000,000 and/or up to two years of imprisonment. These offences are tried in Circuit Courts.

References:

- Safety, Health and Welfare at Work Act, 2005 (No. 10 of 2005). (§ 39(7), § 77(1), § 77(2), § 77(8), § 77(9)a, § 78)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

11.4.3 Non-financial sanctions

Summary/Citation: The Health and Safety Authority may compile a list of names and addresses and the description of business or other activity of every person who received a fine or any other penalty concerning the safety and health legislation.

References:

- Safety, Health and Welfare at Work Act, 2005 (No. 10 of 2005). (§ 85)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

11.4.4 Criminal liability

Summary/Citation: Every employer and “person in control” are subject to criminal liability. Indeed, [e]very employer shall manage and conduct his or her undertaking in such a way as to ensure, so far as is reasonably practicable, that in the course of the work being carried on, individuals at the place of work (not being his or her employees) are not exposed to risks to their safety, health or welfare.

In addition, on persons in control of a non-domestic place of work made available as a place of work to persons [...]; the means of access to or egress from that place of work, or any article or substance provided for the use of persons at that place of work, other than employees of the person who has control of the article or substance.

References:

- Safety, Health and Welfare at Work Act, 2005 (No. 10 of 2005). (§ 12, § 15)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

11.4.5 Terms of imprisonment for natural persons

Summary/Citation: Persons who contravened to the safety and health legislation risk a term of imprisonment up to six months for a summary offence, or up to two years for an indictment offence.

References:

- Safety, Health and Welfare at Work Act, 2005 (No. 10 of 2005). (§ 78)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2016

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1 Description of national OSH regulatory framework

1.1 Description of OSH regulatory framework

The Labour Law of June 20 2001 and the Labour Protection Law of June 20 2001 are the main occupational safety and health laws of Latvia.

The Labour Law establishes the rights, duties and responsibilities of the parties to labour relations (establishment of the employment relationships, work and rest time rules, collective agreement, etc.); the Labour Protection Law establishes conditions for ensuring the health and safety of workers. The purpose of the Labour Protection Law is to guarantee and improve safety and health protection of employees at work by determining obligations, rights and mutual relations regarding labour protection between employers, employees and their representatives, as well as State institutions.

In Latvia, the supervisory body in the field of employment is the Labour Inspectorate. The function of the Labour Inspectorate is the implementation of State supervision and control in the field of legally-binding employment relationships, labour protection and technical supervision of dangerous equipment.

Legal provisions on the protection of workers from specific occupational risks and hazards are contained in various separate legislative enactments, which can be found below in the full list of employment regulations.

The Cabinet of Ministers Regulation No.908 “Procedures for Investigation and Registration of Occupational Diseases” of November 6 2006, and the Cabinet of Ministers Regulation No.950 “Procedures for Investigation and Registration of Accidents at Work” of August 25 2009, prescribes the procedures for the investigation and registration of occupational diseases and accidents at work, in order to ensure the determination and prevention of the causes for accidents, to improve the protection of the health of employees at work, to promote the receipt of insurance compensation provided for a person who has suffered in an accident, as well as to ensure the registration of accidents in accordance with international requirements.

Chapter Five of the “Latvian Administrative Violations Code” of December 7 1984, provides adequate penalties for administrative violations in the protection of labour and citizens’ health and Art. 146 of the Criminal Law of June 17 1998, criminal penalties for violations of labour protection provisions.

References:

- Labour Protection Law of June 20 2001 (Art.2).
- State Labour Inspection Law of June 19 2008 (Art. 3(1)).
- The Cabinet of Ministers Regulation No.950 “Procedures for Investigation and Registration of Accidents at Work” of August 25 2009 (para.1)
- Cabinet Regulation No. 950 "Procedures for Investigation and Registration of Accidents at Work" 2009-08-28
- State Labour Inspection Law 2008-07-09
- Cabinet Regulation No. 908 "Procedures for Investigation and Registration of Occupational Diseases" 2006-11-09
- Labour Protection Law 2001-07-06
- Labour Law 2001-07-06
- The Criminal Law 1998-07-08

2. Scope, coverage and exclusions

2.1 Health and safety covers physical and psychological health

Summary/citation: The employer shall have a duty to ensure the safety and health of workers in every aspect related to their work. The Labour Protection Law provides that health and safety covers physical and psychological health. It is further defined in the terms’ section of Labour Protection Law and it prescribes, firstly, that labour protection is the health and safety of employees at work; secondly, labour protection measures are legal, economic, social, technical and organisational preventive measures the objective of which is to establish a safe and harmless to health working environment, as well as prevent accidents at work and occupational diseases; and

finally that working environment is the workplace with its physical, chemical, psychological, biological, physiological and other factors to which an employee is subject when performing his or her work; [..].

References:

- Labour Protection Law 2001-07-06 (Art.1 part 1, 2, 6)

2.2 Definition of worker

Summary/citation: employee – Employee – any natural person employed by an employer, including State civil servants and persons employed during production or training practice.

References:

- Labour Protection Law 2001-07-06 (Art.1 part 13)

2.2.1 Coverage of particular categories of workers

2.2.1.1 Migrant workers

Summary/citation: The Labour Law provides prohibitions to some migrant workers from working: a foreigner may be employed only if he has been granted the right to employment, as evidenced by the appropriate entry visa or residence permit. Laws provide exceptions, in certain professions, where no proof of the right to employment is needed. This provision does not apply to European Union citizens and persons who have the right to freedom of movement in the European Union according to the Regulation No. 562/2006 of the European Parliament and of the Council of 15 March 2006 establishes a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code), Article 2, section 5.

References:

- Labour Law 2001-07-06 (Art.37 part 8)

2.2.1.2 Domestic workers

No data available.

2.2.1.3 Home workers

Summary/citation: Home workers have the same benefits and rights as usual workers do.

Remarks/comments: Latvian Laws do not set the definition of home workers. Art.53 (1) of Labour Law determines that the employee and the employer can agree on the place of performance of work (as well as at the home) other than in the undertaking.

References:

- Labour Protection Law 2001-07-06 (Art. 1 (13), 3)
- Labour Law 2001-07-06 (Art. 53 (1))

2.2.1.4 Self-employed persons

Summary/citation: Labour Protection Law provides that a self-employed person has an obligation to take care of his or her health and safety at work, as well as the health and safety of those persons who are affected or may be affected by his or her work.

References:

- Labour Protection Law 2001-07-06 (Art.4 (2))

2.3 Definition of employer

Summary/citation: Employer – a natural person, a legal person or a partnership with legal capacity employing at least one employee

References:

- Labour Protection Law 2001-07-06 ((Art.1(5)))
- Labour Law 2001-07-06 ((Art.3))

2.4 Exclusion of branches of economic activity

2.4.1 Agriculture

Summary/citation: Agriculture is included. According to Art.3 of Labour Law it shall be applicable in all fields of employment if other laws do not prescribe otherwise.

References:

- Labour Protection Law 2001-07-06 (Art.1(13), 3)

2.4.2 Construction

Summary/citation: Construction is included. According to Art.3 of Labour Law it shall be applicable in all fields of employment if other laws do not prescribe otherwise. Requirements for construction works and protection are specified in the Cabinet of Ministers Regulation No.92 “Labour Protection Requirements in Performing Construction Work”.

References:

- Cabinet Regulation No. 92 "Labour Protection Requirements in Performing Construction Work" 2003-02-28
- Labour Protection Law 2001-07-06 (Art. 1(13), 3)

2.4.3 Services

Summary/citation: Services are included. According to Art.3 of Labour Law it shall be applicable in all fields of employment if other laws do not prescribe otherwise.

References:

- Labour Protection Law 2001-07-06 (Art.1(13), 3)

2.4.4 Public sector

Summary/citation: Public sector is included. According to Art.3 of Labour Law it shall be applicable in all fields of employment if other laws do not prescribe otherwise.

References:

- Labour Protection Law 2001-07-06 (Art.1(13), 3)

2.4.5 Other

Summary/citation: PProtection requirements for work with mineral extraction are specified in the Cabinet of Ministers Regulation No.150 “Labour Protection Requirements for Extraction of Minerals”; protection requirements for work in forestry are specified in the Cabinet of Ministers Regulation No.310 “Labour Protection Requirements in Forestry”.

References:

- Cabinet Regulation No. 150 "Labour Protection Requirements for Extraction of Minerals" 2006-02-24

2.5 Definition of occupational accident

Summary/citation: An occupational accident is an extraordinary incident which has occurred in the workplace during working hours or working day, after which health disorders have been caused to a person or the probability of health disorders occurring exists (risk of infection), or the death of the person involved has occurred.

References:

- Cabinet Regulation No. 950 "Procedures for Investigation and Registration of Accidents at Work" 2009-08-28 (Art.2)

2.6 Definition of occupational disease

Summary/citation: Occupational diseases are diseases specific to certain categories of staff that are caused on workplace mainly by physical, chemical, biological, psychological and other factors.

Remarks/ comments: Definition set by the Ministry of Welfare of the Republic of Latvia <https://www.lm.gov.lv/text/551>

2.6.1 List of occupational diseases

Summary/citation: Occupational diseases are listed in Annex 1 of Cabinet of Ministers Regulation No.908 "Procedures for Investigation and Registration of Occupational Diseases", and are as follows:

1. caused by chemical agents in acute and chronic diseases:
 - 1.1. metals and metalloid diseases caused by toxic impairments of respiratory, anemia, hepatitis, nephropathy, nervous system toxic lesions, tumors, metal fume, skin diseases;
 - 1.2. organic halogen compounds diseases caused by toxic impairments of respiratory, skin diseases;
 - 1.3. diseases caused by cyanide compounds - toxic impairments of respiratory;
 - 1.4. corrosive and irritant substances (inorganic gases, acid, hydroxide, hydrogen peroxide) diseases caused by toxic impairments of respiratory, skin diseases;

1.5. hydrocarbons and their derivative compounds diseases caused by toxic impairments of respiratory, blood system diseases, hepatitis, nephropathy, nervous system toxic lesions, tumors, skin diseases;

1.6. nitro compounds and amino diseases caused by toxic impairments of respiratory, blood system diseases, hepatitis, nephropathy, nervous system toxic lesions, tumors, skin diseases;

1.7. phenol and their derivatives diseases caused by toxic impairments of respiratory, renal toxic lesions, skin diseases;

1.8. alcohols and glycols diseases caused by optic nerve and retinal diseases of the nervous system toxic disorders, skin diseases;

1.9. ethers, esters, epoxy compounds diseases caused by toxic impairments of respiratory, skin diseases, tumors;

1.10. aldehydes and ketones diseases caused by respiratory toxic damage, peripheral nervous system diseases, skin diseases;

1.11. organic acids and their derivatives (amides, acid anhydrides) diseases caused by respiratory toxic damage, peripheral nervous system, diseases, skin diseases.

2. Biological factors of diseases caused by:

2.1. infectious and parasitic diseases in accordance with the infections to which the employee has been in contact during working hours: amebiosis, brucellosis, swine erysipelas, tick-borne encephalitis, yersiniosis, Lyme disease, leptospirosis, Ornithosis, Q fever, tetanus, tuberculosis, tularaemia, viral hepatitis;

2.2. other infectious diseases encountered in the performance of their duties of health care, prevention and social work sector or other services, and whose origins are proven risk factors role (HIV / AIDS, hepatitis B, hepatitis C, tuberculosis);

2.3. dysbacteriosis, skin and mucous membranes candidamycosis, visceral candidiasis.

3. Physical diseases caused by:

3.1. diseases associated with ionizing radiation: radiation diseases (acute or chronic), local tissue disorders (acute and chronic), tumors;

3.2. laser induced local tissue damage (skin burns, cornea and retina);

- 3.3. general or local diseases caused by vibration;
- 3.4. sensoneuronic noise-induced hearing loss or deafness;
- 3.5. intense ultraviolet radiation caused electrophthalmia, cataract;
- 3.6. decompression sickness (Caisson workers sickness) and its consequences (osteonecrosis);
- 3.7. Compression disease (barothitis);
- 3.8. heat radiation diseases caused by heat stroke, convulsions, cataract;
- 3.9. disease caused by low temperatures: angioneurosis, angiotrophoneurosis endarteritis obliterans, vegetative sensorial polyneuropathy.
4. diseases caused by drugs: toxic impairments of respiratory, anemia, hepatitis, nephropathy, nervous system toxic lesions, tumors, metal fume, skin diseases.
5. overload (common physical overload or certain organ or system overload) diseases caused by:
 - 5.1. Coordination of neurosis;
 - 5.2. peripheral nervous system and musculoskeletal diseases (acute, subacute or chronic): mononeuropathies and polyneuropathy, including compression and vegetosensorial neuropathy and lumbosacral radiculitis;
 - 5.3. tendovaginitis chronic, tendinitis, peritendinitis, epicondylitis;
 - 5.4. stenosing ligamentitis "... finger", shoulder-blades periartrosis;
 - 5.5. bursitis (Prepatellar, subpatellārais, elbow and shoulder);
 - 5.6. anti osteoarthrosis, including spondiloarthrosis and aseptic osteonecrosis;
 - 5.7. meniscus injury;
 - 5.8. Dupuytren's contracture;
 - 5.9. uterine and vaginal prolapsus and loss;
 - 5.10. expressed varicose veins with inflammation (thrombophlebitis) or trophic disorders;
 - 5.11. illnesses associated with overload of vocal cords: chronic laryngitis, vocal nodules (singers' nodules), vocal cords contactulcer, fonastenija;
 - 5.12. progressive myopia;
 - 5.13. pulmonary emphysema;

5.14. psychoneurosis;

5.15. burnout syndrome.

6. Industrial aerosols induced disease:

6.1. pneumoconiosis: silicosis, silicosis combined with tuberculosis, silikatoze, sideroze, asbestosis, metalkonioze, karbokonioze, mixed dust pneumoconiosis, organic dust pneumoconiosis;

6.2. acute toxic bronchitis;

6.3. chronic bronchitis (chronic dust bronchitis, acute and chronic toxic bronchitis);

6.4. chronic obstructive pulmonary disease;

6.5. Chronic rinofaringolaringitis;

6.6. respiratory tract and lung tumours;

6.7. mesothelioma from asbestos dust inhalation.

7. Allergic diseases: conjunctivitis, rhinitis, nasopharyngitis, rinofaringolaringitis, rhinosinusitis, bronchial asthma, asthmatic bronchitis, exogenous alveolitis, eczema, toxicodermia, angioneurotic edema, urticaria, anaphylactic shock, toxicallergic hepatitis, vasculitis, allergic inflammation of the auditory nerve, mononeuropathies and polyneuropathy, polyneuritis.

Restrictions/obligations: Annex 1 of Cabinet of Ministers Regulation No.908 "Procedures for Investigation and Registration of Occupational Diseases" of November 6 2006

2.6.2 Mechanism for compensating other diseases as occupational ones

Summary/citation: Employees can submit a claim to the court, as with any other claim, using the general civil procedure according to the Civil Procedure Law that provides that any natural person who has reached legal age and has the capacity to act, as well as any legal person, may bring action in court to protect their infringed or disputed rights of a civil nature. The Labour Law provides that individual disputes regarding rights between an employee and an employer, if they have not been settled within an undertaking, shall be settled in court.

References:

- Labour Law 2001-07-06 (30)

3. Institutions and programmes relating to OSH administration and/or enforcement

3.1 Competent national authority for safety and health at work

Summary/citation: State supervision and control in the field of labour protection shall be performed by the State Labour Inspection, which is a direct administrative institution supervised by the Ministry of Welfare, and other institutions authorised by regulatory enactments in compliance with their competence.

State administration in the field of labour protection is implemented by the Cabinet and on its delegation – the Ministry of Welfare. The Ministry of Education and Science in accordance with the procedure prescribed by law, develops samples of preparatory programmes (except for the study programmes) and samples of training programmes in the field of labour protection for the labour protection specialists and trusted representatives. State administrative institutions shall, in accordance with their field of activities, develop draft regulatory enactments regarding labour protection to be issued by the Cabinet.

References:

- State Labour Inspection Law 2008-07-09 (Section 2 part 1)
- Labour Protection Law 2001-07-06 (Section 26, Section 24 part 1, 3, 4)

3.1.1 Objectives, roles and/or functions

Summary/citation: The function of the Labour Inspection is the State supervision in the field of employment legal relationships, labour protection and technical supervision of dangerous equipment.

The Labour inspection monitors how employers and employees mutually fulfil their obligations, promotes cooperation between employers and employees, carries out investigation of accidents at work and performs uniform registration of them, investigates accidents with dangerous equipment and issues permits for the commencement of operation of dangerous equipment and the industrial use of explosives, controls work equipment at workplaces, the utilisation worker protection equipment, utilisation of substances harmful or dangerous to health, issues licences to legal persons

who conduct training of employees regarding labour protection and ensures the operation of a national point of contact for the European Agency for Safety and Health at Work.

The Ministry of Welfare shall formulate State policy in the field of labour protection and co-ordinate the implementation thereof, co-ordinate and monitor the activities of the State administrative institutions in labour protection issues and the State Labour Inspectorate, develop and co-ordinate national programmes and regulatory enactments in the field of labour protection in the National Trilateral Co-operation Council, co-ordinate the inclusion of labour protection issues in international agreements and determine the State statistics registration and statistical reporting system in the field of labour protection following the co-ordination with the Central Statistical Bureau.

The Cabinet of Ministers shall issue regulations regarding labour protection requirements:

- 1) at workplaces;
- 2) when using work equipment;
- 3) when using personal protective equipment;
- 4) when working with a display;
- 5) when moving heavy loads;
- 6) when performing construction works;
- 7) in the use of safety signs;
- 8) in the extraction of mineral resources, by drilling;
- 9) in the extraction of surface and underground mineral resources;
- 10) in the work on fishing vessels;
- 11) in the contact with chemical substances;
- 12) in the contact with biological substances;
- 13) in relation to the level of noise at work;
- 14) in the work with asbestos;
- 15) in relation to medical care on ships;
- 16) in the contact with carcinogenic substances;

17) when working on heights;

18) in relation to other requirements regulated by European Union directives on labour protection;
and

19) when performing the work in forestry.

References:

- State Labour Inspection Law 2008-07-09 (Section 3)
- Labour Protection Law 2001-07-06 (Section 24, part 2, Section 25)

3.1.2 Chairperson and composition

Summary/citation: Officials of the Labour Inspection are the director of the Labour Inspection and State labour inspectors at all levels.

The officials of the Labour Inspection have the right to visit and inspect objects under the supervision and control of such officials, and check the work process, working environment and labour protection measures, carry out examination in order to verify that the requirements of regulatory enactments are observed and to take decisions such as suspend the activities of undertaking or impose administrative sanctions regarding matters of employment legal relationships, labour protection and technical supervision of dangerous equipment. There are five departments of the Labour inspection – Riga, Kurzeme, Latgale, Vidzeme and Zemgale, each ruled by the local head of the Inspection. Additionally, the departments of Labour Protection, Labour Law, Finances and Administration are established to provide support to the Director.

The Director of the Labour Inspection manages the Labour Inspection, determines the structure and operational programme of it, examines complaints regarding the officials of the Labour Inspection and represents it without special authorisation.

Remarks/comments: Information about the structure is available at <http://www.vdi.gov.lv/lv/Par-mums/struktura/>

References:

- State Labour Inspection Law 2008-07-09 (Section 5 and 6)

3.2 National OSH research programme or institute

Summary/citation: The National OSH research institution is „Occupational Safety and Environmental Health Institute”, a scientific institution under the supervision of Riga Stradins University, established by the decision No. 1-2/17.04.07 of 17 April 2007 by the Senate of Rīga Stradiņš University.

No normative acts regulate this institution; the information is available at the webpage of Riga Stradins University <http://www.rsu.lv/institute-for-occupational-safety-and-environmental-health>

3.2.1 Objectives, roles and/or functions

Summary/citations: The Institute has the following functions:

1. Providing the public services in occupational safety and health;
2. Practicing the scientific activities,
3. Participating in research projects and program preparation, submission and participation in their implementation.

In order to fulfil its functions, the agency performs the following tasks:

1. guarantees qualitative training of students and post-graduates in the field of occupational safety and environmental health;
2. performs researches in the field of occupational safety and environmental health;
3. maintains database on the health condition of victims of occupational diseases and victims of radiation exposure
4. provides information to state and municipal institutions, employees and other persons on issues related to occupational safety and health.

No normative acts regulate this institution; the information is available at the webpage of Riga Stradins University – <http://www.rsu.lv/institute-for-occupational-safety-and-environmental-health>

3.2.2 Governance board constitution and chairmanship

Summary/citations: The Institute, governed by the Director, is divided in two departments - Department of Occupational and Environmental Medicine and Laboratory of Hygiene and Occupational Diseases. Each department is governed by the Head of Department,

No normative acts regulate this institution; the information is available at the webpage of Riga Stradins University – <http://www.rsu.lv/institute-for-occupational-safety-and-environmental-health> “Organisational structure”

3.2.3 Source of funding

Summary/citations: Over the past five years three studies conducted have been funded by the Latvian Council of Science; there also have been 12 international research projects, including the European Union's Framework Programme, Integrated Projects, EEZ/Norway funded projects and target-oriented research projects.

No normative acts regulate this institution; the information is available at the webpage of Riga Stradins University – <http://www.rsu.lv/institute-for-occupational-safety-and-environmental-health>

3.3 National OSH programme

Summary/Citation: State policy in the field of labour protection shall be oriented towards the implementation of preventative measures and based on, the priority of the safety and health protection of an employee, the co-operation of the State, local governments, employer organisations and employees' trade unions, the co-ordination of labour protection issues with other economic and social issues, the results of scientific research in the field of labour protection, State participation in the financing of labour protection measures, safe technological process and encouragement of the design, production and purchase of work equipment and collective and personal protective equipment, training in the field of labour protection at the educational institutions, the State supervision and control, the social protection of employees in relation to accidents at work and occupational diseases, the requirements of EU and ILO and the international co-operation in the field of labour protection.

Implementation of labour protection measures in the institutions financed from the State budget shall be ensured within the scope of the means determined in the annual State budget law. The Ministry of Welfare shall develop and co-ordinate national programmes in the field of labour protection in the National Trilateral Co-operation Council.

The Order No. 34 (January 16, 2016) by the Cabinet of Ministers “On Labour Protection Policy Guidelines 2016-2020” identifies the problems in labour protection matters, divides the budget and determines the courses of action for the following years, that is, raising public awareness, promoting the effective implementation of labour protection requirements, promoting the health protection of the employees, supervising and controlling the Labour protection matters and promoting the safe working environment for non-standard forms of employment as well as self-employed work.

Internal remarks/comments: The Order No. 34 (January 16, 2016) by the Cabinet of Ministers “On Labour Protection Policy Guidelines 2016-2020” is not available in English, uploaded in Latvian.

References:

- Order No. 34 On Labour Protection Policy Guidelines 2016.-2020 2016-01-20
- Labour Protection Law 2001-07-06 (Section 23 part 4, Section 24, part 2, part 4)

3.3.1 Consultation on the national OSH programme

Summary/Citation: The Ministry of Welfare shall develop and co-ordinate national programmes in the field of labour protection in the National Trilateral Co-operation Council (the representatives from the Government, Free Trade Union Confederation of Latvia (LBAS) and Employers' Confederation of Latvia (LDDK)). This cooperation is stressed also in the Order No.34. Also the Order No. 34 provides the duty of the consultation conducted with workers and employers' representatives.

References:

- Order No. 34 On Labour Protection Policy Guidelines 2016.-2020 2016-01-20
- Labour Protection Law 2001-07-06 (24(2)(4))

4 Employers' duties and responsibilities to protect the safety and health of workers and others

4.1 Duty to ensure the health and safety of employees

According to Art.7 of the Labour Law everybody has the right to work in safe and healthy work environment. Art.27 of the Labour Protection Law determines that an employer is liable for the safety and health of employees at the workplace.

Duty to ensure the health and safety of employees has been set by Art.28 Para.2 of the Labour Law which states that “With an employment contract the employee undertakes to perform specific work, subject to specified working procedures and orders of the employer, while the employer undertakes to pay the agreed work remuneration and to ensure fair and safe working conditions that are not harmful to health.”

According to Art.5 of the Labour Protection Law the employer is obliged to determine internal labour protection system.

The employer is entitled to request the potential employee to perform the health check according to Art.36 of the Labour Law whereas the costs are covered by the employer.

Special regulations (Art.37 Para.1-4 of the Labour Law) applies for the employer if he employs children or teenagers. The employer must ensure the health and safety of employees who are children (13-15 years old) and teenagers (15-18 years old) and it is now allowed to employ them if the work implies increased risk of safety and health or their development.

According to Art.37 Para.7 of the Labour Law an employer is prohibited from employing pregnant women and women for a period following childbirth not exceeding one year, but if the woman is breastfeeding – during the whole period of breastfeeding if it is considered that performance of the relevant work poses a threat to the safety and health of the woman or her child.

Based on Art. 82 of the Labour Law and the employer's order the employee must immediately perform the health check when such health examination is provided for by regulatory enactments or a collective agreement, or there is cause for suspicion that the employee has become ill with an illness which causes or may cause a threat to his or her or another person's safety or health.

4.2 Duty to protect the health and safety of people other than their own employees

Duty to protect the health and safety of people other than their own employees is not directly determined by the law. However, according to Art.8 of the Labour Protection Law the employer shall evaluate the working environment risks, which may occur to other people than their own employee, which indicates that the employer shall ensure the health and safety of other people as well.

4.3 Collaboration among two or more employers at the same workplace

According to Art.16 Para.1 of the Labour Protection Law if employees from several employers are employed in one workplace, the employers have an obligation to co-operate when taking the labour protection measures. Taking into account the nature of work and working conditions, the employers have an obligation to co-ordinate the labour protection measures to be taken and to inform each other, their employees and trusted representatives regarding the working environment risks, as well as to provide appropriately instruction to employees.

According to Art.16 Para.2 an employer shall take the necessary measures so that the employer of the employees from another undertaking engaged in his or her undertaking receives timely (prior to such an engagement) information regarding the working environment risks, the overall labour protection measures in the undertaking, and those labour protection measures which are directly relating to each workplace and type of work, as well as the measures taken in accordance with the regulations on first-aid and emergency measures.

According to Art.16 Para.3 an employer shall ensure that the employees of another employer engaged in his or her undertaking receive instruction and undergo training in the field of labour protection prior to the commencement of work and during the whole period they are employed in the undertaking.

4.4 Surveillance of workers' health in relation to work

Based on Art. 82 of the Labour Law and the employer's order the employee must immediately perform the health check when such health examination is provided for by regulatory enactments

or a collective agreement, or there is cause for suspicion that the employee has become ill with an illness which causes or may cause a threat to his or her or another person's safety or health.

Art. 7 Para.1 of the Labour Protection Law notes that an employer shall ensure internal supervision of the working environment in the undertaking. According to Art.7 Para.2 of the Labour Protection Law an employer shall document the results of the evaluation of the working environment risks and compile a list of the persons or occupations (positions) or workplaces where:

- 1) health conditions of the employees are affected or may be affected by the working environment factors harmful to health;
- 2) employees have special conditions at work; and
- 3) employees perform a work related to special risks.

Preparation of the plan for internal supervision of the working environment and actions of the employer are determined in the Cabinet of Ministers regulations No 660 "Procedures for the Performance of Internal Supervision of the Work Environment".

According to Art.15 of the Labour Protection Law an employer shall ensure mandatory health check for those employees whose health conditions are affected or may be affected by the working environment factors harmful to health, and for those employees who have special conditions at work. The Cabinet of Ministers regulations No 219 "Procedures for Performance of Mandatory Health Examinations" determine the procedure for the performance of the mandatory health check which shall be covered by the employer.

4.4.1 Specific hazards for which surveillance is required

According to Art.25 of the Labour Protection Law there are additional safety regulations regarding labour protection requirements:

- 1) at workplaces;
- 2) when using work equipment;
- 3) when using personal protective equipment;
- 4) when working with a display;
- 5) when moving heavy loads;

- 6) when performing construction works;
 - 7) in the use of safety signs;
 - 8) in the extraction of mineral resources, by drilling;
 - 9) in the extraction of surface and underground mineral resources;
 - 10) in the work on fishing vessels;
 - 11) in the contact with chemical substances;
 - 12) in the contact with biological substances;
 - 13) in relation to the level of noise at work;
 - 14) in the work with asbestos;
 - 15) in relation to medical care on ships;
 - 16) in the contact with carcinogenic substances;
 - 17) when working on heights;
 - 18) in relation to other requirements regulated by European Union directives on labour protection;
- and
- 19) when performing the work in forestry.

4.5 Surveillance of the working environment and working practices

Preparation of the plan for internal supervision of the working environment and actions of the employer are determined in the Cabinet of Ministers regulations No 660 "Procedures for the Performance of Internal Supervision of the Work Environment".

4.6 Duty to provide personal protective equipment

According to Art.14 Para.1 of the Labour Protection Law an employer shall ensure that each employee receives instruction and is trained in the field of labour protection directly relating to his or her workplace and work performance. Such an instruction and training shall be carried out on recruitment, in case of change of the nature of work or working conditions, in case of introduction of a new or in case of change of the previous work equipment, and in case of introduction of a

new technology. The instruction and training of employees shall be adapted to changes in working environment risks and shall be repeated periodically.

According to Section 30.2 of the Cabinet of Ministers regulations No 359 “Labour Protection Requirements in Workplaces” it is employer’s duty to ensure the maintenance of work equipment in adequate technical condition, as well as immediately eliminate defects which negatively affect the safety and health of workers.

There are separate Cabinet of Ministers regulations No 372 “Labour Protection Requirements When Using Personal Protective Equipment” which prescribe labour protection requirements when using personal protective equipment – products, devices, equipment and systems – which employees wear or use in some other way at work in order to protect their safety and health against the effect of one or more work environment risk factors. According to Section 6 of the abovementioned regulations the employer shall provide employees with protective equipment free of charge as well as carry out measures, which ensure that protective equipment is maintained in working order and conforms to hygienic requirements, in accordance with the manufacturer’s instructions.

4.7 Duty to ensure the usage of personal protective equipment

According to Art.17 Para.2 of the Labour Protection Law the employee is obliged to use work equipment, dangerous substances, transport and other means of production in accordance with the documentation determined by regulatory enactments (manufacturer's instructions, safety data sheets regarding chemical substances and chemical products, etc.).

According to Art.17 Para.3 of the Labour Protection Law the employee shall use collective protective equipment, as well as personal protective equipment given at their disposal in accordance with the documentation determined by regulatory enactments (manufacturer's instructions, safety data sheets regarding chemical substances and chemical products, etc.), and to place the relevant protective equipment following the use thereof in the place provided for it.

Based on Art.10 Para.3 Section 2 the employer shall ensure that labour protection specialists, trusted representatives and employees have access to the information regarding the labour protection measures determined by the employer and the protective equipment to be utilised.

Additionally, depending on the risk of the work the Cabinet of Ministers provide separate regulations on work safety, such as for those workers who work on heights, in forestry, etc, which entail direct obligation to ensure personal protective equipment for employees who work in that particular industry.

4.8 Duty to provide first-aid and welfare facilities

4.8.1 Arrangements for first-aid

According to Art.12 Para.1 of the Labour Protection Law an employer shall ensure measures that are necessary for provision of first aid, limitation or elimination of the consequences of an accident with dangerous facilities, fire fighting and evacuation of employees and other persons. The employer shall:

- 1) ensure contacts with external services, especially with the service providing emergency medical care and carrying out fire-fighting and rescue operations; and
- 2) designate employees who are trained in provision of first aid and implementation of fire fighting and employee evacuation measures, and ensure that these employees are in sufficient number, adequately trained and supplied with the necessary equipment.

Cabinet of Ministers regulations No 713 “Regulations on the order of the training in provision of first aid and minimum of the medicinal materials required for the provision of first aid” set the obligation to provide at least one first aid kit per 100 employees which entails at least those materials as indicated in the regulations.

4.8.2 Sanitary installations

Cabinet of Ministers regulations No 359 “Labour Protection Requirements in Workplaces” define that “Showers, washbasins and lavatories shall be designed, installed and maintained in compliance with the following requirements:

- 27.1. shower rooms shall be installed taking into account the nature of the work to be performed or if it has been determined by the employer or the trusted representatives of the workers. If possible, separate shower rooms for men and women shall be installed. If it is not possible, use of shower rooms shall be ensured separately for men and women;

27.2. shower rooms shall be sufficiently spacious so that they can be used in accordance with the hygiene requirements and without hindrance to others;

27.3. showers shall be equipped with a supply of hot and cold running water;

27.4. if showers are not installed in accordance with Sub-paragraph 27.1 of these Regulations, suitable washbasins with a supply of hot and cold running water shall be installed in the proximity of the workrooms and the changing rooms;

27.5. in the cases referred to in Sub-paragraph 27.4 of these Regulations, if necessary, washbasins shall be demarcated or used separately by men and women;

27.6. if shower rooms or washbasins are installed separately from changing rooms, easy passage from one room to another shall be ensured;

27.7. the number of lavatories and washbasins shall be sufficient, taking into account the number of workers. The relevant rooms shall be provided with the necessary personal hygiene products (toilet paper, soap, towels or devices for hand drying);

27.8. lavatories and washbasins shall be installed near workrooms and rest rooms, changing rooms and shower rooms;

27.9. lavatories and shower rooms shall be equipped with ventilation and the operation thereof shall be ensured; and

27.10. separate lavatories for men and women shall be installed or separate use thereof shall be ensured, as well as, if necessary, a separate cabin shall be installed for handicapped persons.”

According to Section 30 of the above mentioned regulations the employer must ensure cleanliness in workplaces and regular cleaning of workplaces (in particular ventilation equipment), observing hygiene requirements and without posing threat to the safety and health of workers. Additionally it is an obligation of the employer to ensure the possibility for pregnant women or women following childbirth (up to one year) to lie down and rest in appropriate conditions in accordance with the hygiene requirements. The referred to conditions shall be ensured for women who are breastfeeding throughout the breastfeeding period.

4.8.3 Drinking water

According to Section 29.10. of the Cabinet of Ministers regulations No 359 “Labour Protection Requirements in Workplaces” the employer must ensure the availability of drinking water in case the workplace is outdoors.

4.8.4 Rest and eating areas

Although the law does not oblige the employer directly to develop rest areas, Section 25 of the Cabinet of Ministers regulations No 359 “Labour Protection Requirements in Workplaces” specify that “rest areas shall be designed, constructed and maintained in compliance with the following requirements (need not be applied to offices and similar workplaces if there are adequate opportunities for rest during interruptions of work):

25.1. they conform with the specific nature of the work and the number of workers, are comfortable and accessible;

25.2. they shall be sufficiently spacious and have a sufficient number of tables and seats with backrests; and

25.3. if due to the specific nature of work frequent and regular breaks are necessary, but rest rooms have not been installed, there shall be other rooms in which employees can stay during breaks.”

According to Section 30.7. of the Cabinet of Ministers regulations No 359 “Labour Protection Requirements in Workplaces” is an obligation of the employer to ensure the possibility for pregnant women or women following childbirth (up to one year) to lie down and rest in appropriate conditions in accordance with the hygiene requirements. The referred to conditions shall be ensured for women who are breastfeeding throughout the breastfeeding period. There is no regulation in regards to eating area at the workplace.

5 Employers' duty to organize prevention formally along generally accepted OSH management principles and practices

5.1 Elements of an OSH management system

Yes.

5.1.1 Policy or plan specifying responsibilities and arrangements for health and safety

Summary/citation: The Employer must evaluate risks and shall decide upon the equipment and protective measures to be implemented. As laid down in the Directive 89/391/EEC - OSH “Framework Directive” - the Employer is obligated to “develop a coherent overall prevention policy which covers technology, organization of work, working conditions, social relationships and the influence of factors related to the working environment”, as well as Latvian Labour Protection Law Ch. 2, Section 5 states the necessity of the prevention policy, and mentions the provisions that must be complied with in the creation process.

References:

- Labour Protection Law 2001-07-06 (Ch. 2, Section 5)

5.1.2 Appointment of a person for health and safety

Summary/citation: According to the Labour Protection Law Ch 2, Sect. 9, Par. 1 - the employer shall hire labour protection specialists or establish an organisational unit of labour protection, taking into account the amount of employees in the workplace. Nevertheless, according to Ch. 2, Sec. 9, Par 3. if at the moment fewer than 10 employees are working, and the “employer has been trained in accordance with the procedure determined by the Cabinet, he or she may himself or herself fulfil the obligations of a labour protection specialist.”

References:

- Labour Protection Law 2001-07-06 (Art.2 para 1-6)

5.1.3 Written risk assessment

Summary/citation: An Employer must evaluate the workplace risks and compile a list of employers that are exposed to special risks (“working environment risks related to such an increased psychological or physical load or such increased risks to the safety and health of an employee which cannot be prevented or reduced up to the permissible level by other labour protection measures, only by reducing the working hours during which the employee is exposed to such risks.” as defined in Labour Protection Law Ch.1 Sect 1.), special conditions and a

possibility of the working place affecting health conditions according to Labour Protection Law Ch 2, Sect 7, Par 2.

References:

- Labour Protection Law 2001-07-06 (Art.2 section 7 and 8)

5.1.4 Safe operating work systems and procedures

Summary/citation: The employer shall ensure “maintenance of work equipment in adequate technical condition, as well as immediately eliminate defects which negatively affect the safety and health of workers; “ and “regular inspection and supervision of the operation of safety equipment and devices, which are intended for the reduction or prevention of the effects of work environment factors;” According to the Labour Protection Requirements in Workplaces Ch. 3. Art 30.2 and 30.4.

Restrictions / obligations:

- Cabinet Regulation No. 359 "Labour Protection Requirements in Workplaces" 2009-05-06 (Art.30)

5.1.5 Training and information on risks

Summary/citation: According to the Regulations of the Latvian Cabinet of Ministers Nr. 660, Article 36 - The Employer shall inform the workers about the existing risks at the workplace and the possible risks for each position held in the enterprise. Also, Section 14, paragraph 1 states that "An employer shall ensure that each employee receives instruction and is trained in the field of labour protection directly relating to his or her workplace and work performance. Such an instruction and training shall be carried out on recruitment, in case of change of the nature of work or working conditions, in case of introduction of a new or in case of change of the previous work equipment, and in case of introduction of a new technology. The instruction and training of employees shall be adapted to changes in working environment risks and shall be repeated periodically.". The Regulations of the Latvian Cabinet of Ministers Nr. 749 Article 8 and 29 provides that the Employer is also obligated to ensure the training for the workers regarding occupational safety questions (including additional technical training, e.g. computers, other technologies) that are related to the workplace.

An employer shall ensure that each employee receives instruction and is trained in the field of labour protection directly relating to his or her workplace and work performance. Such an instruction and training shall be carried out on recruitment, in case of change of the nature of work or working conditions, in case of introduction of a new or in case of change of the previous work equipment, and in case of introduction of a new technology. The instruction and training of employees shall be adapted to changes in working environment risks and shall be repeated periodically. The employee training and the instruction presenting is to be registered in relevant documents.

References:

- Cabinet Regulation No. 660 "Procedures for the Performance of Internal Supervision of the Work Environment" 2007-10-05 (Art.36)
- Labour Protection Law 2001-07-06 (Art. 14)

5.1.6 Review or assessment of the results of preventive measures

Summary/citation: Labour Protection Law, Section 7, paragraph 2 and 3 makes a reference to the assessment of the effectiveness of the labour protection measures. Paragraph 2 states that the Employer is to be responsible for documenting the results of the evaluation of the working environment risks, as well as is responsible for making a list of workers that are exposed to special risks. Paragraph 3 provides that: "The labour protection measures determined by the employer and the protective equipment to be utilised, as well as the results of the assessment of the effectiveness of the labour protection measures shall be specified in the lists. If working conditions are similar, it shall be sufficient to specify summarised information in the referred to documents."

References:

- Labour Protection Law 2001-07-06 (Section 7, Para. 2, 3)

5.1.7 Consultation with workers in health and safety

Summary/citation: According to Labour Protection Law Ch2. Sect 10. Par 1. "An employer has an obligation to consult with employees or trusted representatives in the field of labour protection, as well as to ensure that the trusted representatives have an opportunity to participate in the meetings"

References:

- Labour Protection Law 2001-07-06

6 Employers' duty to ensure availability of expertise and competence in health and safety

6.1 OSH competence

6.1.1 Requirement to access expert advice and/or support in health and safety

Summary/Citation: Labour Protection Law, Section 9 regulates the organisational structure of labour protection and provides as it follows: "(1) In order to organise the labour protection system determined in Section 5, Paragraph one of this Law, an employer shall, taking into account the number of employees in an undertaking and the type of activities, designate or hire one or several labour protection specialists or establish an organisational unit of labour protection. The procedure for the training of labour protection specialists, labour protection co-ordinators, employers, employees and trusted representatives shall be determined by the Cabinet.

(2) An employer shall grant the labour protection specialist the necessary means and time (within working hours) in order he or she may fulfil his or her obligations. The designation of an employee as a labour protection specialist may not cause him or her unfavourable consequences or restrict in another way his or her right.

(3) If there are not more than 10 employees in an undertaking and the employer has been trained in accordance with the procedure determined by the Cabinet, he or she may himself or herself fulfil the obligations of a labour protection specialist.

(4) If it is not possible to organise the labour protection system according to the provisions determined in Paragraph one of this Section, the employer shall engage a competent authority or a competent specialist in the establishment and maintenance of the system, and a person responsible for labour protection shall be designated in the undertaking. The employer shall inform the competent authority or competent specialist regarding the labour protection measures

in the undertaking and workplaces, as well as regarding the working environment factors which cause or may cause risks to the safety and health of employees.

(5) The Cabinet shall determine those types of commercial activities in which an employer shall engage a competent authority, the procedure for the engagement of such an authority, as well as cases where the employer, when performing the referred to commercial activities, may not engage a competent authority. This shall also apply to those employers who perform activities conforming to the referred to types of commercial activities for non-commercial purposes or the needs of their own undertaking.

(6) The Cabinet shall determine the requirements for the competent authorities and competent specialists regarding labour protection issues, as well as the procedure for the evaluation of the competence of such authorities and specialists."

References:

- Labour Protection Law 2001-07-06 (Section 9)

6.1.1.1 Qualifications of experts or professional services

Summary/Citation: Article 6, Cabinet of ministers no. 713 - "Darba devējs saskaņā ar normatīvajiem aktiem par apmācību pirmās palīdzības sniegšanā nosūta uz apmācībām nodarbinātos, kurus, pamatojoties uz darba vides riska novērtēšanas rezultātiem, nepieciešams apmācīt pirmās palīdzības sniegšanā."

Internal Remarks/comments: Regulations of The Latvian Cabinet of Ministers Nr. 713 is not available in NATLEX

6.2 Appointment of an OSH practitioner

Summary/citation: Labour Protection Law art. 9(1) -

"In order to organise the labour protection system determined in Section 5, Paragraph one of this Law, an employer shall, taking into account the number of employees in an undertaking and the type of activities, designate or hire one or several labour protection specialists or establish an organisational unit of labour protection."

6.2.1 Workforce size threshold for the appointment of OSH practitioners

Summary/citation: Article 9(3) of the Labour Protection Law Lays down as follows: "If there are not more than 10 employees in an undertaking and the employer has been trained in accordance with the procedure determined by the Cabinet, he or she may himself or herself fulfil the obligations of a labour protection specialist."

7. Workers' rights and duties

7.1 Duty to take reasonable steps to protect their own safety and health

Summary/citation: The workers have the obligation to take care of their own safety and health, to use work equipment, dangerous substances, transport and other means of production in accordance with the regulatory enactments, to use collective protective equipment, as well as personal protective equipment and to place the relevant protective equipment following the use in the place provided for it, to observe safety signs, to use the safety devices and to attend mandatory health examinations in accordance with an order by the employer.

References:

- Labour Protection Law, 20.06.2001., Section 17

7.2 Duty to take reasonable steps to protect the safety and health of others

Summary/citation: An employee, within the scope of his or her duties, has a duty to ensure that obstacles which adversely affect or may affect the normal course of work in the undertaking are averted or reduced as far as possible. He or she has to take care of his safety and health of those persons who are affected or may be affected by the work of the employee and to inform immediately the employer, the immediate superior or the labour protection specialist regarding an accident at work, as well as regarding any working environment factors which cause or may cause risks to the safety and health of persons.

References:

- Labour Law, 20.06.2001., Section 81;

- Labour Protection Law, 20.06.2001., Section 17, Part 1 and Part 3

7.3 Supervisors' duty to take reasonable steps to protect the safety and health of others

No data available.

7.4 Senior officers' duty to take reasonable steps to protect the safety and health of others

No data available.

7.5 Self-employed persons' duty to take reasonable steps to protect their own and other people's health and safety

Summary/Citation: A self-employed person has an obligation to take care of his or her safety and health at work, as well as safety and health of those persons who are affected or may be affected by his or her work.

References:

- Labour Protection Law, 20.06.2001., Section 4, Part 2

7.6 Duty to comply with OSH-related requirements

Summary/Citations: An employer is liable for the safety and health of employees at work and the liability of the employer is not limited by the obligations of employees and competent authorities or competent specialists in the field of labour protection. Within the scope of their competence, an employer's supervising body or executive body, the person who is especially authorised to represent a partnership, and other persons authorised according to the procedure determined in regulatory enactments are liable for the safety and health of employees at work. Persons at fault for violations of regulatory enactments regarding labour protection can be held liable as prescribed by administrative or criminal law.

According to Art.17 Para.2 of the Labour Protection Law the employee is obliged to use work equipment, dangerous substances, transport and other means of production in accordance with

the documentation determined by regulatory enactments (manufacturer's instructions, safety data sheets regarding chemical substances and chemical products, etc.).

References:

- Labour Protection Law, 20.06.2001., Section 17(2);
- Labour Protection Law, 20.06.2001., Section 27;
- Labour Protection Law, 20.06.2001., Section 28

7.7 Right to enquire about risks and preventive measures

Summary/citations: An employer has an obligation to consult with employees or trusted representatives in the field of labour protection, as well as to ensure that the trusted representatives have an opportunity to participate in the meetings regarding the issues relating to the measures which may affect the safety and health of employees, the organisational structure of the labour protection, the internal supervision of the working environment and other labour protection issues. An employer has to inform employees and trusted representatives regarding the working environment risks, the overall labour protection measures in the undertaking and those labour protection measures which are directly relating to each workplace.

When representing the interests of employees in the field of labour protection, a trusted representative has the right: to receive from the employer information related to the labour protection system in the undertaking and that is necessary for the fulfilment of the obligations of the trusted representative;

References:

- Labour Protection Law, 20.06.2001., Section 10;
- Labour Protection Law, 20.06.2001., Section 21, Part 2

7.8 Right to remove themselves from a dangerous situation

Summary/citation: An employee has the right to refuse to perform work if the performance of the relevant work may cause risks to the safety and health of the employee or other persons and these risks cannot be prevented in another way, the work equipment or the workplace is not supplied with the necessary safety devices or the necessary personal protective equipment, the

performance of the relevant work is related to the use of such a work equipment that does not conform to the professional preparedness of the employee or the warnings, orders or decisions of the State Labour Inspectorate regarding the labour protection organisation in the relevant workplace have not been observed.

An employer is not entitled to request that employees resume work if the necessary measures to eliminate the danger have not been taken.

As serious and imminent danger has been recognized the threats to the life and health of an employee which may occur unexpectedly, in a short period of time and irrevocably affect the health of the employee.

References:

- Labour Protection Law 2001-07-06 (1 part 15, 11 part 2 - part 4, 18 part 1, part 2)

7.9 Right to be reassigned to non-hazard work

Summary/citation: In order to prevent any risk, which may negatively affect the safety and health of a pregnant woman or a woman following the period after birth up to one year, an employer, after receipt of a doctor's opinion, has to ensure such working conditions and time as would prevent her exposure to the risk or, if it is not possible, to temporarily transfer the pregnant woman to a different, more appropriate job.

An employer has to transfer a night employee to an appropriate job during the day if there is a doctor's opinion that the night work negatively affects the health of the employee. If a person has been diagnosed with an occupational disease, the employer, after receiving the information about it, has to transfer the person to alternative work where the factors creating risks to the worker's health do not exist.

References:

- Cabinet Regulation No. 908 "Procedures for Investigation and Registration of Occupational Diseases" 2006-11-09 (26)
- Labour Law 2001-07-06 (99, 138 part 5)

7.9.1 Right to withdraw with compensation when workers are not reassigned to non-hazard work

Summary/citation: If an employee unilaterally terminates employment legal relationships or relations of the civil service due to the fact that the employer does not take all the necessary labour protection measures and the safety and health of the employee are exposed to substantial danger at work, and it is confirmed by an opinion by the State Labour Inspectorate, the employer has an obligation to pay the employee a compensation which is not less than six months average earnings.

References:

- Labour Protection Law, 20.06.2001., Section 19

8 Consultation, collaboration and co-operation with workers and their representatives

8.1 National OSH committee, commission, council or similar body

Summary/Citation: National Tripartite Cooperation Council develops national programmes in the field of labour protection, regulatory enactments regarding labour protection etc. Its functions are set out in Article 3 of the Regulation on National Trilateral Cooperation Council..

References:

- Labour Protection Law 20010706 (Art. 24)
- Regulation on National Trilateral Cooperation Council 19981117

8.1.1 Objectives, roles and/or functions

Summary/Citation: National Tripartite Cooperation Council develops national programmes in the field of labour protection, regulatory enactments regarding labour protection etc. Its functions are set out in Article 3 of the Regulation on National Trilateral Cooperation Council.

References:

- Labour Protection Law 20010706 (Art.24)

- Regulation on National Trilateral Cooperation Council 19981117

8.1.2 Constitution and chairmanship modalities

Summary/Citation: The National Tripartite Cooperation Council consists from representatives of Cabinet of Ministers, Employer's Association and representatives from Trade Union Association.

References:

- State Labour Inspection Law (Art. 5)
- Regulation on National Trilateral Cooperation Council 19981117

8.2 Employers' duty to consult workers on risks

In accordance with the general principles of labour protection, an employer has an obligation to organise a labour protection system which includes:

3) consultation with employees in order to involve them in improvement of labour protection.

Please also place here Art. 10(1)

(1) An employer has an obligation to consult with employees or trusted representatives in the field of labour protection, as well as to ensure that the trusted representatives have an opportunity to participate in the meetings regarding the issues relating to:

- 1) the measures which may affect the safety and health of employees;
- 2) the establishment and activities of the organisational structure of the labour protection;
- 3) the designation of those employees to whom the provision of first aid and taking of measures regarding fire fighting and evacuation of employees has been entrusted;
- 4) the internal supervision of the working environment, and informing of employees regarding labour protection, also in cases, when working with another employer or several employers;
- 5) the planning and organisation of instruction and training in the field of labour protection; and
- 6) other labour protection issues.

The employer shall inform each employee regarding the issues referred to in Paragraph 36 of these Regulations, which apply directly thereto. The employer shall ensure that the information referred to in Paragraph 36 of these Regulations is available and comprehensible to employees..

References:

- Labour Protection Law 20010706 (Art. 5)

8.3 Workers' right to select their representatives for health and safety matters

Summary/Citation: In an undertaking or a unit thereof where five or more employees are employed, these employees or their representatives, taking into account the number of employees, the nature of the work of the undertaking and the working environment risks, may elect one or more trusted representatives. The election of an employee as a trusted representative may not cause him or her unfavorable consequences or restrict in other way his or her right.

A trusted representative is a person elected by employees who is trained in accordance with the procedure determined by the Cabinet and who represents the interests of employees regarding labour protection. The Cabinet shall determine the procedure for the election and activities of the trusted representatives, taking into account the number of employees, the nature of the work of the undertaking and the working environment risks.

References:

- Cabinet Regulation No. 427 "Procedure for the Election of Trusted Representatives and the Activities Thereof" 20020927
- Labour Law 20010706 (Art. 20 (5) and Art. 1 18))

8.3.1 Workforce size conditions for workers' representation in health and safety

Summary/Citation: (1) In an undertaking or a unit thereof where five or more employees are employed, these employees or their representatives, taking into account the number of employees, the nature of the work of the undertaking and the working environment risks, may elect one or more trusted representatives. The election of an employee as a trusted representative may not cause him or her unfavourable consequences or restrict in other way his or her right.

(2) If at least two trusted representatives are elected in an undertaking or a unit thereof, they shall elect a principal trusted representative among themselves. If at least 10 trusted representatives are elected in an undertaking, they shall establish a trusted representative committee which shall coordinate the work of the trusted representatives.

References:

- Labour Protection Law (Art. 20)

8.3.2 Conditions of eligibility to represent workers in health and safety

There are no special conditions of eligibility to represent workers in health and safety, except an employee under the age of 18 and an employee whose probationary period has not expired may not be elected as a trusted representative.

References:

- Cabinet Regulation No 427 Adopted 17 September 2002 Procedure for the Election of Trusted Representatives and the Activities Thereof (Art.8)

8.4 OSH representatives' functions, rights and powers

8.4.1 Right to inspect the workplace

Summary/Citation: A trusted representative has an obligation to participate in performance of the internal supervision of working environment, including evaluation of the working environment risks, planning of labour protection measures and examination of efficiency.

A trusted representative has a right to access workplaces according to the procedure determined in the undertaking and a right to participate in inspections of workplaces together with officials of the State Labour Inspectorate

References:

- Cabinet Regulation No 427 Adopted 17 September 2002 Procedure for the Election of Trusted Representatives and the Activities Thereof (Art. 21)
- Labour Protection Law (Art. 8, 21)

8.4.2 Right to access OSH information

Summary/Citation: A trusted representative has a right to receive from an employer the internal regulatory enactments regarding labour protection, technical documentation, instructions and other provisions regarding labour protection, as well as explanations and other information related to labour protection

A trusted representative has a right to receive from the employer information related to the labour protection system in the undertaking and that is necessary for the fulfilment of the obligations of the trusted representative

References:

- Cabinet Regulation No. 427 "Procedure for the Election of Trusted Representatives and the Activities Thereof" 20020927
- Labour Protection Law 20010706 (Art. 10 (3))

8.4.3 Right to be present at interviews

No data available.

8.4.4 Right to receive professional assistance from OSH experts

No data available.

8.4.5 Right to accompany inspectors

Summary/Citation: A trusted representative has a right to participate in inspections of workplaces together with officials of the State Labour Inspectorate.

References:

- Labour Protection Law (Art. 21)

8.4.6 Right to use facilities

Summary/Citation: A trusted representative has a right to access workplaces according to the procedure determined in the undertaking. An employer shall ensure the necessary means to the trusted representatives.

References:

- Cabinet Regulation No. 427 "Procedure for the Election of Trusted Representatives and the Activities Thereof" 20020927
- Labour Protection Law 20010706 (Art. 20)

8.4.7 Right to have time off work with pay to perform duties

Summary/Citation: When determining the time period for the fulfilment of the obligations of the trusted representatives, an employer shall take into account the recommended number of hours per week to be allocated to the trusted representatives referred to in Annex to this Regulation.

An employer shall ensure the necessary means to the trusted representatives, as well as grant them the time during working hours for fulfilment of the obligations of the trusted representatives determined in the collective agreement or another written agreement between the employer and the employees in order the trusted representative may exercise his or her right and fulfil his or her obligations, in the field of labour protection. The employer shall pay the trusted representative average earnings for this time..

References:

- Cabinet Regulation No. 427 "Procedure for the Election of Trusted Representatives and the Activities Thereof" 20020927
- Labour Protection Law 20010706 (Art. 20.3)

8.4.8 Right to issue remedial notices

Summary/Citation: A trusted representative has the right to propose that the employer performs measurements of the working environment risk factors if complaints from employees have been received regarding working environment risk factors harmful to health; to propose to perform a repeated evaluation of the working environment risks at the workplaces where an accident has occurred or serious and imminent threats to the life and health of an employee have arisen; to request that the employer takes labour protection measures and to make proposals the implementation of which would prevent or reduce the risks to the safety and health of employees.

References:

- Labour Protection Law (Art. 21)

8.4.9 Right to resolve OSH issues in consultation with employers

Summary/Citation: A trusted representative has the right to propose that the employer enters into an agreement with employees regarding the determination of labour protection measures, the means necessary thereto and the procedure for the use thereof in accordance with the requirements of the regulatory enactments regarding labour protection, as well as to participate in negotiations regarding the conditions of a collective agreement and amendments in the field of labour protection

References:

- Labour Protection Law (Art 21.)

8.4.10 Right to direct that dangerous work cease

Summary/Citation: A trusted representative has the right to propose to perform a repeated evaluation of the working environment risks at the workplaces where an accident has occurred or serious and imminent threats to the life and health of an employee have arisen

References:

- Labour Protection Law (Art 21.)

8.5 Right of workers' representatives from outside the undertaking to address OSH issues at the workplace

8.5.1 Right to enter the workplace

No data available.

8.5.2 Right to investigate suspected non-compliance with OSH legislation

Summary/Citation: Evaluation of the working environment risks in an undertaking shall be performed in accordance with each type of activity thereof. If there are similar working conditions, an evaluation of the working environment risks of one workplace or type of work shall be sufficient. The trusted representative or the representative of employees and an employee who is familiar with the relevant workplace shall be involved in the risk evaluation.

References:

- Labour Protection Law (Art. 8.2)

8.5.3 Right to consult with workers

No data available.

8.5.4 Right to advise workers

No data available.

8.5.5 Right to initiate enforcement action

No data available.

8.6 Joint OSH Committee

Summary/Citation: If at least 10 trusted representatives are elected in an undertaking, they shall establish a trusted representative committee which shall co-ordinate the work of the trusted representatives.

References:

- Labour Protection Law 20010706 (Art. 20 (2))

8.6.1 Participation of workers' representatives in joint OSH committee

No data available.

8.6.2 Conditions for establishing a joint OSH committee

No data available.

8.6.3 Objectives, roles and/or functions of joint OSH committees

No data available.

8.6.4 Keeping record of the work of joint OSH committees

No data available.

8.6.5 Sharing the minutes of joint OSH committees meetings

No data available.

8.7 Mandatory training for members of joint OSH committee(s)

Summary/citation: An employer shall ensure the commencement of additional training for the trusted representatives in the field of labour protection within one month following the election thereof.

The additional training for the trusted representatives in the field of labour protection shall be carried out during working hours. The employer shall cover the expenditures associated with the additional training.

Reference:

- Labour Protection Law 20010706 (14)

8.8 Protection against reprisals

Summary/Citation: The election of an employee as a trusted representative may not cause him or her unfavourable consequences or restrict in other way his or her right.

The collective agreement may provide additional rights and guaranties for the trusted representatives, taking into account the interests of employees.

Reference:

- Cabinet Regulation No 427 Adopted 17 September 2002 Procedure for the Election of Trusted Representatives and the Activities Thereof (Sect. 22)
- Labour Protection Law 20010706 (Art.20)

8.9 Immunity from civil and criminal liability for exercising OSH related rights and duties

No immunity is guaranteed.

9 Specific hazards or risks

9.1 Biological hazards

Summary/Citations: There is a legal framework in place that prescribes a methodology of risk assessment, prevention, and reduction when working with biological substances. Protection of health and safety for employees in medical treatment institutions and veterinary care institutions requires special measures, which content depends on risk level. For example these measures could be: separation of activity, special filtration system, restriction of access, specific disinfection procedures. Additionally, employer's obligation is to take care of employee health examinations, and to determine employees who require special measures of health protection.

References:

- Labour Protection Law (2001), Art. 25 (12); Cabinet Regulation No. 189 of 2002 "Labour Protection Requirements when Coming into Contact with Biological Substances", Art. 33. – 35., 45. – 56., Annex 2.

9.2 Chemical hazards

9.2.1 Handling, storage, labelling and use

Summary/Citations: There is a legal framework in place that prescribes a methodology of risk assessment, prevention, and reduction when working with chemical substances. Additionally, the Regulation prescribes which measures should be taken in emergency situations (evacuations, disconnection of equipment). Employers should inform, consult and train its employees or their representatives on the topic of protection of health and safety when working with chemical substances at least once per year. Health surveillance for employees are also mandatory.

References:

The Labour Protection Law (2001) Art. 25 (11); Chemical Substances Law (1998) Art. 16; Cabinet Regulation No. 325 of 2007 "Labour Protection Requirements when Coming in Contact with Chemical Substances at Workplaces", Art. 30. – 55.

9.2.2 Duty of manufacturers, suppliers and importers of chemicals in relation to the safety and health of users

Summary/Citations: There is a legal framework in place that additionally prescribes the duty of employer to obtain and take into account the information regarding safety of chemical substances from manufacturers or importers. Categories of information which should be provided includes itself: the structure, composition and, where applicable, the instructions for installation and maintenance; the effect on other goods, if it is foreseeable that the goods will be used together therewith; the appearance, design, labelling, warnings, instructions for use, instructions for disposal of the goods and other information provided by the produce; and whether there are any categories of persons, especially children and the elderly, who may be at risk when using the goods. In addition, if any goods or services are not compatible with General safety requirements, the special procedure of information is necessary.

References:

- The Labour Protection Law (2001) Art. 25 (11);
- Chemical Substances Law (1998) Art. 16;
- Law on the safety of goods and services (2004) Art. 5;
- Cabinet Regulation No. 119 of 2006 “Procedures by which a Producer, Distributor of Goods or a Service Provider informs the Relevant State Supervisory and control institutions regarding the goods or services that cause a risk incompatible with general safety requirements”;
- Cabinet Regulation No. 325 of 2007 “Labour Protection Requirements when Coming in Contact with Chemical Substances at Workplaces”, Art. 11.1.

9.3 Ergonomic hazards

Summary/Citations: There is a legal framework in place that prescribes labour protection requirements for employees working with an electronic display and labour protection requirements in general. Employer should detect all risks for health and safety of employees arising from display-works. And employer must take all necessary measures to reduce the detected risks (for example, information, trainings, work schedules with breaks, workstation specific requirements, health examinations).

References:

- Labour Protection Law (2001) Art. 25 (4);
- Cabinet Regulation No. 343 of 2002 “Labour Protection Requirements when Working with Displays”;
- Cabinet Regulation No. 359 of 2009 “Labour Protection Requirements in Workplaces”.

9.4 Physical hazards

9.4.1 Pesticides

Summary/Citations: There is a legal framework in place that prescribes the procedures to be conformed to in relation to activities involving biocidal products. It is important to notice that legal framework requires the labelling of biocidal products and in some cases, registration (through assignation of inventory numbers by the Latvian Environment, Geology and Metrology Centre) for a limited period of time.

References:

- Chemical Substances Law (1998) Art. 9 (7);
- Cabinet Regulation No. 628 of 2013 “Requirements in Relation to Activities with Biocidal Products”;
- Cabinet Regulation No. 950 of 2011 “Regulations regarding the use of plant protection products” Art. 14 - 18.

9.4.2 Ionising radiation

Summary/Citations: There is a legal framework in place that prescribes requirements for protection against ionising radiation (in general and in the context of medical exposures) in accordance with the basic principles of radiation safety and nuclear safety. Specifications are also provided for dose limits of ionising radiation in respect of the population. Additionally, legal framework prescribes labour protection requirements for the protection of workers from the risks arising or likely to arise from exposure to artificial optical radiation, especially to the eyes and skin. Furthermore, governmental and municipal institutions are advised on radiation security issues by the Radiation Security Council.

References:

- Labour Protection Law (2001) Art. 25 (18);
- Law On Radiation Safety and Nuclear Safety (2000) Art. 3 (3), 17 (1);
- Cabinet Regulation No. 149 of 2002 “Regulations for Protection against Ionising Radiation”;
- Cabinet Regulation No. 482 of 2014 “Regulations on protection against ionizing radiation in medical exposure”;
- Cabinet Regulation No. 544 of 2005 “Radiation Security Council Regulation” Art. 2.5.;
- Cabinet Regulation No. 731 of 2009 “Labour Protection Requirements for the Protection of Workers from the Risk Arising from Artificial Optical Radiation in the Work Environment”.

9.4.3 Vibration and noise

Summary/Citations: There is a legal framework in place that prescribes labour protection requirements for the protection of employees from the risk caused by noise in the work environment, especially if hearing impairment is possible, and for the protection of employees from the risk caused by vibration in the work environment. Types of risks are defined in legal framework, and employers are obliged to reduce risks by allowing for breaks and providing appropriate work equipment to employees.

Restrictions/obligations: Cabinet Regulation No. 284 of 2004 “Labour Protection Requirements for the Protection of Employees from the Risk Caused by Vibration in the Work Environment”.

References:

- Labour Protection Law (2001) Art. 25 (13); 25 (18);
- Cabinet Regulation No. 66 of 2003 “Labour Protection Requirements for the Protection of Employees from the Risk Caused by the Noise of the Work Environment”;
- Cabinet Regulation No. 284 of 2004 “Labour Protection Requirements for the Protection of Employees from the Risk Caused by Vibration in the Work Environment”.

9.4.4 Working at height

Summary/Citations: There is a legal framework in place that prescribes labour protection requirements for the protection of employees from the risk to health and safety caused by the working at heights. The prescribed rules take its effect where work is performed at a minimum height of 1.5 metres; regulate individual and collective protection equipment, and oblige employer to hold instructional sessions on safety issues.

References:

- Labour Protection Law (2001) Art. 25 (17);
- Cabinet Regulation No. 143 of 2014 “Labour protection requirements when working at heights”.

9.4.5 Working in confined spaces

Summary/Citations: There is a legal framework in place that prescribes general requirements for labour protection. Regarding the protection of employees in confined spaces, the provisions prescribe requirements for fresh air conditioning in enclosed work-rooms.

References:

- Labour Protection Law (2001) Art. 25 (4);
- Cabinet Regulation No. 359 of 2009 “Labour Protection Requirements in Workplaces”, Art. 13.

9.4.6 Risks arising from poor maintenance of workplace facilities

Summary/Citations: There is a legal framework in place that prescribes general requirements for work equipment. Employers are responsible for compliance of prescribed provisions. Employers shall ensure conformity of work equipment and its maintenance to the requirements of legal framework. Employers should prevent any risks for health and safety arising from equipment.

References:

- Labour Protection Law (2001) Art. 25 (2);
- Cabinet Regulation No. 526 of 2002 “Labour Protection Requirements when using Work Equipment”, Art. 3.

9.4.7 Exposure to extreme temperatures

Summary/Citations: There is a legal framework in place that prescribes general requirements for labour protection. Framework prescribes requirements for microclimate at workstations (in annexes), by setting up criteria for temperature, humidity and air movement rate. Regarding extreme temperatures legal framework prescribe permissible periods of time working outdoors in the cold. Periods of working time are based on air temperature and should be changed by taking into account wind velocity.

References:

- Labour Protection Law (2001) Art. 25 (4);
- Cabinet Regulation No. 359 of 2009 “Labour Protection Requirements in Workplaces”, Art. 15, appendixes 1 and 4.

9.4.8 Fire risks

Summary/Citations: There is a legal framework in place that prescribes labour protection requirements for the protection of employees from the risk caused by working in explosive atmospheres. It determines that employers shall take technical and organisational measures to: prevent the occurrence of an explosive atmosphere; prevent ignition of an explosive atmosphere, and reduce the consequences caused by an explosion ensuring the protection of employees' health and safety. Employers shall develop written instructions, and plan of measures in emergency situation.

References:

- Labour Protection Law (2001) Art. 25 (18);
- Cabinet Regulation No. 300 of 2003 “Labour Protection Requirements at Work in Explosive Atmospheres”.

9.4.9 Tobacco

Summary/Citations: There is framework that obliges employers to provide workplace for employees free from tobacco-pollution. Additionally, in legal framework some places are listed where smoking is prohibited. Furthermore, the State Labour Inspectorate presides over

implemented restrictions, and the two ministries (Ministry of Education and Science; Ministry of Health of the Republic of Latvia) should implement programmes on prevention of tobacco products usage.

References:

- Law on turnover of tobacco products, herbal smoking products, electronic smoking devices and its fluids (2016), Art. 10, 12 (6, 7) (law is not translated to English yet, enacted on 2016, April).

9.4.10 Asbestos

Summary/Citations: There is a legal framework in place that prescribes labour protection requirements for the protection of employees from the risk caused by work with asbestos. Employers shall ensure that asbestos or materials containing asbestos are not used in works where the spray method is used and that the acquisition, production and processing of asbestos products or the production and processing of products containing asbestos does not take place. Additionally, employers shall forbid the presence of unauthorized persons, and smoking at workplaces.

References:

- Waste Management Law (2010) Art. 17 (8);
- Labour Protection Law (2001) Art. 25 (14);
- Law on Pollution (2001) Art. 11 (2 (6));
- Cabinet Regulation No. 301 of 2011 “Regulations Regarding Environmental Pollution from Production of Asbestos and Asbestos-based Products and Management of Asbestos Waste”;
- Cabinet Regulation No. 852 of 2004 “Labour Protection Requirements in Work with Asbestos”.

9.4.11 Risks related to nanotechnology

No data available.

9.4.12 Contraction of HIV in the workplace

Summary/Citations: There is a legal framework in place that provides general provisions regarding internal control at workplaces. In additional materials (annexes) HIV is mentioned as biological factor for risk in the workplace (as specific risk). Employer should especially analyze the

frequency and duration of work, where direct contact with infected or possibly infected materials is possible.

References:

- Labour Protection Law (2001) Art. 7 (4);
- Cabinet Regulation No. 660 of 2007 “Procedures for the performance of internal supervision of the work environment”, appendix 1.

9.5 Psychosocial hazards

9.5.1 Psychosocial risks

Summary/Citations: there is a legal framework in place that provides general provisions regarding internal control at workplaces. It is prescribing some categories of psychosocial risks: differential treatment (which in certain cases are allowed), harassment (both personal or through instructions to other people), direct (gender discrimination) and indirect discrimination.

References:

- Labour Law (2001), Art. 29;
- Labour Protection Law (2001), Art. 7 (4);
- Cabinet Regulation No. 660 of 2007 “Procedures for the performance of internal supervision of the work environment”, appendix 1.

9.5.2 Occupational violence

Summary/Citations: There is a legal framework in place that provides general provisions regarding internal control at workplaces. In additional materials (annexes), violence is mentioned as one of psychological and emotional factors, which can be in form of physical abuse or sexual harassment. Employees, clients or other persons are mentioned

References:

- Labour Protection Law (2001), Art. 7 (4);
- Cabinet Regulation No. 660 of 2007 “Procedures for the performance of internal supervision of the work environment”, appendix 1.

9.6 Other hazardous substances

Summary/Citations: There is a legal framework in place that prescribes labour protection requirements for the protection of employees from the risk caused by work related to geological searches, the investigation and extraction of minerals and preparation thereof for sale, except for the further processing of minerals, and requirements for the protection of employees' health and safety from risks caused by works with carcinogens. In both cases an employer shall be liable for compliance with these rules.

References:

- Labour Protection Law (2001), Art. 25 (8); 25 (9); 25 (16); 25 (18);
- Cabinet Regulation No. 150 of 2006 "Labour Protection Requirements for Extraction of Minerals";
- Cabinet Regulation No. 803 of 2008 "Occupational health and safety requirements in contacts with carcinogens in the workplace".

9.7 Machineries

9.7.1 Risks related to machinery and tools

Summary/Citations: There is a legal framework in place that prescribes general requirements for work equipment. In provisions regarding requirements for work equipment, it is mentioned that operator of machinery should ensure there is no people in dangerous zone or inform them with signal or/and sounds. But employer should ensure that equipment did not create any additional risks for employees.

References:

- Labour Protection Law (2001), Art. 25 (2);
- Cabinet Regulation No. 526 of 2002 "Labour Protection Requirements when using Work Equipment".

9.7.2 Duty of designers and/or manufacturers of machineries in relation to the occupational safety and health of operators' machineries

Summary/Citations: There is a legal framework in place that prescribes essential safety and harm-preventing requirements for machinery both in general and in certain categories of machineries. Additionally, legal framework includes special provisions applicable to hazards caused by moving machinery, lifting operations, underground works, and the lifting or movement of persons. For example, during construction of machinery, it is necessary to take into account that machinery can be used not only for prescribed purposes; but if it is not possible, construction of machinery itself should not allow unintended usage of machinery. In addition, machinery should be equipped with all necessary tools required for its safe operation and maintenance.

References:

- Cabinet Regulation No. 195 of 2008 “Regulations Regarding the Safety of Machinery” Art. 78. – 318.

9.7.3 Duty of designers, manufacturers, importers or suppliers of machineries to provide machineries information

Summary/Citations: There is a legal framework in place that prescribes the information which must be prepared by the manufacturer or authorised representative. It includes: a general description of the machinery; overall drawings of the machinery (with control circuits), as well as the relevant descriptions and explanations in order to understand the operation of the machinery; full detailed drawings together with calculation data, test results and certificates required in order to check the conformity of the machinery with the essential health and safety requirements, a list of the applicable standards used during manufacture and other technical specifications (the essential health and safety requirements in the relevant standards shall be indicated), and so on.

References:

- Cabinet Regulation No. 195 of 2008 “Regulations Regarding the Safety of Machinery” Art. 25. – 33.

9.7.4 Duty to purchase machineries from authorised/certificated suppliers or only if approved/certificated

No data available.

9.7.5 Maintenance of machinery and equipment

9.7.5.1 List of equipment where applicable

No data available.

9.8 Provisions to protect workers in specific condition of vulnerability

9.8.1 Protection of pregnancy at work

Summary/Citations: There is a legal framework in place that provides 112 calendar days of parental and maternity leave. Additionally, it is possible to use supplementary leave of 14 calendar days if pregnancy-related medical care is required and a further 14 calendar days of supplementary leave if two or more children are born or in case of complications in pregnancy. Additionally, legal framework obliges the employer to take into account risks for health and safety of the pregnant person, and if such risks are high, the employer should to take measures on protection of health and safety or to transfer the person to another position.

Based on doctor's conclusion an employer is prohibited from employing pregnant women and women for a period following childbirth not exceeding one year, but if the woman is breastfeeding – during the whole period of breastfeeding if it is considered that performance of the relevant work poses a threat to the safety and health of the woman or her child.

References:

- Labour Law (2001), Art. 154; Labour Protection Law (2001), Art. 22; Cabinet Regulation Nr. 660 of 2007 “Procedures for the Performance of Internal Supervision of the Work Environment”, Art. 27 – 29.

9.8.2 Protection of lactating women at work

Summary/Citations: For person who feeding a child under one and half years of age additional breaks are required, the duration of which cannot be less than 30 minutes every 3 hours. If an

employee has two or more children less than one and a half years of age, a break of at least one hour shall be granted. Breaks for feeding a child shall be included as working time, retaining work remuneration for such time. Employees for whom a piecework salary has been specified for such time shall receive average earnings.

Based on doctor's conclusion an employer is prohibited from employing pregnant women and women for a period following childbirth not exceeding one year, but if the woman is breastfeeding – during the whole period of breastfeeding if it is considered that performance of the relevant work poses a threat to the safety and health of the woman or her child.

Remarks/comments: It is important to notice that the provision does not make any differences between men and women, regarding feeding a child.

References:

- Labour Law (2001), Art. 146;
- Labour Protection Law (2001), Art. 22;
- Cabinet Regulation Nr. 660 of 2007 “Procedures for the Performance of Internal Supervision of the Work Environment”, Art. 27 – 29.

9.8.3 Limits to women’s access to specific occupations, undertakings or shifts

Summary/Citations: There is a legal framework in place that does not provide a list of positions, where engaging pregnant (or lactating) women is prohibited, but provides list of dangerous factors and risks. Risks are classified for 3 categories (physical, biological and chemical factors). Additionally, for lactating women, chemical factors are clarified (Beryllium, cadmium, plumbum and their compounds). Only work in underground has been specified as strict and direct prohibition for pregnant and lactating women in the Regulation.

References:

- Labour Protection Law (2001), Art. 7 (4), 22;
- Cabinet Regulation Nr. 660 of 2007 “Procedures for the Performance of Internal Supervision of the Work Environment”, Art. 27 – 31.

9.8.4 Limits to workers' access to specific occupations, undertakings or shifts by reason of age

Summary/Citations: Special regulations applies for the employer if he employs children or teenagers. The employer must ensure the health and safety of employees who are children (13-15 years old) and teenagers (15-18 years old) and it is now allowed to employ them if the work implies increased risk of safety and health or their development.

There is a legal framework in place that provides a list of works in which the employment of adolescents is prohibited. For example these works are: rescue operations in cases of emergency; testing works; works involving fire and explosion hazards; works related to the servicing and maintenance of ventilation, water, drainage, and treatment equipment systems; works related to the demolition of various objects and structures; works related to the movement of trains; works related to forestry; work in places of imprisonment; work related to the capture of stray dogs and cats.

Regulation:

- Labour Law (2001), Art. 37 (2 – 4);
- Labour Protection Law (2001), Art. 22;
- Cabinet Regulation No. 206 of 2002 “Regulations regarding Work in which Employment of Adolescents is prohibited and Exceptions when Employment in such Work is Permitted in Connection with Vocational Training of the Adolescent”.

10 Recording, notification and investigation of accidents/incidents and diseases

10.1 Duty to record and/or investigate the causes of work accidents, near-miss incidents and cases of occupational diseases

10.1.1 Work-related accidents

Summary/Citation: An accident is an extraordinary incident which has occurred in the workplace during the working day or shift, after which health disorders have been caused to a person or the probability of health disorders occurring exists (including the risk of infection), or the death of the person involved has occurred. In accordance with the regulation, accidents which have affected employee or any other person who is deemed an employee in the actual circumstances shall be investigated and registered. But accidents must only be investigated if they have caused the loss of work capacity to the injured person for more than one day. Depending on the circumstances of each case, the accident must be investigated by an employer or the national authority (the Labour Inspectorate). More serious cases are investigated by the Labour Inspectorate. Regardless of who the investigator is, accidents must be registered either by the national authority and the employer or solely by the employer using a special form. The accident report and investigation materials shall be stored by the employer for 45 years. Afterwards they shall be transferred to the archives in accordance with the requirements laid down in the laws and regulations regarding storage of documents and transfer thereof to the archives.

References:

- Cabinet Regulation No.950 “Procedures for Investigation and Registration of Accidents at Work” 2009 08 28, (Art. 2;3; 5; 24; 25; 42 –52; 56)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No.A 155) Direct Request 2014

10.1.2 Near-miss incidents

No data available.

10.1.3 Occupational diseases

Summary/Citation: The investigation of occupational diseases includes examining the person concerned, an assessment of the workplace, diagnosis as well as expertise from a doctor if there is reason to think that a person could have an occupational disease. Procedure described in Cabinet regulation No.908 Procedures for Investigation and Registration of Occupational Diseases, Adopted November 6 2006 refers to all cases of occupational diseases where employees have

been exposed to harmful work conditions. Cabinet regulation No.908 Procedures for Investigation and Registration of Occupational Diseases, Adopted November 6 2006 states that Procedure described in this regulation refers to all cases of occupational diseases if the employees have been exposed to harmful work conditions. Occupational disease can be diagnosed by a medical commission consisting of doctors who specialize in occupational diseases. The commission is also responsible for notifying the national authority about cases of occupational disease.

References:

- Cabinet Regulation No.908 “Procedures for Investigation and Registration of Occupational Diseases” 2006 11 09 (Art. 2; 3; 22-24)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No.A 155) Direct Request 2014

10.2 Employers' duty to notify OSH authorities of work-related death and/or injuries

Summary/Citation: Employers must immediately notify the police and the Labour Inspectorate of work-related death and accidents that have caused serious or possibly serious injuries. An employer shall without delay ensure that the police and the Inspectorate are informed by telephone, in written form or by any electrical means regarding an accident when serious or potentially serious health disorders have occurred to the injured person or if the death of the injured person has occurred, indicating the given name, surname, personal identity number, place of residence and position or profession of the injured person, the address of the employer where the injured person has suffered the accident, and the time when the accident occurred, providing a short description of the incident, as well as indicating the contact person and contact telephone number. Notification can be made in writing, by phone or by e-mail. In cases when injury has not caused loss of work capacity for longer than three days, or if the injury is related to a risk of infection but there is no loss of work capacity, the employer has no duty to notify the authorities.

References:

- Cabinet Regulation No.950 “Procedures for Investigation and Registration of Accidents at Work” 2009 08 28 (Art. 58; 78-83; 88-92)

Related CEACR Comments

- Labour Inspection Convention, 1947 (No.A 81) Observation 2011
- Labour Inspection Convention, 1947 (No.A 81) Direct Request 2014

- Occupational Safety and Health Convention, 1981 (No.A 155) Direct Request 2014

11 OSH inspection and enforcement of OSH legislation

11.1 Appointment of OSH inspectors

Summary/Citations: State supervision and control in the field of labour protection is performed by the State Labour Inspection Occupational safety and health inspectors in Latvia are part of Labour Inspection – they are called labour inspectors. The State Labour Inspection is a direct administrative institution supervised by the Ministry of Welfare.

The function of the Labour Inspection is the implementation of State supervision and control in the field of employment legal relationships, labour protection and technical supervision of dangerous equipment.

Officials of the Labour Inspection are the Director of the Labour Inspection, Deputy Director and State labour inspectors at all levels, that do supervise and control functions and tasks of this law.

All officials of the Labour Inspection are State civil servants. That means that they are appointed the same as all other state civil servants. So the head of Labour inspection in coordination with State chancellery decides what amount of officials the Labour inspection must have.

Labour inspection makes an official publication in „Latvijas Vēstnesis” (official newspaper of Republic of Latvia), the candidate must be eligible. The candidate must have a higher education diploma, citizenship of Republic of Latvia, knowledge of the Latvian language, age that is younger than the states pension age, the candidate must not be criminally punished, he or she must have the legal capacity, the candidate must not be released from a previous state civil service on the basis of a court ruling in a criminal case.

The candidate must not be a member of organisations that are forbidden in Latvia, with a few exceptions the candidate can not be a relative to the head of the Labour inspection, the candidate can not be disciplinary punished in the past in a way he or she is forbidden to perform the work at the Labour Inspection. An important restriction, especially for people of an older generation is the declaration of not being part of USSR secret services or other repressive Soviet organizations.

If the candidate is eligible and best in the competition by order of the head of Labour inspection the candidate is appointed to the duties of the Labour inspector with a probation period from 3 to 6 months.

Regulation:

- Labour Protection Law section 26;
- State Civil Service Law section 9 (1), section. 8 (1), section. 7 (1), section 11;
- State Labour Inspection Law section 2 (1) , section 3 (1), section 5 (1);

11.2 OSH inspectors' powers

11.2.1 Power to enter workplaces

Summary/Citations: Officials of the Labour Inspection have the right to upon presentation of a service identification document, at any time of day without prior notification and without receiving permission, also in the absence of the employer or possessor of dangerous equipment to visit and inspect objects under the supervision and control of such officials.

Regulation: State Labour Inspection Law section 5 (2) 1) a);

11.2.2 Power to inspect and carry out any examination, test or enquiry

Summary/Citations: Officials of the Labour Inspection have the right to upon presentation of a service identification document, at any time of day without prior notification and without receiving permission, also in the absence of the employer or possessor of dangerous equipment to check the work process, working environment and labour protection measures.

Regulation: State Labour Inspection Law section 5 (2) 1) b);

11.2.3 Power to investigate

Summary/Citations: Officials of the Labour Inspection have the right to carry out examination, control and investigation, or to request the information necessary in order to verify that the requirements of regulatory enactments are observed.

For this purpose labour inspectors are able to question employers, possessors of dangerous equipment, employees and other persons regarding matters of employment legal relationships, labour protection and technical supervision of dangerous equipment.

Labour inspectors can request, accounting, registration or other documents that are necessary, in accordance with regulatory enactments regarding employment legal relationships, labour protection and technical supervision of dangerous equipment, to verify that the documents conform to regulatory enactments, as well as to request copies and extracts of such documents.

They can request information necessary for the Labour Inspection to resolve questions of employment legal relationships, labour protection and technical supervision of dangerous equipment, to take measurements of work environment factors, to photograph, make audio and video recordings, as well as take samples of materials and substances for analysis, to invite specialists for the performance of specific tasks;

Regulation: State Labour Inspection Law section 5 (2) 2) a)-b);

11.2.4 Duty to provide advice on OSH

Summary/Citations: Labour Inspection provides free consultations to employers, employees and possessors of dangerous equipment regarding the requirements of regulatory enactments with respect to to employment legal relationships, labour protection, and technical supervision of dangerous equipment;

Regulation: State Labour Inspection Law section 3 (2) 10);

11.3 OSH inspectors' enforcement powers

11.3.1 Power to issue orders or notices

Summary/Citations: Officials of the Labour Inspection have the right to take decisions regarding matters of employment legal relationships, labour protection and technical supervision of dangerous equipment, as well as to issue warnings and orders to employers or possessors of dangerous equipment.

Regulation: State Labour Inspection Law section 5 (2) 6);

11.3.2 Power to impose financial penalties

Summary/Citations: Officials of the Labour Inspection have the right to impose administrative sanctions for any violations of regulations on occupational safety and health.[1] In the Latvian Administrative Violations Code there are two sections on that issue: section 41.⁴ Violation of the Regulatory Enactments regulating Labour Protection and section 41.⁵ Violation of the Regulatory Enactments regulating Labour Protection that Cause a Direct Threat to the Safety and Health of Employees.

The administrative violations procedure is regulated in Latvian_Administrative_Violations_Code. There are no special courts for these cases. The process is divided in two stages.

First is the institutional stage. A decision in an administrative violation matter may be appealed to a higher authority (in case of Labour Inspection – the Head of Labour Inspection) by the person regarding whom it has been taken, as well as the victim and the person whose property has sustained damage. The final stage are the general jurisdiction courts.

A person who has been held administratively liable, as well as the victim and the person whose property has sustained damage may appeal a decision rendered by a higher authority to the district (city) court according to the declared place of residence, a legal person – according to the legal address thereof in Latvia. There are only two levels of courts – the 1.instance (district or city courts) and appeals - a court adjudication of a district (city) court may be appealed to a regional court in accordance with appellate procedures.

The task of administrative violations legislation is to protect public order, property, socio-economic, political and personal rights and freedoms of citizens, as well as the rights and legal interests of merchants, institutions and organisations, the specified management procedures, State and public order, to strengthen legality, to prevent right violations, to educate citizens in a spirit of precise and strict observance of laws, to inculcate a full of respect attitude in them towards the rights of other citizens, honour and self-esteem towards the provisions of social life, upright attitude towards the duties thereof and liability to the public.[2]

These violations comparing to criminal violations are less dangerous and less threatful to society and thus less punishable. The minimum financial penalty for a natural person is 70 EUR and

maximum financial penalty – 700 EUR, for a legal person the minimum financial penalty is 70 EUR and maximum financial penalty – 14 000 EUR.

Regulation:

- State Labour Inspection Law p.5 (2) 9);
- Latvian Administrative Violations Code section 1 (1), section 279 (1), section 288 (1), section 289.¹⁷ (1), 289.²² (2);

11.3.3 Power to revoke or suspend licenses or authorisations

Summary/Citations: Officials of the Labour Inspection have the right to fully or partially suspend the person (employers or organizations) exposed to surveillance and monitoring from Labour Inspection on the matter of employment law. After full or partial suspension the labour inspector can seal all the work entities and machines, also the inspector can control how the decision of suspension is taking place.

Regulation: State Labour Inspection Law section.5 (2) 7), 12)

11.3.4 Power to require the cessation of dangerous work

Summary/Citations: Officials of the Labour Inspection have the right to take decisions regarding matters of employment legal relationships, labour protection and technical supervision of dangerous equipment, as well as to issue warnings and orders to employers or possessors of dangerous equipment.

Regulation: State Labour Inspection Law section.5 (2) 6);

11.3.5 Power to initiate prosecutions

Summary/Citations: As described previously officials of the Labour Inspection have the right to impose administrative sanctions for any violations of regulations on occupational safety and health.

The following persons are entitled to draw up an administrative violation report, examine administrative violation matters and impose administrative sanctions on behalf of the State Labour Inspectorate: the State Labour Inspectorate Director and Head State Labour Inspectors – to issue

a warning or impose a fine up to EUR 14 000 and all State Labour Inspectorate officials – to issue a warning or impose a fine up to EUR 7 100.

The labour inspector must make a subsumption between the facts and legal provisions given in Labour Protection Law and other similar laws. For example, the Labour Protection Law section 25 17) states that The Cabinet of Ministers can issue regulations regarding labour protection requirements when working on heights.

The Cabinet of Ministers has enacted Cabinet of Ministers Regulation No. 143 “Labour protection requirements when working on heights”. For example, this regulation has a provision 13 about the weather conditions. According to provision 13 the employees can work on heights only during a good weather. So it is forbidden to work during heavy rainfall, thunderstorms, intense snowfalls. So if during inspection of the workplace labour inspector is seeing the workers doing exactly that the labour inspector can initiate an administrative case and impose the financial penalty.

The labour inspector can also submit materials to law enforcement authorities for violations of occupational safety and health laws and regulations;

Regulation:

- State Labour Inspection Law section.5 (2) 9), 11);
- Latvian Administrative Violations Code section 215³ (2) 1), 2);

11.3.6 Power to conduct prosecutions

Summary/Citations: The labour inspector can draw up an administrative violation report (protocol) regarding an administrative violation committed. After that report is sent to the Labour Inspection, which is authorised to examine the administrative violation matter. The Labour Inspection is preparing an administrative violation matter for adjudication.

It decides the following questions: whether the case is in their competence, are the participating persons properly notified about the case, have any additional materials for the case been requested, did the Labour Inspection receive any requests from victims, subject to administrative liability or their representatives or persons whose property has sustained damage.

Matters regarding administrative violations are adjudicated within a period of 30 days from the day when the institution, which is competent to adjudicate the matter, has received the report regarding

the administrative violation and other materials of the matter. The period can be extended for extra 30 days.

Regulation: Latvian Administrative Violations Code section 268 1)-4), section 270 (1), (2), section 246, section 249 (1);

11.3.7 Other enforcement powers

No information available.

11.4 Application of sanctions by courts

11.4.1 Financial penalties for legal persons

Summary/Citations: In the case of violation of the regulatory enactments that regulate labour protection, a fine can be imposed on the employer or employment service provider from EUR70 up to EUR700.

In the case of non-performance of a work environment risk assessment and the non-development of a labour protection measures plan or the non-conformity thereof with the requirements of regulatory enactments regulating labour protection – a fine can be imposed on the employer or employment service provider from EUR 140 up to EUR 1100.

In the case of not using safety signs and not placing them appropriately in the work environment – a fine can be imposed on the employer or employment service provider from EUR 140 up to EUR 700.

In the case of not sending employees for the performance of mandatory health examinations, if such are provided for in regulatory enactments – a fine can be imposed on the employer or employment service provider – from EUR 140 up to EUR 700.

In the case of failure to investigate an accident at work in conformity with the requirements of regulatory enactments or its concealment – a fine can be imposed on the employer or employment service provider from EUR350 up to EUR1400.

In the case of failure to investigate an accident at work in conformity with the requirements of regulatory enactments or its concealment, as a result of which the employee has been caused

serious health disorders or his or her death has occurred – a fine can be imposed on the employer or employment service provider from EUR 2100 up to EUR 4300.

In the cases of the violations provided for in Paragraph one, two, three, four and five of this Section, if they have been recommitted within a year after the imposition of administrative sanction – a fine can be imposed on the employer or employment service provider from EUR 1400 up to EUR 2900.

In the case of the violations provided for in Paragraph six of this Section, if they have been recommitted within a year after the imposition of administrative sanction – a fine can be imposed on the employer or employment service provider from EUR 5700 up to EUR 14 000.

That is all about the first of two paragraphs. In the second paragraph it is stated that in the case of violation of regulatory enactments that regulate labour protection, which cause a direct threat to the safety and health of an employee, except the violations referred to in Paragraphs two, three and four of this Section – a fine can be imposed on the employer or employment service provider from EUR 1400 up to EUR 2900.

In the case of not ensuring employees with personal means of protection necessary for work – a fine can be imposed on the employer or employment service provider from EUR 1400 up to EUR 2900.

In the case of using work equipment not in conformity with the requirements of regulatory enactments regulating labour protection or non-observance of safety requirements – a fine can be imposed on the employer or employment service provider from EUR 1400 up to EUR 2900.

In the case of failing to instruct employees or the non-performance of training on issues regarding the safety and health of employees at work – a fine can be imposed on the employer or employment service provider from EUR 1400 up to EUR 2900.

In the cases of the violations provided for in Paragraph one, two, three and four of this Section, if they have been recommitted within a year after the imposition of administrative sanction – a fine can be imposed on the employer or employment service provider from EUR 4300 up to EUR 14 000.

Regulation: Latvian Administrative Violations Code section. 41.⁴, section.41.⁵;

11.4.2 Financial penalties for natural persons

Summary/Citations: In the case of violation of the regulatory enactments that regulate labour protection non-performance of a work environment risk assessment and the non-development of a labour protection measures plan or the non-conformity thereof with the requirements of regulatory enactments regulating labour protection can a fine cancan be imposed on the employer or employment service provider in an amount from EUR70 up to EUR 350.

In the case of non-performance of a work environment risk assessment and the non-development of a labour protection measures plan or the non-conformity thereof with the requirements of regulatory enactments regulating labour protection – a fine cancan be imposed on the employer or employment service provider in an amount from EUR 70 up to EUR 350.

In the case of not using safety signs and not placing them appropriately in the work environment – a fine can be imposed on the employer or employment service provider in an amount from EUR 70 up to EUR 350.

In the case of not sending employees for the performance of mandatory health examinations, if such are provided for in regulatory enactments – a fine can be imposed on the employer or employment service provider in an amount from EUR 70 up to EUR 350.

In the case of failure to investigate an accident at work in conformity with the requirements of regulatory enactments or its concealment – a fine can be imposed on the employer or employment service provider in an amount from EUR 70 up to EUR 350.

In the case of failure to investigate an accident at work in conformity with the requirements of regulatory enactments or its concealment, as a result of which the employee has been caused serious health disorders or his or her death has occurred – a fine can be imposed on the employer or employment service provider in an amount from EUR500 up to EUR700.

In the cases of the violations provided for in Paragraph one, two, three, four and five of this Section, if they have been recommitted within a year after the imposition of administrative sanction – a fine can be imposed on the employer or employment service provider in an amount from EUR 500 up to EUR 700.

In the case of the violations provided for in Paragraph six of this Section, if they have been recommitted within a year after the imposition of administrative sanction – a fine can be imposed on the employer or employment service provider in an amount from EUR 500 up to EUR 700.

That is all about the first of two paragraphs. In the second paragraph it is stated that in the case of violation of regulatory enactments that regulate labour protection, which cause a direct threat to the safety and health of an employee, except the violations referred to in Paragraphs two, three and four of this Section – a fine can be imposed on the employer or employment service provider in an amount from EUR 500 up to EUR 700.

In the case of not ensuring employees with personal means of protection necessary for work – a fine can be imposed on the employer or employment service provider in an amount from EUR 350 up to EUR 700.

In the case of using work equipment not in conformity with the requirements of regulatory enactments regulating labour protection or non-observance of safety requirements – a fine can be imposed on the employer or employment service provider in an amount from EUR 350 up to EUR 700.

In the case of failing to instruct employees or the non-performance of training on issues regarding the safety and health of employees at work – a fine can be imposed on the employer or employment service provider in an amount from EUR 350 up to EUR 700.

In the cases of the violations provided for in Paragraph one, two, three and four of this Section, if they have been recommitted within a year after the imposition of administrative sanction – a fine can be imposed on the employer or employment service provider in an amount from EUR 570 up to EUR 700.

Regulation: Latvian Administrative Violations Code section. 41.⁴, section.41.⁵;

11.4.3 Non-financial sanctions

No information available.

11.4.4 Criminal liability

Summary/Citations: For a person who commits violation of the requirements of regulatory enactments regulating labour protection or technical safety, where commission thereof is by the

manager of an undertaking (company), institution or organisation, or other person responsible for compliance therewith, and if such offence has caused bodily injury with health disorder or permanent loss of ability to work, the applicable punishment is deprivation of liberty for a term up to one year or temporary deprivation of liberty, or community service, or a fine.

For a person who commits the same offence, if such has caused the death of a human being or serious bodily injury to several human beings, the applicable punishment is deprivation of liberty for a term up to five years or temporary deprivation of liberty, or community service, or a fine.

Regulation: The Criminal Law. section.146 (1), (2);

11.4.5 Terms of imprisonment for natural persons

Summary/Citations: For a person who commits violation of the requirements of regulatory enactments regulating labour protection or technical safety, where commission thereof is by the manager of an undertaking (company), institution or organisation, or other person responsible for compliance therewith, and if such offence has caused bodily injury with health disorder or permanent loss of ability to work, the applicable punishment is deprivation of liberty for a term up to one year or temporary deprivation of liberty, or community service, or a fine.

For a person who commits the same offence, if such has caused the death of a human being or serious bodily injury to several human beings, the applicable punishment is deprivation of liberty for a term up to five years or temporary deprivation of liberty, or community service, or a fine.

Regulation: The Criminal Law. section.146 (1), (2);

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1 Description of national OSH regulatory framework

1.1 Description of OSH regulatory framework

Summary/Citation: The central legislative instrument in the Norwegian OSH regulatory framework is the “Act relating to Working Environment, Working Hours and Employment Protection, etc”. (Working Environment Act) (No. 62 of 2005).

The Act applies to all undertakings that engage employees unless otherwise explicitly provided by the Act. Exempted from the Act is shipping, hunting and fishing, including processing of the catch on boards ship and military aviation.

The Ministry may issue regulations concerning exceptions from the Act for civil aviation and state aviation other than military aviation and concerning special provisions for such aviation. The King may by regulation provide that parts of the public administration shall wholly or partly be excepted from the Act when the activity is of such a special nature that it is difficult to adapt it to the provisions of the Act.

The Work Environment Act is indispensable. Article 1-9 states that the act may not be departed from by agreement to the detriment of the Employee unless this is expressly provided.

The Employer has the responsibility to ensure the regulations in the Work Environment Act and regulations issued in accordance with the law are upheld. The duties of Employer and the Employees are listed in Chapter 2 of the Act.

The purpose of the Act is to secure safe working conditions and equal treatment among workers, and to ensure that the working environment forms a basis for a health-promoting and meaningful work situation. The act shall further provide a basis whereby employers and employees are themselves enabled to safeguard and develop the work environment in cooperation with interest organisations, and under supervision of public authorities.

The Act contains regulations on the duties of employers and employees, measures and requirements for the work environment, obligation to establish work environment committees and elect safety representatives, control measures with the undertaking, regulations for working hours, regulations for employment of children and young persons, entitlement to leave of absence, protection against discrimination, regulations for appointment and termination of work

relationships, procedures for dispute settlement and provision for regulatory supervision and penal provisions.

The Working Environment Act must be seen in conjunction with other labour legislation such as National Insurance Act (No. 19 of 1997), The Annual Leave Act (No. 21 of 1988), The National Holidays Act and parts of The Act relating to Prevention of the Harmful Effects of Tobacco.

There are also supplementing regulations issued by the Ministry of Labour and Social Affairs, who have extensive power to issue more detailed regulations concerning the work environment. Among these regulations are the Ordinance concerning organization, leadership and participation (No. 1355 of 2011), The Workplace Ordinance (No. 1356 of 2011), Ordinance on the performance of work (No. 1357 of 2011) and Ordinance on intervention values and limit values (No. 1358 of 2011).

The Labour Inspection Authority shall supervise compliance with the provisions of and pursuant to this Act. When supervision pursuant to this Act requires special expertise, the Labour Inspection Authority may appoint specialists to conduct controls, inspections, etc. on behalf of the Labour Inspection Authority.

Remarks/comments: For more information on OSH legislation and practice in Norway please visit the websites of the Norwegian Labour Inspection Authority and the websites of the Norwegian Ministry of Labour and Social Affairs.

References:

- Website of the Norwegian Labour Inspection Authority
- Website of the Ministry of Labour and Social Affairs
- Ordinance (No. 1357 of 2011) concerning the performance of work, use of work equipment and associated technical requirements (Ordinance on the performance of work)
- Ordinance (No. 1356 of 2011) concerning the design and facilities of workplaces and work premises (Workplace Ordinance)
- Ordinance (No. 1355 of 2011) concerning organization, leadership and participation
- Ordinance (No. 1358 of 2011) concerning intervention values and limit values for physical and chemical factors in the work environment and infection risk groups for biological factors
- (Ordinance on intervention values and limit values

- Ordinance (No. 1357 of 2011) concerning the performance of work, use of work equipment and associated technical requirements (Ordinance on the performance of work)
- Act (No. 62 of 2005) respecting working environment, working hours and employment protection, etc. (Working Environment Act)
- Annual Leave Act (No. 21 of 1988)
- Act relating to Prevention of the Harmful Effects of Tobacco (No. 65 of 14 September 1973)

2 Scope, coverage and exclusions

2.1 Health and safety covers physical and psychological health

Summary/citation: The purpose of the Working Environment Act is to secure a working environment that provides a basis for a healthy and meaningful working situation, which affords full safety from harmful physical and mental influences. The Act shall promote and foster inclusive working conditions and equality, and facilitate adaptations to the employee's capabilities and circumstances of life.

Remarks/comments: The Working Environment Act covers both physical and psychological health.

References:

- Act (No. 62 of 2005) respecting working environment, working hours and employment protection, etc. (Working Environment Act) (Ch. 1 Art. 1-1)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 1990

2.2 Definition of worker

Summary/citation: For the purposes of this Act, employee shall mean anyone who performs work in the service of another.

Remarks/comments: The definition's content has been further established and developed in the preparatory work and through case law, for example, Høyesterett (the Norwegian Supreme Court)

decision HR-2013-630-A. Several factors are of importance when determining whether a person is to be considered an employee:

- The employee is obligated to make their personal labour available at the employers' disposal, and cannot make use of assistance from others at their own expense.
- The employee submits to the employers' managerial prerogative.
- The employer sets available workrooms, machines, tools, materials or other means which are necessary to carry out the work.
- The employer is responsible for the result of the work conducted.
- The employee is compensated in some form of salary.
- The relationship between the parties is somewhat stable, and is terminatable within certain time frames.
- The work is primarily performed for one employer.

The list is not exhaustive and other factors may be considered in an overall assessment. Even though the above factors point towards an employment relationship, one must consider if the concrete relationship as a whole bares the characteristics of an employment relationship, or if it should be classified as something else. For example, an honorary position, political position or a directorship.

The definition of employee is the same in the Working Environment Act and the National Holidays Act.

References:

- Joint responsibility for a good and decent working life - Report to the Storting (white paper) Short version
- HR-2013-630-A 20130320
- Act (No. 62 of 2005) respecting working environment, working hours and employment protection, etc. (Working Environment Act) (Ch. 1 Art. 1-8)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 1990

2.2.1 Coverage of particular categories of workers

Summary/citation: The Act shall apply to undertakings that engage employees unless otherwise explicitly provided by the Act.

Remarks/comments: As a general rule, the Act applies to any undertaking engaging one or more employees. Certain categories of workers are, however, wholly or partly excluded from the provisions in the Act.

The provisions of the Working Environment Act chapter 10 concerning working time do not apply to employees in senior posts and in particularly independent posts, with the exception of section 10-2, first, second and fourth paragraphs.

Trade unions entitled to submit recommendations pursuant to the Labour Disputes Act or the Civil Service Disputes Act may, with the exception of section 10-2, first, second and fourth paragraphs, and section 10-11, seventh paragraph, enter into a collective pay agreement that departs from the provisions of chapter 10 concerning working hours.

References:

- Act (No. 62 of 2005) respecting working environment, working hours and employment protection, etc. (Working Environment Act) (Ch.1 Art. 2, Ch. 10 Art. 10-12)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 1990

2.2.1.1 Migrant workers

Summary/citation: The provisions do not exclude migrant workers from the definition of worker in the Working Environment Act.

Migrant workers will as a main rule need a residence permit to work in Norway. A residence permit may be granted if the following conditions are met:

- The applicant is aged 18 or older,
- The pay and working conditions are not inferior to those prescribed by the current collective agreement or pay scale, or what is normal for the place and occupation concerned,

- The applicant is subject to a quota fixed by the Ministry or the position cannot be filled by domestic labour or labour from the EEA or EFTA area, and
- There is a specific offer of employment.

Skilled workers with special training which as a minimum corresponds to upper secondary school level, have a craft certificate or have a university college or university education or who have special qualifications, may be granted a residence permit if their expertise is deemed to be relevant for the position offered.

Remarks/comments: The Working Environment Act applies to all work performed in Norway, regardless of the employee's nationality.

References:

- Immigration Ordinance (No. 1286 of 2009). (Ch. 6 Section 6-1)
- Immigration Act (No. 35 of 2008). (Ch. 3 Art. 23)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 1990

2.2.1.2 Domestic workers

Summary/citation: The coverage of domestic workers depends on whether they are included by the definition of employee in the Working Environment Act. However, it is assumed that most domestic workers are not.

The Ministry has issued provisions on domestic work, supervision and nursing in the employer's private home or household. The provisions regulate the requirements to a written contract of employment; working hours and off-duty time; entitlement to leave of absence during pregnancy, birth and adoption; the employer's and the employee's duties and termination of the employment relationship.

Remarks/comments: The provisions regulating domestic work, supervision and nursing in the employer's private home or household do not apply to incidental domestic work or to employment relationships lasting less than a month.

Domestic workers are, as a general rule, not entitled to holiday and holiday pay according to the National Holidays Act.

References:

- Act (No. 62 of 2005) respecting working environment, working hours and employment protection, etc. (Working Environment Act) (Ch. 1 Art. 1-5)
- Ordinance (No. 716 of 2002) respecting domestic work, superintendance and nursing in employers' private home or household.

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 1990

2.2.1.3 Home workers

Summary/citation: The Ministry has issued regulations concerning work performed at the employee's home and the extent to which the Working Environment Act applies to such work. The provisions state that the Act is applicable to work performed at the home of the employee, with certain clarifications and exceptions.

Remarks/comments: Home workers are covered by the Working Environment Act with the clarifications and exceptions following The Ordinance Respecting Work Executed at the Worker's Homeplace.

The most important deviations from the regulations found in the Working Environment Act are:

- Contract of employment requirements are more extensive
- The Working Environment Act chapters 2, 3, and 4, except article 3-1, do not apply, regulating the duties of the employer and the employee, working environment measures and requirements regarding the working environment, respectively.
- Articles 10-4, 10-5, 10-6, 10-10 and 10-11 regulating working time, do not apply.

To ensure that the employee's safety, health and welfare is safeguarded, the employer shall take measures to make certain that the working conditions are fully justifiable. The employee shall not be subject to unfortunate physical strains due to the work place, work equipment or the indoor

environment.

These provisions do not apply to incidental home working.

References:

- Act (No. 62 of 2005) respecting working environment, working hours and employment protection, etc. (Working Environment Act) (Ch. 1 Art. 1-5)
- Ordinance (No. 715 of 2002) respecting work executed at the workers' homeplace. (Art. 6)
- Ordinance (No. 715 of 2002) respecting work executed at the workers' homeplace. (Art. 1)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 1990

2.2.1.4 Self-employed persons

Summary/citation: “The Act shall apply to undertakings that engage employees unless otherwise explicitly provided by the Act. (...) For the purposes of this Act, employee shall mean anyone who performs work in the service of another.”

As a self-employed person owning a sole proprietorship do not perform work in service of another, he or she is not covered by the Working Environment Act.

Remarks/comments: The Working Environment act does not apply to self-employed persons owning a sole proprietorship. A person employed in a limited company owned by himself is, however, covered by the Working Environment Act.

References:

- The Norwegian Labour Inspection Authority - Pamphlet
- The Norwegian Tax Administration

2.3 Definition of employer

Summary/citation: For the purposes of this Act, employer shall mean anyone who has engaged an employee to perform work in his service. The provisions of this Act relating to the employer shall apply correspondingly to a person managing the undertaking in the employer's stead.

Remarks/comments: The employer may be a natural or legal person. According to the preparatory work on the Act, up to several people in the company's management may legally be considered the employer.

References:

- Act (No. 62 of 2005) respecting working environment, working hours and employment protection, etc. (Working Environment Act) (Ch. 1 Art. 1-8)

Related CEACR Comments

- Labour Clauses (Public Contracts) Convention, 1949 (No. 94) Observation 2012
- Labour Clauses (Public Contracts) Convention, 1949 (No. 94) Direct Request 2009

2.4 Exclusion of branches of economic activity

Sometimes.

References:

- Act (No. 62 of 2005) respecting working environment, working hours and employment protection, etc. (Working Environment Act) (Ch. 1 Art. 1-2)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 1990
- Health Protection and Medical Care (Seafarers) Convention, 1987 (No. 164) Direct Request 2010

2.4.1 Agriculture

Summary/citation: Agriculture is not excluded from the Working Environment Act, though provisions state that agricultural undertakings that do not employ assistance other than relief assistance in any form shall be exempt from the Act. However, this does not apply to undertakings which are paying employees with funds from relief assistance grants.

References:

- Act (No. 62 of 2005) respecting working environment, working hours and employment protection, etc. (Working Environment Act) (Ch. 1 Art. 1-4)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 1990

2.4.2 Construction

Summary/citation: Construction is not explicitly excluded from the Working Environment Act. The Ministry has issued regulations which aims to protect workers against hazards by considering safety, health and working environment at construction sites in connection with planning, projecting and execution of construction work. The provisions state that a plan for safety, health and working environment must be prepared before work is initiated. In addition, one must conduct risk assessment during every step of the process and these are to be implemented into the internal control system.

Remarks/comments: Construction workers are covered by the Working Environment Act. The special provisions respecting safety, health and working environment at construction sites do also apply to self-employed persons owning a sole-proprietorship.

References:

- Ordinance concerning safety, health and work environment on work-sites 2009

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 1990
- Safety and Health in Construction Convention, 1988 (No. 167) Observation 2014
- Safety and Health in Construction Convention, 1988 (No. 167) Direct Request 2010

2.4.3 Services

Summary/citation: Services are not explicitly excluded from the Working Environment Act.

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 1990

2.4.4 Public sector

Summary/citation: The Working Environment Act articles 14-2, 14-4, 14-9, 15-1, 15-9, 15-11, 15-14, 15-16, 17-1, 17-3, 17-4 and 17-5 do not apply to civil servants, i.e. employees of the Norwegian Civil Service.

Remarks/comments: The Civil Service Act applies to employees of the Norwegian Civil Service and to senior civil servants where expressly stated. The Act does not apply to ministers or state secretaries.

The Civil Service Act regulates public announcement of vacancies, appointments, termination of service, disciplinary measures, dismissal and prohibition of gifts in the service for Norwegian civil servants.

References:

- Regulation on exceptions from the Work Environment Act 2005 (Art. 1)
- Civil Service Act (No. 3 of 1983).

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 1990
- Labour Clauses (Public Contracts) Convention, 1949 (No. 94) Observation 2012
- Labour Clauses (Public Contracts) Convention, 1949 (No. 94) Direct Request 2009

2.4.5 Other

Summary/citation: Special provisions in the Working Environment Chapter 11 apply to children and young people. The chapter regulates working time, breaks and off-duty time for minors under 18 years of age, and prohibits child labour.

Military aviation is fully exempt from the Working Environment Act and is covered by the Aviation Act.

References:

- Act (No. 62 of 2005) respecting working environment, working hours and employment protection, etc. (Working Environment Act) (Ch. 11)

Related CEACR Comments

- Safety and Health in Mines Convention, 1995 (No. 176) Direct Request 2014

2.5 Definition of occupational accident

Summary/citation: In order for an incident to be an occupational accident, a sudden or unexpected external event must have occurred during the performance of the work. A specific time-limited event that causes stress in excess of what is normally encountered during performance of the work of the person in question is also deemed to be an occupational accident.

References:

- National Insurance Act (No. 19 of 1997). (Ch. 13 art. 3)

2.6 Definition of occupational disease

Summary/citation: By occupational injury is meant a personal injury, illness or death resulting from an occupational accident that occurred while the person is covered for occupational injuries.

Remarks / comments: Certain occupational diseases caused by work-related exposure, climatic diseases and epidemic diseases are to be considered equal to occupational injury. The Ministry has issued provisions regulating which illnesses are to be considered equal to occupational injury. Repetitive strain injuries that develop over time are not considered occupational injuries. This also applies to conditions which has developed due to psychological strains or strains over time. Self-employed persons and freelancers must take out voluntary occupational injury insurance in order to be entitled to occupational injury coverage and special rules with extended occupational injury coverage apply to conscripts and certain other military personnel.

References:

- Brønnøysund Register Centre - Occupational injuries and occupational accidents
- Norwegian Labour and Welfare Administration - Occupational injury and illness
- National Insurance Act (No. 19 of 1997). (Art. 13-4)

2.6.1 List of occupational diseases

Summary/citation: The Ministry has issued two ordinances listing occupational diseases, climate diseases, epidemic diseases and poisonings which are to be considered occupational injuries. A disease listed in the provisions are to be approved as an occupational injury if the following conditions are met: The illness is characteristic and in accordance with what can be evoked from the exposure; The duration and severity of the exposure is of such degree that there is a reasonable connection between the exposure and the illness; The symptoms have occurred within reasonable time after the exposure, and; It is not more likely that another disease or exposure has caused the symptoms.

Remarks/comments: The lists are not exhaustive. Other injuries and illnesses are to be considered occupational ones if they are caused by exposure to harmful substances or working processes.

References:

- Norwegian Labour and Welfare Administration - Occupational injury and illness
- Ordinance concerning occupational illness 1997
- Ordinance concerning illness and poisoning 1997
- National Insurance Act (No. 19 of 1997).
- Act respecting industrial injury insurance scheme. No. 65 (Art. 11)

2.6.2 Mechanism for compensating other diseases as occupational ones

Summary/citation: If the disease is approved as an occupational injury, one may be entitled to social security benefits under more favourable rules than usual.

The person affected by an occupation injury or occupational disease, is entitled to compensation depending on the circumstances surrounding the injury. There are several provisions that regulate according to provisions.

Remarks/comments: All employers are obliged to take out occupational injury insurance for their employees. Such insurance is taken out with private insurance companies and must provide coverage for work-related injuries, regardless of whether the injury is anybody's fault. Self-employed persons and freelancers must take out voluntary occupational injury insurance.

- National Insurance Act (No. 19 of 1997). (Art. 13-4)
- Ordinance concerning illness equal to occupational injury 1960

3 Institutions and programmes relating to OSH administration and/or enforcement

3.1 Competent national authority for safety and health at work

Summary/citation: The Labour Inspection Authority shall supervise compliance with the provisions of and pursuant to The Work Environment Act.

Remarks/comments: The Labour Inspection Authority is a directorate operating under the auspices of The Working Environment and Safety Department and shall supervise compliance with pertinent regulations.

The Working Environment and Safety Department is a department under The Ministry of Labour and Social Affairs, whose responsibility include labour law and safety and the working environment in Norwegian workplaces, both onshore and on the Norwegian continental shelf.

References:

- Act (No. 62 of 2005) respecting working environment, working hours and employment protection, etc. (Working Environment Act) (Ch. 18 Art. 18-1)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 1990

3.1.1 Objectives, roles and/or functions

Summary/citation: The Norwegian Labour Inspection Authority shall supervise compliance with the provisions of and pursuant to the Working Environment Act.

The authority's objectives are a healthy working environment for all, safe and secure employment conditions and meaningful work for the individual to help reduce the risk of ill-health and death in working life.

The authority has administrative, supervisory and informational responsibilities in the area of occupational safety and health. Their main responsibility is to ensure compliance with Norwegian OSH legislation.

References:

- [The Norwegian Labour Inspection Authority - Organisation](#)
- [Letter of Allocation to the National Institute of Occupational Health 2016](#)
- [Act \(No. 62 of 2005\) respecting working environment, working hours and employment protection, etc. \(Working Environment Act\) \(Ch. 18 Art. 18-1\)](#)

3.1.2 Chairperson and composition

Summary/citation: The Labour Inspection Authority operates under the auspices of the Ministry of Labour and Social Affairs and is organised in a central unit - the Directorate of Labour, seven regional units and sixteen local inspectorates. The agency is chaired by the Director General. The Directorate is responsible for the overall strategy, planning and coordination. The regional units are responsible for guiding and supervising enterprises in their respective geographical areas and in the field of their national disciplines.

References:

- [The Norwegian Labour Inspection Authority - Organisation](#)
- [Norwegian Labour Inspection Authority - Organisation and Contact Information](#)

3.2 National OSH research programme or institute

Summary/citation: The National Institute of Occupational Health (STAMI) is the national research institute and knowledge environment on working environment and work health. The Institute is organised under the auspices of the Ministry of Labour and Social Affairs.

References:

- [Joint responsibility for a good and decent working life - Report to the Storting \(white paper\)](#)
[Short version](#)
- [National Institute of Occupational Health - Advisory Work](#)
- [Letter of Allocation to the National Institute of Occupational Health 2016](#)

3.2.1 Objectives, roles and/or functions

Summary/citation: The National Research Institute on Occupational Health is the Norwegian authorities' main advisor upon work environment and occupational health related issues and shall create, use and convey knowledge concerning work and health. The institute is a sector institute and its research contributes to requested knowledge within the area of work environment and occupational health. The Institute provides scientific and knowledge based support in order to contribute to a knowledge-based public administration.

References:

- [Letter of Allocation to the National Institute of Occupational Health 2016](#)
- [Annual Report of 2015 by The National Institute of Occupational Health](#)
- [National Institute of Occupational Health - About us](#)

3.2.2 Governance board constitution and chairmanship

Summary/citation: The National Institute on Occupational Health has an Advisory Council, which shall advise on overall strategy and professional matters concerning research, development, consulting, communication, international activities and surveillance. The Council shall be kept informed of the Institute's project portfolio and scientific productions.

The Advisory Council is appointed by and chaired by the Director General. It consists of four members from the labour organisations, four members from employers' organisations, one member from each of the Norwegian safety authorities, one member from the occupational medicine community, and one member from the Research Council of Norway, the Institute of Public Health, and the Association of Occupational Medicine, respectively.

References:

- [National Institute of Occupational Health - About us](#)
- [The Norwegian Labour Inspection Authority - Structure](#)

3.2.3 Source of funding

Summary/Citation: The National Institute on Occupational Health is approximately 85 % publicly funded by the Department of Labour and Social Affairs through the National Budget.

Remarks/comments: The main sources of external funding are the Research Council of Norway and the European Union.

References:

- Annual Report of 2015 by The National Institute of Occupational Health
- Letter of Allocation to the National Institute of Occupational Health 2016

3.3 National OSH programme

Remarks/comments: On 26 August 2011 The Government submitted a White Paper to the Storting, the Norwegian Parliament on Joint Responsibility for a Good and Decent Working Life – Working conditions, working environment and safety.

This was the first time a government white paper on working conditions, working environment and safety in Norwegian working life had been submitted to the Storting, the Norwegian parliament. The white paper invited the Storting to take part in a discussion on the basic conditions and challenges of working life in Norway. It also discussed a number of relevant working life issues and how these could be followed up.

According to the White Paper the policy guidelines are:

- Strengthening cooperation and the social partnership
- Targeting efforts at different sectors
- Active implementation of the Inclusive Working Life Agreement (IA Agreement)
- Making large and medium-large employers more responsible for creating a sound working life
- Reinforcing public supervisory agencies
- More knowledge about working-life issues
- Continuing to direct close attention to social dumping
- Working on specific HSE challenges, such as night work and chemicals.

On 31 May 2012 The Standing Committee on Labour and Social Affairs submitted its recommendation to the Storting in Innst. 333 S. The recommendation was approved as presented on 6 June 2012.

References:

- Joint responsibility for a good and decent working life - Report to the Storting (white paper)
Short version
- Regjeringen.no Joint responsibility for a good and decent working life
- Recommendation to the Storting Innst. 333 S 20120531

3.3.1 Consultation on the national OSH programme

Remarks/comments: In the course of proceedings, a committee may call in representatives from ministries, organizations, or private individuals to hearings for the purpose of obtaining information. Organizations and individuals may also request to appear before a committee to present their views. These hearings must be held in public unless otherwise decided.

The white paper was on hearing 13. February 2012

Representatives from the following organisations were present:

KS, NHO, Abelia, Hovedorganisasjonen Virke, Norsk Industri, LO, Fellesforbundet, Handel og Kontor i Norge, Industri Energi, NTL, EL og IT Forbundet, Fellesorganisasjonen FO, Norsk Transportarbeiderforbund, Forbundet for Ledelse og Teknikk, UNIO, YS, Akademikerne, Norsk Sykepleierforbund, NITO, Lederne, Den norske jordmorforening, Norges Bondelag, Juss-Buss, Arbeidsgiverforeningen Spekter.

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 1990

4 Employers' duties and responsibilities to protect the safety and health of workers and others

4.1 Duty to ensure the health and safety of employees

Summary/citation: The employer shall ensure that the provisions laid down in and pursuant to this Act are complied with.

The employer is obligated to undergo training in health, environment and safety work. The Ministry may provide further requirements regarding such training.

References:

- Act (No. 62 of 2005) respecting working environment, working hours and employment protection, etc. (Working Environment Act) (Ch. 2 Art. 2-1, Ch. 3 Art. 3-5)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 1990

4.2 Duty to protect the health and safety of people other than their own employees

Summary/citation: The employer shall ensure that the work of his employees is performed in such a manner that persons other than his own employees are ensured a thoroughly sound working environment.

References:

- Act (No. 62 of 2005) respecting working environment, working hours and employment protection, etc. (Working Environment Act) (Ch. 2 Art. 2-2)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 1990

4.3 Collaboration among two or more employers at the same workplace

Summary/citation: The employer shall cooperate with other employers to ensure a thoroughly sound working environment.

Remarks/comments: Employers have a duty to cooperate with other employers when it comes to protective measures. This may include discussions on questions of health and safety, or more specific actions such as jointly purchasing protective equipment or improving the standard of technical appliances that are used by both.

All employers are equally responsible for initiating the cooperation, regardless of who is considered the principal undertaker.

References:

- Act (No. 62 of 2005) respecting working environment, working hours and employment protection, etc. (Working Environment Act) (Ch. 2 Art. 2-2 b)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 1990

4.4 Surveillance of workers' health in relation to work

Summary/Citation: The employer is obliged to provide occupational health services approved by the Labour Inspection Authority for the undertaking when so necessitated by risk factors in the undertaking. The assessment of whether such an obligation exists shall be made as part of the implementation of the systematic health, environment and safety measures. The occupational health service shall assist the employer, the employees, the working environment committee and safety representatives in creating safe and sound working conditions.

When risk factors make it advisable, the employer shall ensure full health surveillance.

References:

- Ordinance (No. 1355 of 2011) concerning organization, leadership and participation. (Ch. 14 Art. 1)
- Act (No. 62 of 2005) respecting working environment, working hours and employment protection, etc. (Working Environment Act) (Ch. 3 Art. 3)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 1990

4.4.1 Specific hazards for which surveillance is required

Summary / Citation: Pertinent health control shall always be conducted when the employees are exposed to:

Dangerous chemicals

Dust from asbestos fibre

Biological factors

Noise or Mechanical vibrations

Ionising radiation

Artificial optical radiation

Electromagnetic fields

Work under water or under pressure

Gas, dust or other health risks in relation to quarry or mining work

References:

- Ordinance (No. 1355 of 2011) concerning organization, leadership and participation. (Ch. 13 Art. 1)

4.5 Surveillance of the working environment and working practices

Summary/Citation: The employer must conduct systematic supervision and review of the systematic work on health, environment in order to ensure that it functions as intended.

References:

- Act (No. 62 of 2005) respecting working environment, working hours and employment protection, etc. (Working Environment Act) (Ch. 3 Art.1 h)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 1990

4.6 Duty to provide personal protective equipment

Summary/Citation: The employer shall ensure that satisfactory personal protective equipment is made available to the employees and that the employees are trained in the use of such equipment. If work is to be carried out that may involve particular hazards to life or health, the employer must ensure that written instructions are prepared prescribing how the work is to be done and what safety measures are to be implemented.

References:

- Act (No. 62 of 2005) respecting working environment, working hours and employment protection, etc. (Working Environment Act) (Ch. 3 Art. 2)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 1990
- Hygiene (Commerce and Offices) Convention, 1964 (No. 120) Direct Request 2014

4.7 Duty to ensure the usage of personal protective equipment

Summary/Citation: The employer shall ensure that employees are trained in the use of protective equipment, and that the equipment is used.

The employees shall use the protective equipment, exercise caution and otherwise contribute to prevention of accidents and injury to health.

References:

- Act (No. 62 of 2005) respecting working environment, working hours and employment protection, etc. (Working Environment Act) (Ch. 3 Art. 2, Ch. 2 Art. 3 2A)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 1990

4.8 Duty to provide first-aid and welfare facilities

Yes.

- Act (No. 62 of 2005) respecting working environment, working hours and employment protection, etc. (Working Environment Act) (Ch. 3 Art. 10)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 1990

4.8.1 Arrangements for first-aid

Summary/Citation: Appropriate first-aid equipment shall be easily available everywhere the working conditions makes it necessary.

The work place should be equipped with a first-aid room, if the size of the undertaking, the nature of work, or the risk of accidents makes it necessary. The room shall be equipped with necessary first-aid equipment, easily visible instructions and appropriate respiratory and revival- equipment.

References:

- Act (No. 62 of 2005) respecting working environment, working hours and employment protection, etc. (Working Environment Act) (Ch. 3 Art. 10)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 1990

4.8.2 Sanitary installations

Summary/Citation: The undertaking shall have an appropriate number of toilettes and there shall be separate toilettes for men and women. There shall be hand wash available in connection to the toilettes. Common toilettes are allowed in small undertakings.

The employer shall ensure that sanitary facilities are to the extent possible and reasonable, be designed and arranged so that employees with disabilities can work at the undertaking.

References:

- Ordinance (No. 1356 of 2011) concerning the design and facilities of workplaces and work premises (Workplace Ordinance). (Ch. 3 Art. 7)
- Act (No. 62 of 2005) respecting working environment, working hours and employment protection, etc. (Working Environment Act) (Ch. 4 Art. 1)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014

- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 1990
- Hygiene (Commerce and Offices) Convention, 1964 (No. 120) Direct Request 2014

4.8.3 Drinking water

Summary/Citation: Employees shall have access to clean drinking water.

References:

- Ordinance (No. 1356 of 2011) concerning the design and facilities of workplaces and work premises (Workplace Ordinance)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 1990
- Hygiene (Commerce and Offices) Convention, 1964 (No. 120) Direct Request 2014

4.8.4 Rest and eating areas

Summary/Citation: Employees should have access to an eating room, which is sufficiently large for the usual number of people who will use it at once. The eating room should be within reasonable access of the work space and suitably placed.

Remarks/comments: The eating room shall be appropriately furnished and of a size suitable for the number of people who will use it simultaneously. The eating area should be suitable for socializing between employees in order to facilitate a positive working environment.

References:

- Ordinance (No. 1356 of 2011) concerning the design and facilities of workplaces and work premises (Workplace Ordinance)
- Act (No. 62 of 2005) respecting working environment, working hours and employment protection, etc. (Working Environment Act) (Ch. 4 Art. 3)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 1990

5 Employers' duty to organize prevention formally along generally accepted OSH management principles and practices

5.1 Elements of an OSH management system

Yes.

5.1.1 Policy or plan specifying responsibilities and arrangements for health and safety

Summary/citation: In order to safeguard the employees' health, environment and safety, the employer shall ensure that systematic health, environment and safety work is performed at all levels of the undertaking.

The Employer shall plan the work tasks and systematically control the routines for the work environment so that work can be undertaken safely with regards to health.

If the work tasks may represent a specific risk to life or health, the employer is obliged to have a written work instruction.

Remarks/comments: The employer is responsible for planning and reviewing the routines for OSH work, in order to ensure the safety of the employees.

References:

- Ordinance (No. 1356 of 2011) concerning the design and facilities of workplaces and work premises (Workplace Ordinance)
- Act (No. 62 of 2005) respecting working environment, working hours and employment protection, etc. (Working Environment Act) (Ch. 3 Art. 1)

5.1.2 Appointment of a person for health and safety

Summary/citation: The employer is obliged to ensure that the undertaking is affiliated to an approved occupational health service if warranted by risk factors in the undertaking.

All undertakings subject to the Working Environment Act, shall elect a safety representative. Other written arrangements may be made in undertakings with less than 10 employees. How many safety representatives are required depends on the number of employees, the nature of the work, working conditions in general and on whether there are several different departments within the same

undertaking.

The safety representative(s) shall ensure the interest of the employees when it comes to working environment. They shall pay particular attention to that the employees are not exposed to hazardous materials, that there is sufficient protective equipment, that the work in general does not pose a danger and that the employees receive proper instructions.

References:

- Ordinance (No. 1355 of 2011) concerning organization, leadership and participation
- Act (No. 62 of 2005) respecting working environment, working hours and employment protection, etc. (Working Environment Act) (Ch. 6 Art. 1, Art. 3)

5.1.3 Written risk assessment

Summary/citation: The person responsible for operations must ensure the introduction and execution of internal control in the undertaking, and that this is done in cooperation with the workers and their representatives.

As part of the internal control the employer has a duty to identify dangers and problems, assess risks, and draw up appropriate plans and measures to reduce such risks. This must be documented in written form.

References:

- Act (No. 62 of 2005) respecting working environment, working hours and employment protection, etc. (Working Environment Act)
- Ordinance concerning Systematic health, environmental and safety activities in enterprises 1996

5.1.4 Safe operating work systems and procedures

Summary/citation: The employer shall systematically safeguard the employees' health, environment and safety through the implementation of routines to ensure continuous control of the working environment and to detect, rectify and prevent contraventions of requirements laid down in or pursuant to the Work Environment Act.

References:

- Act (No. 62 of 2005) respecting working environment, working hours and employment protection, etc. (Working Environment Act) (Ch. 3 Art. 1)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 1990

5.1.5 Training and information on risks

Summary/citation: The employer must ensure that the employees are informed of accident risks and hazards that may be connected with the work. Employees shall receive necessary training, practice and instructions in order to prevent accidents.

References:

- Act (No. 62 of 2005) respecting working environment, working hours and employment protection, etc. (Working Environment Act) (Ch. 3 Art. 2 a)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 1990

5.1.6 Review or assessment of the results of preventive measures

Summary/citation: The employer shall conduct systematic supervision and review of the systematic work on health, environment and safety in order to ensure that it functions as intended.

References:

- Act (No. 62 of 2005) respecting working environment, working hours and employment protection, etc. (Working Environment Act) (Ch 3 Art. 1 h)

Related CEACR Comments

- Health Protection and Medical Care (Seafarers) Convention, 1987 (No. 164) Direct Request 2010

5.1.7 Consultation with workers in health and safety

Summary/citation: The safety representative shall safeguard the interests of employees in matters relating to the working environment. The safety representative shall ensure that the undertaking is arranged and maintained, and that the work is performed in such a manner that the safety, health and welfare of the employees are safeguarded in accordance with the provisions of the Work Environment Act.

The safety representative shall be consulted during the planning and implementation of measures of significance for the working environment within the representative's safety area, including establishment, exercise and maintenance of the undertaking's systematic health, environment and safety work.

References:

- Act (No. 62 of 2005) respecting working environment, working hours and employment protection, etc. (Working Environment Act) (Ch. 6 Art. 2)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 1990

5.2 Obligation to implement a specific OSH management system or standard

No data available.

6 Employers' duty to ensure availability of expertise and competence in health and safety

6.1 OSH competence

Summary/citation: The Working Environment act states explicitly that the employer shall ensure that the provisions laid down in and pursuant to the act are complied with.

Remarks/comments: The preparatory works (Ot.prp. 48 p. 89) states that it is an undisputed principle in Norwegian working life that the employer bears the majority of the responsibility to ensure that one is in compliance with the rules set forth in the Working Environment Act. Tasks to ensure compliance may be delegated, but the responsibility itself may not. The employer must therefore ensure that the operations are organized.

References:

- Act (No. 62 of 2005) respecting working environment, working hours and employment protection, etc. (Working Environment Act) (Ch. 2 Art. 2-1)

6.1.1 Requirement to access expert advice and/or support in health and safety

Summary/Citation: The employer has an obligation to provide occupational health services approved by the Labour Inspection Authority for the undertaking when so necessitated by risk factors in the undertaking. The assessment of whether such an obligation exists shall be made as part of the implementation of the systematic health, environment and safety measures.

Remarks/comments: When the assessment is to be a part of systemic health, environment and safety measures means that the workers are to be a part of the decision process.

References:

- Act (No. 62 of 2005) respecting working environment, working hours and employment protection, etc. (Working Environment Act) (Ch. 3 Art. 3)

6.1.1.1 Qualifications of experts or professional services

Summary/Citation: The Labour Department must approve the occupational health services provided and that the Department may give regulations on the qualifications of the occupational health services.

In order to be approved, the occupational health service must:

- a) be capable, as a whole, of providing comprehensive preventive assistance to the systematic health, safety and environmental activities.

- b) have a quality assurance system that ensures that the occupational health service assists the employer in a satisfactory manner, and that ensures competence development for the occupational health service personnel;
- c) have an organisation and professional personnel that are capable of providing advice in the following areas of expertise: occupational medicine/occupational health, occupational hygiene, ergonomics, psychosocial and organisational working environment and systematic HSE work;
- d) have professional personnel corresponding to at least three full-time equivalents. Each area of professional expertise (occupational medicine, occupational hygiene, ergonomics and psychosocial-organisational) must be covered by at least 30% of a full-time equivalent.
- e) An occupational health service with professional personnel corresponding to two full-time equivalents may nonetheless be approved in special cases, provided that it is documented that the occupational health service cooperates with one or more relevant professional environments that cover any missing areas of expertise.

Remarks/comments: The Good OHS process was developed in the period 1998-2000 to help ensure high quality of OHS in Norway. It was established as a broad-based collaboration in which the professional associations of OHS, the social partners, the Directorate of Labor Inspection, the Department of Occupational Medicine at the University of Bergen and the National Institute of Occupational Health (NIOH) participated.

Internal remarks/comments: The uploaded documents give some more relevant information on the process of approval and the requirements. They are not detailed anywhere in legal documents as far as I could find.

References:

- National Institute of Occupational Health - Good OSH 2007
- Labour Inspection Authority - Elaboration of competence areas for approval of OHS
- Ordinance (No. 1360 of 2011) concerning administrative arrangements on the Working Environment Area (Ordinance on administrative arrangements). (Ch. 2 Art. 2, Ch. 3 Art. 3)
- Act (No. 62 of 2005) respecting working environment, working hours and employment protection, etc. (Working Environment Act) (Ch. 3 Art. 3, Ch. 13, Ch. 14)

6.2 Appointment of an OSH practitioner

Summary/citation: The employer is obliged to ensure that the undertaking is affiliated to an approved occupational health service if warranted by risk factors in the undertaking.

References:

- Ordinance (No. 1355 of 2011) concerning organization, leadership and participation Ch. 13 Art. 1

Related CEACR Comments

- Health Protection and Medical Care (Seafarers) Convention, 1987 (No. 164) Direct Request 2010

6.2.1 Workforce size threshold for the appointment of OSH practitioners

No data available.

7 Workers' rights and duties

7.1 Duty to take reasonable steps to protect their own safety and health

Summary/Citation: Employees shall cooperate on the design, implementation and follow-up of the undertaking's systematic work on health, environment and safety. Employees shall take part in the organised safety and environmental work of the undertaking and shall actively cooperate on implementation of measures to create a satisfactory and safe working environment.

Employees shall:

- a) use the prescribed protective equipment, exercise caution and otherwise contribute to prevention of accidents and injury to health,
- b) immediately notify the employer and the safety representative and to the extent necessary other employees when employees become aware of faults or defects that may involve danger to life or health and they themselves are unable to remedy the fault or defect,
- c) interrupt work if the employees consider that it cannot continue without involving danger to life or health,
- d) ensure that the employer or the safety representative is notified as soon as employees become aware of harassment or discrimination at the workplace,

- e) notify the employer if an employee suffers injury at work or contracts diseases which the employee believes to result from the work or conditions at the working premises,
- f) cooperate on preparation and implementation of follow-up plans in connection with total or partial absence from work owing to accidents, sickness, fatigue or the like,
- g) take part in a dialogue meeting when summoned by the employer.
- h) obey instructions issued by the Labour Inspection Authority.

References:

- Act (No. 62 of 2005) respecting working environment, working hours and employment protection, etc. (Working Environment Act) (Ch. 2 Art. 3)

7.2 Duty to take reasonable steps to protect the safety and health of others

Summary/Citation: Employees shall cooperate on the design, implementation and follow-up of the undertaking's systematic work on health, environment and safety. Employees shall take part in the organised safety and environmental work of the undertaking and shall actively cooperate on implementation of measures to create a satisfactory and safe working environment.

References:

- Act (No. 62 of 2005) respecting working environment, working hours and employment protection, etc. (Working Environment Act) (Ch. 2 Art. 3)

7.3 Supervisors' duty to take reasonable steps to protect the safety and health of others

Summary/Citation: Employees charged with directing or supervising other employees shall ensure that safety and health are taken into consideration when work that comes under their areas of responsibility is being planned and carried out.

References:

- Act (No. 62 of 2005) respecting working environment, working hours and employment protection, etc. (Working Environment Act) (Ch. 2 Art. 3)

7.4 Senior officers' duty to take reasonable steps to protect the safety and health of others

Summary/Citation: Employees charged with directing or supervising other employees shall ensure that safety and health are taken into consideration when work that comes under their areas of responsibility is being planned and carried out.

References:

- Act (No. 62 of 2005) respecting working environment, working hours and employment protection, etc. (Working Environment Act) (Ch. 2 Art. 3)

7.5 Self-employed persons' duty to take reasonable steps to protect their own and other people's health and safety

No data available.

7.6 Duty to comply with OSH-related requirements

Summary/Citation: In order to safeguard the employees' health, environment and safety, the employer shall ensure that systematic health, environment and safety work is performed at all levels of the undertaking. This shall be carried out in cooperation with the employees and their elected representatives. In order to safeguard the employees' health, environment and safety, the employer shall ensure that systematic health, environment and safety work is performed at all levels of the undertaking. This shall be carried out in cooperation with the employees and their elected representatives.

Remarks/comments: Although the majority of the responsibility is placed upon the employer the Working Environment Act presupposes complicity from the employee in carrying out OSH measures.

References:

- Act (No. 62 of 2005) respecting working environment, working hours and employment protection, etc. (Working Environment Act) (Ch. 3 Art. 1)

7.7 Right to enquire about risks and preventive measures

No data available.

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 1990

7.8 Right to remove themselves from a dangerous situation

Summary/Citation: Employees shall interrupt work if the employees consider that it cannot continue without involving danger to life or health.

If a safety representative considers that the life or health of employees is in immediate danger and such danger cannot be averted by other means, work may be halted until the Labour Inspection Authority has decided whether work may be continued. Work may only be halted to the extent the safety representative considers necessary in order to avert danger.

References:

- Act (No. 62 of 2005) respecting working environment, working hours and employment protection, etc. (Working Environment Act) (Ch. 2 Art. 3, Ch. 6 Art. 3 (1))

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 1990

7.9 Right to be reassigned to non-hazard work

Summary/Citation: If an employee suffers reduced capacity for work as a result of an accident, sickness, fatigue or the like, the employer shall, as far as possible, implement the necessary measures to enable the employee to retain or be given suitable work. The employee shall preferably be given the opportunity to continue his normal work, possibly after special adaptation of the work or working hours, alteration of work equipment, work-oriented measures or the like. If, pursuant to the first paragraph, it is appropriate to transfer an employee to other work, the employee and the employees' elected representatives shall be consulted before deciding the matter.

References:

- Act (No. 62 of 2005) respecting working environment, working hours and employment protection, etc. (Working Environment Act) (Ch. 2 Art. 3)

7.9.1 Right to withdraw with compensation when workers are not reassigned to non-hazard work

No data available.

8 Consultation, collaboration and co-operation with workers and their representatives

8.1 National OSH committee, commission, council or similar body

Remarks/comments: Arbeidslivs- og pensjonspolitisk råd is a permanent council under the Ministry of Labour and Social affairs.

The Council was established in 2004 as a forum for cooperation between the minister of employment policy and the leaders of the 8 (now 11) largest work organizations in the country.

References:

- Council on Work life and Pension Politics

8.1.1 Objectives, roles and/or functions

Remarks/comments: Arbeidslivs- og pensjonspolitisk råd shall ensure a regular dialogue between the Minister and the organization leaders on key areas and their challenges, in labor and pension policies.

References:

- Council on Work life and Pension Politics

8.1.2 Constitution and chairmanship modalities

Remarks/comments: The council is led by the minister for Labor and social affairs. The following organizations are included in the council:

- The Norwegian Confederation of Trade Unions
- The Confederation of Unions for Professionals
- The Confederation of Vocational Unions
- The Federation of Norwegian Professional Associations
- Confederation of Norwegian Enterprise
- Norwegian Association of Local and Regional Authorities
- The Enterprise Federation of Norway
- The Norwegian Association of Publicly Owned Companies
- The state personal director, the Ministry of Local Government and Development
- The Norwegian labor inspection authority
- The Norwegian Labor and Welfare Administration

References

- Council on Work life and Pension Politics

8.2 Employers' duty to consult workers on risks

Summary/Citation: The employer shall ensure that the workers are aware of any hazards that may occur during the task at hand. The workers are to receive proper training, practice and instructions to be able to perform the task as safe as possible.

References:

- Act (No. 62 of 2005) respecting working environment, working hours and employment protection, etc. (Working Environment Act) (Ch. 3 Art. 2 (1) a)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 1990

8.3 Workers' right to select their representatives for health and safety matters

Summary/Citation: Safety representatives shall be elected at all undertakings subject to the working environment act: At undertakings with less than ten employees, the parties may agree in writing upon a different arrangement, which may involve agreeing that the undertaking shall not have a safety representative.

References:

- Act (No. 62 of 2005) respecting working environment, working hours and employment protection, etc. (Working Environment Act) (Ch. 6 Art. 1 (1))

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 1990

8.3.1 Workforce size conditions for workers' representation in health and safety

Summary/Citation: At undertakings with less than ten employees, the parties may agree in writing upon a different arrangement, which may involve agreeing that the undertaking shall not have a safety representative.

Undertakings which regularly employ at least 50 employees shall have a working environment committee on which the employer, the employees and the occupational health service are represented. Working environment committees shall also be formed in undertakings with between 20 and 50 employees when so required by any of the parties at the undertaking. Where working conditions so indicate, The Labour Inspection Authority may decide that undertakings with less than 50 employees shall establish a working environment committee.

The number of safety representatives shall be decided according to the size of the undertaking, the nature of the work and working conditions in general. If the undertaking consists of several separate departments or if employees work shifts, at least one safety representative shall generally be elected for each department or shift team. Each safety area shall be clearly delimited and shall not be larger than that the safety representative can have full control and attend to his duties in a proper manner.

References:

- Act (No. 62 of 2005) respecting working environment, working hours and employment protection, etc. (Working Environment Act) (Ch. 6 Art. 1 (1), (2), Ch. 7 Art. 1)

8.3.2 Conditions of eligibility to represent workers in health and safety

Summary/Citation: The safety representative shall receive necessary training in order to carry out his/her tasks in a proper manner. The training shall prepare the participants for a number of situations, and how to handle them properly. At least 40 hours of training is mandatory in order to qualify as a safety representative. Less training can be agreed upon if it seems justifiable based on an assessment of the character and the scope of the potential hazards.

The safety representative shall familiarize him/herself with current safety rules, instructions, orders and recommendations issued by The Labour Inspection Authority or the employer. The senior safety representative shall be elected from among the safety representatives or other persons who hold or have held positions of trust at the undertaking.

References:

- Ordinance (No. 1355 of 2011) concerning organization, leadership and participation

8.4 OSH representatives' functions, rights and powers

Yes.

References:

- Act (No. 62 of 2005) respecting working environment, working hours and employment protection, etc. (Working Environment Act) (Ch. 6 Art. 2 (1), Art. 3 (1))

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 1990

8.4.1 Right to inspect the workplace

Summary/Citation: The working environment committee or one of their representatives (hereby the safety representative) shall conduct inspections in the workplace to determine the necessary safety and environmental measures that should be taken.

References:

- Ordinance (No. 1355 of 2011) concerning organization, leadership and participation (Ch. 2 Art. 2 (b))

8.4.2 Right to access OSH information

Summary/Citation: The safety representative shall be informed of all occupational diseases, occupational accidents and near accidents in his or her area, of reports and measurements relating to occupational health and of any faults or defects detected.

If an undertaking does not have a working environment committee, the safety representative shall have access to all reports concerning workplace accidents, sanitation inspections etc. They shall also have access to reports conducted by The Labour Inspection Authority and the police concerning the workplace in question.

References:

- Ordinance No. 1355 of 2011) concerning organization, leadership and participation. (Ch. 2 Art. 2 a, b)
- Act (No. 62 of 2005) respecting working environment, working hours and employment protection, etc. (Working Environment Act) (Ch. 6 Art. 2 (5))

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 1990

8.4.3 Right to be present at interviews

No data available.

8.4.4 Right to receive professional assistance from OSH experts

Summary/Citation: The Labour Inspection Authority shall supervise compliance with the provisions of and pursuant to this Act. When supervision pursuant to this Act requires special expertise, The Labour Inspection Authority may appoint specialists to conduct controls, inspections, etc. on behalf of The Labour Inspection Authority.

Remarks/comments: When a safety representative considers it necessary to halt dangerous work the work may be halted until The Labour Inspection Authority has decided whether work may be continued. This way, the safety representative may receive assistance from experts, if The Labour Inspection Authority deems it necessary.

References:

- Act (No. 62 of 2005) respecting working environment, working hours and employment protection, etc. (Working Environment Act) (Ch. 6 Art. 3, Ch. 18 Art. 1 (1))

8.4.5 Right to accompany inspectors

Summary/Citation: The safety representative shall participate in inspections of the undertaking by The Labour Inspection Authority.

References:

- Act (No. 62 of 2005) respecting working environment, working hours and employment protection, etc. (Working Environment Act) (Ch. 6 Art. 2 (7))

8.4.6 Right to use facilities

Summary/Citation: The work environment act imposes on the employer to facilitate the safety representatives work, both through time to perform said work, and through covering the costs associated with the work.

Remarks/comments: Though not explicitly stated the employers duty to facilitate will include a right for the representative to use meeting rooms or other areas if this is necessary for performing the tasks involved.

References:

- Act (No. 62 of 2005) respecting working environment, working hours and employment protection, etc. (Working Environment Act) (Ch. 6 Art. 5 (1-4))

8.4.7 Right to have time off work with pay to perform duties

Summary/Citation: Safety representatives shall be allowed the time necessary to perform their duties in a proper manner. As a general rule these duties shall be performed within normal working hours.

- Act (No. 62 of 2005) respecting working environment, working hours and employment protection, etc. (Working Environment Act) (Ch. 6 Art. 5 (2))

8.4.8 Right to issue remedial notices

Summary/Citation: As soon as a safety representative learns of circumstances that may result in accidents and health hazards, the safety representative shall immediately notify the employees at the location, and if the safety representative is unable to avert the danger himself, he shall bring the matter to the attention of the employer or the employer's representative. When so notified, the employer shall give the safety representative a reply. If no action has been taken within a reasonable space of time, the safety representative shall notify the Labour Inspection Authority or the working environment committee.

References:

- Act (No. 62 of 2005) respecting working environment, working hours and employment protection, etc. (Working Environment Act) (Ch. 6 Art. 2 (4))

8.4.9 Right to resolve OSH issues in consultation with employers

Summary/Citation: In order to safeguard the employees' health, environment and safety, the employer shall ensure that systematic health, environment and safety work is performed at all levels of the undertaking. This shall be carried out in cooperation with the employees and their elected representatives. (Hereby including the safety representative).

Remarks/comments: The section presents a list which details measures the employer must take. Several of those measures include cooperating with the employees and their elected representative to resolve and prevent OSH issues.

References:

- Act (No. 62 of 2005) respecting working environment, working hours and employment protection, etc. (Working Environment Act) (Ch. 3 Art. 1 (2))

8.4.10 Right to direct that dangerous work cease

Summary/Citation: If a safety representative considers that the life or health of employees is in immediate danger and such danger cannot be averted by other means, work may be halted until

The Labour Inspection Authority has decided whether work may be continued. Work may only be halted to the extent the safety representative considers necessary in order to avert danger.

References:

- Act (No. 62 of 2005) respecting working environment, working hours and employment protection, etc. (Working Environment Act) (Ch. 6 Art. 3 (1))

8.5 Right of workers' representatives from outside the undertaking to address OSH issues at the workplace

Sometimes.

8.5.1 Right to enter the workplace

Summary/Citation: The Ministry may provide in regulations that there shall be arrangements regarding regional safety representatives covering several undertakings within a single geographical area. There are currently two fields of work which operate with regional safety representatives; The regional safety representative for construction activities, and The regional safety representative for accommodation establishments, catering businesses, cleaning businesses.

These regional safety representatives shall oversee that the workplaces in their specific fields have appointed a local safety representative. Until a workplace has appointed its own safety representative, the regional safety representative has the same authority as a local safety representative for the specific workplace.

The regional safety representatives may partake in any inspections concerning a workplace in their field of work performed by the labour inspection authority.

References:

- Ordinance (No. 1355 of 2011) concerning organization, leadership and participation. (Ch. 5, Ch. 6)
- Act (No. 62 of 2005) respecting working environment, working hours and employment protection, etc. (Working Environment Act) (Ch. 6 Art. 4)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 1990

8.5.2 Right to investigate suspected non-compliance with OSH legislation

Summary/Citation: The regional safety representatives have the same right to receive information as a local safety representative. Furthermore, they shall receive all information needed to perform their duties.

References:

- Ordinance (No. 1355 of 2011) concerning organization, leadership and participation. (Ch. 5, Ch. 6)

8.5.3 Right to consult with workers

Remarks/comments: Although it is not explicitly stated, consulting with workers is a natural part of a safety representatives' job if they are to fulfill their duties according to section 6-2 of the work environment act. If not being able to consult with workers hinders the safety representative from safeguarding the interests of employees, section 19-1 states that employers who willfully or negligently breaches the provisions or orders contained in or issued pursuant to the Act shall be penalized.

References:

- Act (No. 62 of 2005) respecting working environment, working hours and employment protection, etc. (Working Environment Act) (Ch. 6 Art. 2, Ch. 19 Art. 1)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 1990

8.5.4 Right to advise workers

Remarks/comments: Although it is not explicitly stated, advising workers is a natural part of a safety representatives' job if they are to fulfil their duties according to section 6-2 of the work environment act. If not being able to advice workers hinders the safety representative from

safeguarding the interests of employees, section 19-1 states that employers who wilfully or negligently breaches the provisions or orders contained in or issued pursuant to the Act shall be penalized.

References:

- Act (No. 62 of 2005) respecting working environment, working hours and employment protection, etc. (Working Environment Act) (Ch. 6 Art. 2, Ch. 19 Art. 1)

8.5.5 Right to initiate enforcement action

Remarks/comments: Neither the regional nor the local safety representatives have any direct right to initiate enforcement actions. However, section 19-1 states that employers who willfully or negligently breaches the provisions or orders contained in or issued pursuant to the Act shall be penalized. If an employer denies to cooperate with the safety representative, he/she may report them to the Labour Inspection Authority, who then may initiate enforcement actions.

References:

- Act (No. 62 of 2005) respecting working environment, working hours and employment protection, etc. (Working Environment Act) (Ch. 19 Art. 1, Ch. 18 Art. 10 (1))

8.6 Joint OSH Committee

Summary/Citation: Undertakings which regularly employ at least 50 employees shall have a working environment committee on which the employer, the employees and the occupational health service are represented. Working environment committees shall also be formed in undertakings with between 20 and 50 employees when so required by any of the parties at the undertaking.

References:

- Act (No. 62 of 2005) respecting working environment, working hours and employment protection, etc. (Working Environment Act) (Ch. 7 Art. 1)

8.6.1 Participation of workers' representatives in joint OSH committee

Summary/Citation: The employer and the employees shall have an equal number of representatives on the committee. Representatives of the employer and of the employees shall be elected alternately as chairman of the committee.

Remarks/comments: The senior safety representative shall be one of the employer's representatives on the committee and shall have voting rights. If the undertaking has several senior safety representatives, they shall elect one joint representative. If there is only one safety representative in the undertaking, he or she shall be a member of the committee. The employees elect the rest of their representatives by majority vote. Only employees of the undertaking can be elected.

References:

- Ordinance (No. 1355 of 2011) concerning organization, leadership and participation.
- Act (No. 62 of 2005) respecting working environment, working hours and employment protection, etc. (Working Environment Act) (Ch. 7 Art. 1)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 1990

8.6.2 Conditions for establishing a joint OSH committee

Summary/Citation: Undertakings which regularly employ at least 50 employees shall have a working environment committee on which the employer, the employees and the occupational health service are represented. Working environment committees shall also be formed in undertakings with between 20 and 50 employees when so required by any of the parties at the undertaking. Where working conditions so indicate, the Labour Inspection Authority may decide that undertakings with less than 50 employees shall establish a working environment committee.

References:

- Act (No. 62 of 2005) respecting working environment, working hours and employment protection, etc. (Working Environment Act) (Ch. 7 Art. 1)

8.6.3 Objectives, roles and/or functions of joint OSH committees

Summary/Citation: The working environment committee is a decision-making and advisory body tasked with ensuring that the working environment legislation is implemented in the undertaking.

The working environment committee shall make efforts to establish a fully satisfactory working environment in the undertaking. The committee shall participate in planning safety and environmental work and shall follow up developments closely in questions relating to the safety, health and welfare of the employees.

References:

- Ordinance (No. 1355 of 2011) concerning organization, leadership and participation. (Ch. 2 Art. 3)
- Act (No. 62 of 2005) respecting working environment, working hours and employment protection, etc. (Working Environment Act) (Ch. 7 Art. 2)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 1990

8.6.4 Keeping record of the work of joint OSH committees

Summary/Citation: Minutes shall be kept of the meetings of the working environment committee and both majority and minority opinion shall be recorded in the minutes in connections with voting. Each year the working environment committee shall submit a report on its activities to the administrative bodies of the undertaking and to employee organizations.

References:

- Ordinance (No. 1355 of 2011) concerning organization, leadership and participation. (Ch. 3 Art. 16)
- Act (No. 62 of 2005) respecting working environment, working hours and employment protection, etc. (Working Environment Act) (Ch. 7 Art. 2)

8.6.5 Sharing the minutes of joint OSH committees meetings

Remarks/comments: Minutes shall be kept of the meetings of the working environment committee and both majority and minority opinion shall be recorded in the minutes in connections with voting. Each year the working environment committee shall submit a report on its activities to the administrative bodies of the undertaking and to employee organizations.

References:

- Ordinance (No. 1355 of 2011) concerning organization, leadership and participation. (Ch. 3 Art. 16)

8.7 Mandatory training for members of joint OSH committee(s)

Summary/Citation: Members of working environment committees shall receive the training necessary to enable them to perform their duties in a proper manner. The training shall:

- a) give the participants an understanding of what a thoroughly sound working environment entails in their workplace, the employer and employees' roles and responsibilities, and the roles and duties of the working environment committee, the safety representative, the occupational health service and the Labour Inspection Authority;
- b) disseminate knowledge to the participants about the continuous health, environmental and safety work based on broad participation, good documentation and systematic work;
- c) disseminate knowledge to the participants so that they can carry out a simple risk assessment of physical, psychosocial and organizational factors in the working environment;
- d) make the participants capable of identifying factors that promote or hinder a good psychosocial and organizational working environment in their undertaking;
- e) make the participants capable of identifying the most important physical working environment factors in their own workplace so that injuries and accidents can be prevented, including factors relating to ergonomics, noise and the indoor climate;
- f) give an introduction to and information about the Working Environment Act and other relevant laws and regulations.

The members shall also receive an introduction to and information about the Working Environment Act and other relevant laws and regulations.

As a general rule the training shall be of at least 40 hours' duration, unless the parties jointly find and agree that less training is required based on an assessment of the nature and scope of the problems.

Remarks/comments: The employer is responsible for the costs of training and other costs associated with the work of the safety representatives. The employer shall also ensure that the office of working environment committee shall not involve a loss of income for the member or in any other way impair his terms and conditions of employment.

As a general rule training shall be performed within normal working hours. The duties of the working environment committee member that must be performed outside normal working hours shall be remunerated as overtime work.

References:

- Ordinance (No. 1355 of 2011) concerning organization, leadership and participation. (Ch. 3 Art. 18, Art. 19)
- Act (No. 62 of 2005) respecting working environment, working hours and employment protection, etc. (Working Environment Act) (Ch. 7 Art. 4)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 1990

8.8 Protection against reprisals

Summary/Citation: Retaliation against an employee who notifies pursuant to section 2-4 is prohibited. If the employee submits information that gives reason to believe that retaliation in breach of the first sentence has taken place, it shall be assumed that such retaliation has taken place unless the employer substantiates otherwise.

The first paragraph applies correspondingly in connection with retaliation against an employee who makes known that the right to notify pursuant to section 2-4 will be invoked, for example by providing information.

References:

- Act (No. 62 of 2005) respecting working environment, working hours and employment protection, etc. (Working Environment Act) (Ch. 2 Art. 5 (1) (2), Ch. 15 Art. 18 (1), (2))

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 1990

8.9 Immunity from civil and criminal liability for exercising OSH related rights and duties

Remarks/comments: The work environment act may not be departed from by agreement to the disadvantage of the employee unless this is expressly provided. Any civil and criminal liability for exercising OSH related rights and duties would be in direct conflict with the act. Furthermore, the workers right to report suspected non-compliance with OSH legislation is protected by the constitutions' § 100 concerning the freedom of speech. This exact subject was discussed in the preparatory works on the working environment act: (Ot.prp. nr. 84 (2005-2006) 4.2)

References:

- Constitution of the Kingdom of Norway of 1814. (Art. 100)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 1990

9 Specific hazards or risks

9.1 Biological hazards

Summary/Citation: When handling biological substances, the working environment shall be so arranged that employees are protected against accidents, injuries to health and excessive discomfort.

Remarks/comments: The definition of biological factors (biological hazards) is live or dead micro-organisms, cell cultures, endoparasites and prions that can cause infections, allergies or toxicity in humans.

References:

- Ordinance (No. 1357 of 2011) concerning the performance of work, use of work equipment and associated technical requirements (Ordinance on the performance of work). (Ch. 1 Art. 4 (8))
- Act (No. 62 of 2005) respecting working environment, working hours and employment protection, etc. (Working Environment Act) (Ch. 4 Art. 5 (1))

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 1990

9.2 Chemical hazards

Summary/Citation: When handling chemicals, the working environment shall be so arranged that employees are protected against accidents, injuries to health and excessive discomfort.

Remarks/comments: The definition of hazardous chemicals is any chemical that may constitute a risk to the health and safety of employees.

The general definition of chemicals is elements, chemical compounds or mixtures thereof, whether they occur naturally or are manufactured or are used or released in connection with any work operation, regardless of whether they were intentionally manufactured. This applies irrespective of whether the chemical is available on the market.

References:

- Ordinance (No. 1357 of 2011) concerning the performance of work, use of work equipment and associated technical requirements (Ordinance on the performance of work). (Ch. 1 Art. 4 (15) (26))

- Act (No. 62 of 2005) respecting working environment, working hours and employment protection, etc. (Working Environment Act) (Ch. 4 Art. 5 (1))

9.2.1 Handling, storage, labelling and use

Summary/Citation: When handling chemicals, the working environment shall be so arranged that employees are protected against accidents, injuries to health and excessive discomfort. Chemicals shall be manufactured, packed, used and stored in such a way that employees are not subjected to health hazards. Chemicals that may involve health hazards shall not be used if they can be replaced by other substances or by another process that is less hazardous for the employees. The undertaking shall have the necessary routines and equipment to prevent or counteract injuries to health due to chemicals. The undertaking shall keep a record of hazardous chemicals. The record shall include information on physical, chemical and hazardous properties, preventive safety measures and first-aid treatment. Containers and packaging for chemicals shall be clearly labelled with the name, composition and a warning in Norwegian.

References:

- Act (No. 62 of 2005) respecting working environment, working hours and employment protection, etc. (Working Environment Act) (Ch. 4 Art. 5 (1-4))

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 1990
- Chemicals Convention, 1990 (No. 170) Observation 2010
- Chemicals Convention, 1990 (No. 170) Direct Request 2014

9.2.2 Duty of manufacturers, suppliers and importers of chemicals in relation to the safety and health of users

Summary/Citation: Any person who manufactures or imports chemicals that will be used or foreseeably may be used in undertakings subject to the Working Environment Act shall obtain information concerning the chemical's or substance's composition and properties. The manufacturer shall adopt the necessary measures to prevent accidents and injuries to health or

excessive discomfort or inconvenience to the employees. The manufacturer shall notify the adequate agency of the chemical or substance's name, composition, physical and chemical properties, and whatever supplementary information is required in order to determine how hazardous the substance is. The manufacturer shall ensure proper packaging to prevent accidents and injury to health, label the packaging with the name of the chemical or substance, the name of the manufacturer or importer and a clear warning in Norwegian.

References:

- Act (No. 62 of 2005) respecting working environment, working hours and employment protection, etc. (Working Environment Act) (Ch. 5 Art. 4 (1))

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 1990
- Chemicals Convention, 1990 (No. 170) Observation 2010
- Chemicals Convention, 1990 (No. 170) Direct Request 2014

9.4.1 Pesticides

Summary/Citation: Pesticides are considered chemicals such as the ones regulated in Regulations Concerning the Performance of Work.

References:

- Ordinance (No. 1357 of 2011) concerning the performance of work, use of work equipment and associated technical requirements (Ordinance on the performance of work). (Ch. 1 Art. 4 (15))

9.3 Ergonomic hazards

Summary/Citation: The purpose of the Workplace Ordinance is to safeguard the safety, health and welfare of the employees by ensuring that the workplaces and work premises are planned and designed with consideration to the work performed, the individual employee and special risk factors.

References:

- Ordinance (No. 1356 of 2011) concerning the design and facilities of workplaces and work premises (Workplace Ordinance). (Ch. 1 Art. 1)

9.4 Physical hazards

Yes.

References:

- Ordinance (No. 1355 of 2011) concerning organization, leadership and participation. (Ch. 1 Art. 1)

9.4.2 Ionising radiation

Summary/Citation: “Ionising radiation” is defined as radiation from a radioactive substance, X-rays and particle radiation.

Remarks/comments: The employer shall ensure that all radiation exposure is kept at the lowest possible level. Furthermore, the Regulations Concerning Intervention Values and Limit Values regulates limit values for ionising regulation. The employer shall ensure that employees who are to work under conditions where radiation may lead to a dose of more than 6 mSv per year or an equivalent dose of more than 3/10 of the dose limits set out in the Regulations Concerning Intervention Values and Limit Values, undergo medical examinations before they are assigned such work, and every third year following.

References:

- Ordinance (No. 1357 of 2011) concerning the performance of work, use of work equipment and associated technical requirements (Ordinance on the performance of work). (Ch. 1 Art. 4 (24), Ch. 15 Art. 1, Art 4)
- Ordinance (No. 1358 of 2011) concerning intervention values and limit values for physical and chemical factors in the work environment and infection risk groups for biological factors (Ordinance on intervention values and limit values). (Ch. 4 Art. 1)

Related CEACR Comments

- Radiation Protection Convention, 1960 (No. 115) Observation 2005
- Radiation Protection Convention, 1960 (No. 115) Direct Request 2015

9.4.3 Vibration and noise

Summary/Citation: The employer shall monitor and document the extent to which the employees are exposed to noise and vibrations and assess any risks to their health and safety that such exposure might entail.

Remarks/comments: The employer shall implement necessary measures on the basis of the health and safety risks identified in the risk assessment.

References:

- Ordinance (No. 1357 of 2011) concerning the performance of work, use of work equipment and associated technical requirements (Ordinance on the performance of work). (Ch. 14 Art. 1, Art. 5)

Related CEACR Comments

- Hygiene (Commerce and Offices) Convention, 1964 (No. 120) Direct Request 2014
- Working Environment (Air Pollution, Noise and Vibration) Convention, 1977 (No. 148) Direct Request 2014

9.4.4 Working at height

Summary/Citation: Work that requires use of scaffolds, ladders, roof bridges etc. shall be planned so that the equipment is erected and used in accordance with the relevant safety regulations on work safety.

References:

- Ordinance (No. 1357 of 2011) concerning the performance of work, use of work equipment and associated technical requirements (Ordinance on the performance of work). (Ch. 17 Art. 1)

9.4.5 Working in confined spaces

Summary/Citation: Confined manholes, tunnels, pump stations and similar must have ventilation to ensure a supply of fresh air to all places where work is carried out.

References:

- Ordinance (No. 1356 of 2011) concerning the design and facilities of workplaces and work premises (Workplace Ordinance). (Ch. 7 Art. 1)

9.4.6 Risks arising from poor maintenance of workplace facilities

Remarks/comments: Though not explicitly regulated, this will be subsumed under general requirements regarding the work environment.

References:

- Act (No. 62 of 2005) respecting working environment, working hours and employment protection, etc. (Working Environment Act) (Ch. 4 Art. 1)

Related CEACR Comments

- Hygiene (Commerce and Offices) Convention, 1964 (No. 120) Direct Request 2014

9.4.7 Exposure to extreme temperatures

Summary/Citation: The Regulations Concerning the Performance of Work chapter 5 applies to work that can be harmful due to heat. “Hot work” is defined as “work where heat is used, such as open flames, hot surfaces or ignition sparks. Hot work also includes work operations such as welding, soldering, torch cutting and metal grinding etc. that can also give rise to hazardous gases.”

In connection with the planning and execution of hot work, and the procurement of equipment, the employer shall assess the risk associated with all types of exposure that can harm the health of employees.

References:

- Ordinance (No. 1357 of 2011) concerning the performance of work, use of work equipment and associated technical requirements (Ordinance on the performance of work). (Ch. 1 Art. 4 (48), Ch. 5 Art. 1)

Related CEACR Comments

- Hygiene (Commerce and Offices) Convention, 1964 (No. 120) Direct Request 2014

9.4.8 Fire risks

Summary/Citation: The workplace must be arranged to prevent the risk of fire and explosion. Adequate fire extinguishing equipment must be easily available in workplaces underground, in port areas, where hot work is carried out and next to machinery where there is a risk of fire or explosion.

- Ordinance (No. 1357 of 2011) concerning the performance of work, use of work equipment and associated technical requirements (Ordinance on the performance of work).
- Ordinance (No. 1356 of 2011) concerning the design and facilities of workplaces and work premises (Workplace Ordinance). (Ch. 4 Art. 3)
- The Act relating to Protection against Fire, Explosion and Accidents involving Hazardous Substances and on the Fire Service's Rescue Mission (No. 20 of 14 June 2002) 2002 (Ch. 2)

9.4.9 Tobacco

Summary/Citation: In areas and transport where the public has access the air shall be free of tobacco smoke. The same applies to meeting rooms, work- and serving places. Areas of entry to health institutions and public undertakings shall also be free of tobacco smoke.

References:

- Act relating to Prevention of the Harmful Effects of Tobacco (No. 65 of 14 September 1973) (Ch. 5 Art. 25)

9.4.10 Asbestos

Summary/Citation: The definition of “asbestos” is the fibrous, crystalline silicate minerals chrysotile (white asbestos), crocidolite (blue asbestos), amosite (brown asbestos), anthophyllite, asbestos, tremolite asbestos and actinolite asbestos. Use and other handling of asbestos and asbestos-containing materials is prohibited, with some exceptions regulated in the Regulations Concerning the Performance of Work chapter 4.

References:

- Ordinance (No. 1357 of 2011) concerning the performance of work, use of work equipment and associated technical requirements (Ordinance on the performance of work). (Ch. 1 Art. 4 (4), Ch. 4 Art. 1)

Related CEACR Comments

- Asbestos Convention, 1986 (No. 162) Direct Request 2014

9.4.11 Risks related to nanotechnology

Remarks/comments: Nanotechnology will for most cases be subsumed under regulations concerning chemicals.

9.4.12 Contraction of HIV in the workplace

Summary/Citation: Chapter 6 of the Regulations Concerning the Performance of Work contains specific regulations concerning exposure to biological hazards. For every activity, the employer shall assess the risk of employees being exposed to biological agents. If the activity involves a risk to the employees' health and safety, the exposure shall be mapped and consideration shall be given to how the exposure occurs.

Remarks/comments: HIV is as a group 3 biological agent covered by these regulations.

Regulations:

- Ordinance (No. 1357 of 2011) concerning the performance of work, use of work equipment and associated technical requirements (Ordinance on the performance of work). (Ch. 6 Art. 1)
- Ordinance (No. 1358 of 2011) concerning intervention values and limit values for physical and chemical factors in the work environment and infection risk groups for biological factors (Ordinance on intervention values and limit values). (Appendix 2)

9.5 Psychosocial hazards

Yes.

References:

- Ordinance (No. 1355 of 2011) concerning organization, leadership and participation. (Ch. 1 Art. 1)

9.5.1 Psychosocial risks

Summary/Citation: The work environment shall be arranged to preserve the employees' integrity and dignity. Efforts shall be made to arrange the work to enable contact and communication with other employees of the undertaking. Employees shall not be subjected to harassment or other improper conduct.

References:

- Act (No. 62 of 2005) respecting working environment, working hours and employment protection, etc. (Working Environment Act) (Ch. 4 Art. 3 (1-3))

9.5.2 Occupational violence

Summary/Citation: Employees shall, as far as possible, be protected against violence, threats and undesirable strain as a result of contact with other persons.

References:

- Act (No. 62 of 2005) respecting working environment, working hours and employment protection, etc. (Working Environment Act) (Ch. 4 Art. 3 (4))

9.6 Other hazardous substances

Yes.

- Act (No. 62 of 2005) respecting working environment, working hours and employment protection, etc. (Working Environment Act) (Ch. 4 Art. 5 (1))

9.7 Machineries

Yes.

References:

- Ordinance (No. 1359 of 2011) concerning construction, design and manufacture of work equipment and chemicals (The Producer Ordinance).

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 1990

9.7.1 Risks related to machinery and tools

Summary/Citation: The purpose of the Regulations Concerning the Performance of Work is to ensure that work is executed and work equipment is used in a safe manner, so that employees are protected against harm to life and health.

Remarks/comments: The definition of “work equipment” is technical installations etc. such as machinery, lifting equipment, safety components, containers, means of transport, appliances,

installations, tools and any other object used in connection with the production of a product or the performance of work.

References:

- Ordinance (No. 1357 of 2011) concerning the performance of work, use of work equipment and associated technical requirements (Ordinance on the performance of work). (Ch. 1 Art. 1, Art. 4 (2))

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 1990
- Guarding of Machinery Convention, 1963 (No. 119) Direct Request 2002

9.7.2 Duty of designers and/or manufacturers of machineries in relation to the occupational safety and health of operators of machineries

Summary/Citation: Before machineries are put on the market, the producer or his representative shall ensure that the machineries comply with the regulations concerning damage to life and health in appendix I to the Regulations on Machineries.

References

- Ordinance concerning Machineries 2009 (Ch. 2 Art. 5)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 1990
- Guarding of Machinery Convention, 1963 (No. 119) Direct Request 2002

9.7.3 Duty of designers, manufacturers, importers or suppliers of machineries to provide machineries information

Summary/Citation: Before the manufacturer or his authorized representative places a machine on the market, he shall ensure that the relevant technical documentation and necessary user information and manual is made available, and affix CE marking.

- Ordinance concerning Machineries 2009 (Ch. 2 Art. 8)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 1990
- Guarding of Machinery Convention, 1963 (No. 119) Direct Request 2002

9.7.4 Duty to purchase machineries from authorised/certificated suppliers or only if approved/certificated

Summary/Citation: Machineries shall not be put into use if they do not comply with the Regulations on Machineries or poses a danger to persons, property or animals.

References:

- Ordinance concerning Machineries 2009 (Ch. 2 Art. 6)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 1990
- Guarding of Machinery Convention, 1963 (No. 119) Direct Request 2002

9.7.5 Maintenance of machinery and equipment

Summary/Citation: Work equipment and installations in use shall be subject to regular inspection and maintenance to ensure that only work equipment that meets the regulatory requirements for the work equipment in question is used.

References:

- Ordinance (No. 1357 of 2011) concerning the performance of work, use of work equipment and associated technical requirements (Ordinance on the performance of work). (Ch. 10 Art. 5)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 1990

9.7.5.1 List of equipment where applicable

Summary/Citation: Applicable to all work equipment.

References:

- Ordinance (No. 1357 of 2011) concerning the performance of work, use of work equipment and associated technical requirements (Ordinance on the performance of work). (Ch. 1 Art. 1, Art. 4 (2))

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 1990

9.8 Provisions to protect workers in specific condition of vulnerability

Sometimes.

9.8.1 Protection of pregnancy at work

Summary/Citation: The employer shall ensure that an assessment is carried out whether any exposures in the working environment are associated with a risk of reproductive harm to employees. Pregnant and lactating employees must not under any circumstances be assigned work if the risk assessment shows that the work entails a risk of reproductive harm.

References:

- Ordinance (No. 1357 of 2011) concerning the performance of work, use of work equipment and associated technical requirements (Ordinance on the performance of work). (Ch. 7 Art. 1, Art. 3)

9.8.2 Protection of lactating women at work

Summary/Citation: The employer shall ensure that an assessment is carried out whether any exposures in the working environment are associated with a risk of reproductive harm to employees. Pregnant and lactating employees must not under any circumstances be assigned work if the risk assessment shows that the work entails a risk of reproductive harm.

References:

- Ordinance (No. 1357 of 2011) concerning the performance of work, use of work equipment and associated technical requirements (Ordinance on the performance of work). (Ch. 7 Art. 1, Art. 3)

9.8.3 Limits to women's access to specific occupations, undertakings or shifts

Summary/Citation: The Ministry may issue regulations concerning restricting permission to employ certain groups of employees who may be particularly vulnerable to accidents or health hazards and concerning relocation of such employees. Female employees of fertile age who are found to have blood lead levels of more than 0.75 $\mu\text{mol/l}$ or between 0.5 and 0.75 $\mu\text{mol/l}$ in three consecutive quarterly examinations shall be relocated to other work until these values have dropped to below 0.5 $\mu\text{mol/l}$.

References:

- Ordinance (No. 1357 of 2011) concerning the performance of work, use of work equipment and associated technical requirements (Ordinance on the performance of work). (Ch. 3 Art. 26)
- Act (No. 62 of 2005) respecting working environment, working hours and employment protection, etc. (Working Environment Act) (Ch. 4 Art. 1 (6))

9.8.4 Limits to workers' access to specific occupations, undertakings or shifts by reason of age

Summary/Citation: Children under 15 years of age or attending compulsory education shall not perform work subject to the Working Environment Act. There are exceptions for cultural work or the like, light work provided the child is 13 years of age or more, work that forms part of their schooling or practical vocational guidance approved by the school authorities provided the child is 14 years of age or more.

References:

- Act (No. 62 of 2005) respecting working environment, working hours and employment protection, etc. (Working Environment Act) (Ch. 11 Art. 1 (1))

Related CEACR Comments

- Minimum Age Convention, 1973 (No. 138) Observation 1989
- Minimum Age Convention, 1973 (No. 138) Direct Request 2005
- Night Work of Young Persons (Industry) Convention (Revised), 1948 (No. 90) Direct Request 2000

10 Recording, notification and investigation of accidents/incidents and diseases

10.1 Duty to record and/or investigate the causes of work accidents, near misses incidents and cases of occupational diseases

Yes.

- Act (No. 62 of 2005) respecting working environment, working hours and employment protection, etc. (Working Environment Act) (Ch. 5 Art. 1)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 1990

10.1.1 Work-related accidents

Summary/Citation: The employer shall ensure that all personal injuries occurring during the performance of work are recorded. The same shall apply to diseases assumed to have been caused by the work or by conditions at the workplace.

Remarks/comments: The preparatory work (Ot.prp. nr. 3 (1975-76) p. 113) states that the duty to record personal injuries covers all types of injuries regardless of whether or not they lead to sick leave. Insignificant injuries such as light scrubs are not to be reported.

References:

- Act (No. 62 of 2005) respecting working environment, working hours and employment protection, etc. (Working Environment Act) (Ch. 5 Art. 1)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 1990

10.1.2 Near miss incidents

No data available.

10.1.3 Occupational diseases

Summary/Citation: The employer shall ensure that all personal injuries occurring during the performance of work are recorded. The same shall apply to diseases assumed to have been caused by the work or by conditions at the workplace.

Remarks/comments: The preparatory work (Ot.prp. nr. 3 (1975-76) p. 113) states that all diseases that is believed to be caused by the working environment or the work itself are to be recorded. The duty to record does not only apply where there is a clear link between the work/working environment and the disease but also in cases where there are indications on causality.

References

- Act (No. 62 of 2005) respecting working environment, working hours and employment protection, etc. (Working Environment Act) (Ch. 5 Art. 1)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 1990

10.2 Employers' duty to notify OSH authorities of work related death and/or injuries to health

Summary/Citation: If an employee dies or is seriously injured as the result of an occupational accident, the employer shall immediately and by the quickest possible means notify the Labour Inspection Authority and the nearest police authority.

Restrictions/obligations: The Labour Department has compiled a list consisting of nine types of injuries that are to be considered as serious injuries and therefore are to be reported. They are:

Head injury/concussion

Skeletal injuries (light ruptures and fractures in fingers and toes are exempt)

Internal injuries

Loss of limb

Poisoning (when there is a danger of permanent damage)

Loss of consciousness due to working environment, e.g. lack of oxygen.

Severe burn, frostbite or chemical burns

Hypothermia

Injuries that require treatment at hospital, simplified treatment at outpatient clinic is exempt.

References:

- Act (No. 62 of 2005) respecting working environment, working hours and employment protection, etc. (Working Environment Act) (Ch. 5 Art. 2)

Related CEACR Comments

- Labour Inspection Convention, 1947 (No. 81) Observation 2010
- Labour Inspection Convention, 1947 (No. 81) Direct Request 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 1990

11 OSH inspection and enforcement of OSH legislation

11.1 Appointment of OSH inspectors

Summary /Citation: The Labour Inspection Authority may appoint specialists to conduct controls, inspections, etc. on behalf of the Labour Inspection Authority.

References:

- Act (No. 62 of 2005) respecting working environment, working hours and employment protection, etc. (Working Environment Act) (Ch. 18 Art. 1)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 1990

11.2 OSH inspectors' powers

Yes.

References:

- Act (No. 62 of 2005) respecting working environment, working hours and employment protection, etc. (Working Environment Act) (Ch. 18)

11.2.1 Power to enter workplaces

Summary/Citation: The Labour Inspection Authority shall at all times have free access to any premises subject to the Act.

References:

- Act (No. 62 of 2005) respecting working environment, working hours and employment protection, etc. (Working Environment Act) (Ch. 18 Art.4)

Related CEACR Comments

- Labour Inspection Convention, 1947 (No. 81) Observation 2010
- Labour Inspection Convention, 1947 (No. 81) Direct Request 2014

11.2.2 Power to inspect and carry out any examination, test or enquiry

Summary/Citation: The Labour Inspection Authority shall supervise compliance with the provisions of and pursuant to this Act. When supervision pursuant to this Act requires special expertise, the Labour Inspection Authority may appoint specialists to conduct controls, inspections, etc. on behalf of the Labour Inspection Authority.

Remarks / comments: The overall aim of the agency is to ensure a healthy, safe and secure working environment for both workers and employers. The Labour Inspection Authority constantly monitors and encourages the compliance with the mandated rules and regulations in the OHS sphere.

References:

- Act (No. 62 of 2005) respecting working environment, working hours and employment protection, etc. (Working Environment Act) (Ch. 18 Art. 1)

Related CEACR Comments

- Labour Inspection Convention, 1947 (No. 81) Observation 2010
- Labour Inspection Convention, 1947 (No. 81) Direct Request 2014

11.2.3 Power to investigate

Summary/Citation: The Labour Inspection Authority shall supervise compliance with the provisions of and pursuant to this Act.

The Labour Inspection Authority shall have free access at all times to any premises subject to the Work Environment Act.

The Labour Inspection Authority must be presented with all the information needed for the performance of an inspection.

Remarks/comments: Persons who are subject to an inspection pursuant to the Working Environment Act have the duty to provide information notwithstanding the duty of secrecy when so mandated by the Labour Inspection Authority for investigatory purposes. However, the duty to provide information only applies to what deemed is necessary by the inspection authority for the purpose of carrying out its duties.

References:

- Act (No. 62 of 2005) respecting working environment, working hours and employment protection, etc. (Working Environment Act) (Ch. 18 Art. 1 (1), Ch. 18 Art. 5 (1), Ch. 18 Art. 4 (1))

11.2.4 Duty to provide advice on OSH

Summary/Citation: The administrative agencies have, within their sphere of competence, a general duty to provide guidance. The Norwegian Labour Inspection Authority gives advice concerning the present Act.

Remarks/comments: The Norwegian Labour Inspection Authority is a governmental agency therefore the Public Administration Act applies to it as under it any central or local government body shall be considered to be an administrative agency. Moreover, its power to do so is clearly stipulated in the Act relating to Holidays.

References:

- Act relating to holidays (No. 21 of 29 April 1988) 1988 (Ch. 4 Art. 13)
- Public Administration Act of 10 February 1967 (Ch. 3 Art. 11)

Related CEACR Comments

- Labour Inspection Convention, 1947 (No. 81) Observation 2010
- Labour Inspection Convention, 1947 (No. 81) Direct Request 2014

11.3 OSH inspectors' enforcement powers

Yes.

References:

- Act (No. 62 of 2005) respecting working environment, working hours and employment protection, etc. (Working Environment Act) (Ch. 18)

11.3.1 Power to issue orders or notices

Summary/Citation: The Labour Inspection Authority may only issue orders or other individual decision which are seen as necessary for the implementation of the provisions of and pursuant to chapters 2 to 11 and sections 14-1 a, 14-5 to 14-8, 14-9, first paragraph, (f), second sentence and first paragraph, final sentence, 14-12, second paragraph, second sentence, 14-12, third paragraph, 15-2 and 15-15.

Remarks/comments: Chapters 2-11 are as follows: Duties of employer and employees, Working environment measures, Requirements regarding the working environment, Obligation to record and notify, requirements to manufacturers, etc, Safety representatives, Working environment committees, Information and consultation, Control measures in the undertaking, Working hours, Employment of children and young persons.

The further mentioned regulations are concerned with:

Discussions concerning the use of part-time employment

Requirements regarding a written contract of employment

Minimum requirements regarding the content of the written contract

(1) The Employees posted abroad

Changes in the employment relationship

Certain regulations concerning the use of Temporary appointment and Hiring of workers from undertakings whose object is to hire out labour (temporary-work agencies).

Information and consultation in connection with collective redundancies

Entitlement to References in cases of unlawful dismissal

- Act (No. 62 of 2005) respecting working environment, working hours and employment protection, etc. (Working Environment Act) (Ch. 18 Art. 6 (1))

Related CEACR Comments

- Labour Inspection Convention, 1947 (No. 81) Observation 2010
- Labour Inspection Convention, 1947 (No. 81) Direct Request 2014

11.3.2 Power to impose financial penalties

Summary/Citation: When ordered pursuant to this Act, a continuous coercive fine may be imposed for each day, week or month that passes after expiry of the time limit set for implementation of the order until the order is implemented. The Norwegian Labour Inspection Authority may impose an administrative fine on an undertaking.

References:

- Act (No. 62 of 2005) respecting working environment, working hours and employment protection, etc. (Working Environment Act) (Ch. 18 Art. 7, Art. 10 (1))

11.3.3 Power to revoke or suspend licenses or authorisations

Summary/Citation: If orders are not complied with within the time limit, the Labour Inspection Authority may wholly or partly halt the undertaking's activities until the order has been complied with.

References:

- Act (No. 62 of 2005) respecting working environment, working hours and employment protection, etc. (Working Environment Act) (Ch. 18 Art. 8)

Related CEACR Comments

- Labour Inspection Convention, 1947 (No. 81) Observation 2010
- Labour Inspection Convention, 1947 (No. 81) Direct Request 2014

11.3.4 Power to require the cessation of dangerous work

Summary/Citation: In the event of immediate danger, the Labour Inspection Authority may halt those activities that are associated with the dangerous situation even if no order has been issued.

References:

- Act (No. 62 of 2005) respecting working environment, working hours and employment protection, etc. (Working Environment Act) (Ch. 18 Art. 8)

Related CEACR Comments

- Labour Inspection Convention, 1947 (No. 81) Observation 2010
- Labour Inspection Convention, 1947 (No. 81) Direct Request 2014

11.3.5 Power to initiate prosecutions

No data available.

11.3.6 Power to conduct prosecutions

No data available.

11.3.7 Other enforcement powers

Summary/Citation: The Labour Inspection Authority may prohibit the manufacture, packaging, use or storage of hazardous chemicals or biological substances in undertakings subject to this Act. It may require that manufacturers or importers of chemicals or biological substances shall conduct inspections or submit samples for inspection in order to determine how hazardous the chemical or substance is.

The Labour Inspection Authority may prohibit the sale of a chemical or biological substance if a manufacturer or importer fails to observe his duty to report or mark the substance or to provide additional information required pursuant to section 5-4, first paragraph (c). The Labour Inspection Authority may require that a product's supply or marketing to be discontinued or the product to be recalled when such product may entail danger to life or health.

References:

- Act (No. 62 of 2005) respecting working environment, working hours and employment protection, etc. (Working Environment Act) (Ch. 18 Art. 6 (3) (4) (5))

11.4 Application of sanctions by courts

Yes.

11.4.1 Financial penalties for legal persons

Summary/Citation: When a penal provision is contravened by a person who has acted on behalf of an enterprise, the enterprise may be liable to a penalty in the form of a fine. Criminal liability for enterprises is regulated in sections 27 and 28 of the Penal Code of 20 May 2005.

References:

- Penal Code (No. 28 of 2005). (Ch. 3a Art. 48a)
- Act (No. 62 of 2005) respecting working environment, working hours and employment protection, etc. (Working Environment Act) (Ch. 19 Art. 3)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 1990

11.4.2 Financial penalties for natural persons

Summary/Citation: Any proprietor of an undertaking, employer or person managing an undertaking in the employer's stead who willfully or negligently breaches the provisions or orders contained in or issued pursuant to this Act shall be liable to a fine. An employee who negligently infringes the provisions or orders contained in or issued pursuant to this Act shall be liable to a fine. Any person who obstructs a public authority in the performance of inspections required pursuant to this Act or who fails to furnish the mandatory assistance or supply information deemed necessary for performing inspections pursuant to this Act shall be liable to a fine.

An employee who negligently infringes the provisions or orders contained in or issued pursuant to this Act shall be liable to a fine. Contributory negligence shall be subject to the same penalty. If the infringement is committed wilfully or through gross negligence, the penalty may be a fine, up to three months' imprisonment or both. In the event of particularly aggravating circumstances imprisonment for up to one year may be imposed. When determining whether such circumstances

exist, particular importance shall be attached to whether the offence was contrary to special directives relating to work or safety and whether the employee understood or should have understood that the offence could have seriously endangered the life and health of others.

Remarks/comments: In the event of contraventions that involved or could have involved a serious hazard to life or health, any proprietor of an undertaking, employer, or person managing an undertaking in the employer's stead shall be liable to penalty pursuant to this section, unless the person concerned has acted in a fully satisfactory manner according to his duties under this Act. The same penalty arises also in the case of contributory negligence. Moreover, when the act is committed willfully or through gross negligence the penalty may still be a fine. However, instead of a fine the possibility of up to three months' imprisonment could arise. Furthermore, a fine plus up to three months' imprisonment would also be an alternative.

References:

- Act (No. 62 of 2005) respecting working environment, working hours and employment protection, etc. (Working Environment Act) (Ch. 19 Art. 1 (1), 2(1), 4)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 1990

11.4.3 Non-financial sanctions

No data available.

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 1990

11.4.4 Criminal liability

Summary/Citation: Any proprietor of undertaking or employer who infringes the provisions of the act may be liable to a fine or imprisonment. This also applies to the persons managing undertakings in the employer's stead and also to employees.

Remarks/comments: The provisions surrounding the conditions which lead to incurring in criminal liability can be found in the Penal Code of 20 May 2005 which also apply to situations

when the Working Environment Act has not been complied to and as a result a person has fallen ill, been injured, exposed to serious danger or even died as a result.

In regards to legal persons, many of the sanctions imposed as a result of criminal liability are not applicable. They are restricted to monetary fines.

References:

- Act (No. 62 of 2005) respecting working environment, working hours and employment protection, etc. (Working Environment Act) (Ch. 19 Art. 2, 4)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 1990

11.4.5 Terms of imprisonment for natural persons

Summary/ Citation: Any proprietor of an undertaking, employer or person managing an undertaking in the employer's stead who willfully or negligently breaches the provisions or orders contained in or issued pursuant to this Act shall be liable to a fine, imprisonment for up to one year or both. In the event of particularly aggravating circumstances the penalty may be up to three years' imprisonment. An employee who negligently, willfully or through gross negligence infringes the provisions or orders contained in or issued pursuant to this Act shall be liable of penalty which may be a fine, up to three months' imprisonment or both. In the event of particularly aggravating circumstances imprisonment for up to one year may be imposed.

References:

- Act (No. 62 of 2005) respecting working environment, working hours and employment protection, etc. (Working Environment Act) (Ch. 19)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 1990

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1 Description of national OSH regulatory framework

1.1 Description of OSH regulatory framework

Summary/citation: The main Dutch OSH framework is based on the Working Conditions Act, Working Conditions Decree and the Working Conditions Regulation. Next to this occupational health and safety related rules can be found in many other laws such as the Works Councils Act and the Nuclear Energy Act and in other lower legislation such as the Building Decree 2012.

The Working Conditions Act contains the main OSH framework with its general principles, obligations and procedures. It explains employers what to do but not how they have to do it. The Working Conditions Decree and Working Conditions Regulation give more detailed obligations on how to fulfil the obligations of the Working Conditions Act.

Much of the Dutch occupational health and safety regulatory framework is based as well on transposed European Directives and European Regulations.

The Inspectorate SZW is responsible for the enforcement of the OSH legislation in the Netherlands.

References:

- [Working Conditions Act](#)
- [Working Conditions Decree](#)
- [Working Conditions Regulation](#)
- [Works Councils Act](#)
- [Nuclear Energy Act](#)
- Building Decree 2012
- [Website Inspectorate SZW](#)
- [Website Ministry of Social Affairs and Employment](#)

2 Scope, coverage and exclusions

2.1 Health and safety covers physical and psychological health

Summary/citation: The employer shall take care of the employee's safety and health in every aspect related to the labour, both physical and psychosocial, and has a policy that is focused on the best working conditions possible, where he will take the following into consideration:

Unless it cannot reasonably be demanded, to organise the labour in such a way that the employee's safety and health will not be influenced by it in a negative way.

Unless it cannot reasonably be demanded, to prevent or restrict dangers or safety risks as much as possible at the source, or to take efficient measurements, preferably collective measurement, in case the problem cannot be prevented at the source.

To adapt the work methods and tools as much as possible to the individual characteristics of the employee.

To avoid monotonously and pace related labour as much as reasonably possible.

To take efficient measurements related to emergencies, firefighting and evacuations and maintain connections with first assistance.

References:

- Working Conditions act, Art. 3

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2015

2.2 Definition of worker

Summary/citation: In the Working Conditions Act and the definitions based on it:

An employer:

the party on whose behalf another person is required to perform work in accordance with a contract of employment or appointment under public law, except where the person is made available to a third party in order to perform work that the third party would normally make arrangements to have performed itself;

the party to which or to whom another person is made available to perform work as referred to in 1°.

The employee: the other person referred to in a.

2. The following definitions also apply to this Act and the provisions based on it:

a. employer:

1° the party which or who, without being an employer or employee as defined in paragraph one, has work performed by another person under his, her or its authority;

2° the party which or who, without being an employer or employee as defined in paragraph one, has work performed by another not under his, her or its authority in a dwelling, in cases to be designated by order in council;

b. employee: the other person referred to in a, with the exception of persons carrying out voluntary work

Restrictions/exceptions: Workers are those who are performing labour under an employer's authority, with the exception of the one who performs labour voluntarily.

While volunteers are thus exempted in the Working Conditions Act, the Working Conditions Decree subsequently designates several parts of the Working Conditions Act as applicable to them. The parts applicable are those protecting employees against serious risks.

References:

- Working Conditions Act, Art. 1 clause 1 part b
- Working Conditions Act, Art. 1 clause 2 part b
- Working Conditions Decree, Art. 9.5a

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2015

2.2.1 Coverage of particular categories of workers

2.2.1.1 Migrant workers

Summary/citation: When an employer requests a work permit for a migrant worker the working conditions have to comply with the Working Conditions Act.

Remarks/comments: Furthermore the provisions of the Working Conditions Act do not exclude (illegal) migrants from the definition of worker.

References:

- Foreign Labour Act, Art. 8 clause d
- Working Conditions Act, Art. 1 clause 1 part b
- Working Conditions Act, Art. 1 clause 2 part b

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2015

2.2.1.2 Domestic workers

Remarks/comments: Domestic workers are not specifically excluded from the Working Conditions Act.

References:

- Working Conditions Act

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2015

2.2.1.3 Home workers

Summary/citation: Working independent of location is meant as:

work assigned by an employer as referred to in Article 1, first paragraph, under a, or second paragraph, under a, sub 1°, of the Working Conditions Act, to an employee as referred to in Article 1, first paragraph, under b, of the Working Conditions Act, or an employee as referred to in Article 1, second paragraph, under b, of the Working Conditions Act insofar as this employee carries out work for an employer as referred to in Article 1, second paragraph, under a, sub 1°, of the Act, in a home or a location outside the company or business premises chosen by this employee that is not the employer's place of business; or

work assigned by an employer as referred to in Article 1, second paragraph, under a, sub 2°, of the Working Conditions Act, in the context of the exercise/operating of a profession or business pursuant to a contractor agreement or a contract for services, to an employee as referred to in Article 1, second paragraph, under b, of the Working Conditions Act, in a home, unless the other party independently exercises or operates a profession or business in which he/she frequently undertakes to carry out such work for third parties.

References:

- Working Conditions Decree, Art. 1.43

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2015
- Home Work Convention, 1996 (No. 177) Observation 2009
- Home Work Convention, 1996 (No. 177) Direct Request 2013

2.2.1.4 Self-employed persons

Summary/citation: Lower legislation, an order in council, can specify whether the obligations to oblige the requirements of this law or the requirements based on this law, as far as they relate to work that is associated with particular risks to health or safety, also applies to:

A self-employed person

An employer that performs this labour himself

Someone who works with volunteers

A volunteer

The Working Conditions Decree regulates this for self-employed persons.

References:

- Working Conditions Act, Art. 16
- Working Conditions Decree, Art. 9.5

2.3 Definition of employer

Summary/citation: The Working Conditions Act define employer as:

1. The following definitions apply to this Act and the provisions based on it:

a. employer:

1°. the party on whose behalf another person is required to perform work in accordance with a contract of employment or appointment under public law, except where the person is made available to a third party in order to perform work that the third party would normally make arrangements to have performed itself;

2°. the party to which or to whom another person is made available to perform work as referred to in 1°;

2. The following definitions also apply to this Act and the provisions based on it:

a. employer:

1°. the party which or who, without being an employer or employee as defined in paragraph one, has work performed by another person under his, her or its authority;

2°. the party which or who, without being an employer or employee as defined in paragraph one, has work performed by another not under his, her or its authority in a dwelling, in cases to be designated by order in council;

References:

- Working Conditions Act, Art. 1 clause 1 part a
- Working Conditions Act, Art. 1 clause 2 part a

Related CEACR Comments

- Private Employment Agencies Convention, 1997 (No. 181) Observation 2013
- Private Employment Agencies Convention, 1997 (No. 181) Direct Request 2014
- Labour Clauses (Public Contracts) Convention, 1949 (No. 94) Observation 2012
- Labour Clauses (Public Contracts) Convention, 1949 (No. 94) Direct Request 2013

2.4 Exclusion of branches of economic activities

Summary/citation: Sometimes

2.4.1 Agriculture

Remarks/comments: Agriculture is not explicitly excluded from the Working Conditions Act.

References:

- Working Conditions Act

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2015

2.4.2 Construction

Summary/citation: Construction is not explicitly excluded from the Working Conditions Act. The Working Conditions Decree contains some additional specific provisions addressing construction sites operating tower cranes, mobile cranes, foundation machines and scaffolding.

References:

- Working Conditions Act
- Working Conditions Decree, Chapter 7 section 5

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2015
- Safety Provisions (Building) Convention, 1937 (No. 62) Observation 2009
- Safety Provisions (Building) Convention, 1937 (No. 62) Direct Request 2014

2.4.3 Services

Summary/citation: Provisions may be established by order in council specifying that this Act and the provisions based on it do not apply, in whole or in part, to:

work performed in or on an aircraft, ocean-going vessel or inland waterway vessel, or a vehicle on the public highway or a railway or tram line

References:

- Working Conditions Act, Art. 16 clause 4a

Related CEACR Comments

- [Occupational Safety and Health Convention, 1981 \(No. 155\)](#) Observation 2014
- [Occupational Safety and Health Convention, 1981 \(No. 155\)](#) Direct Request 2015

2.4.4 Public sector

Summary/citation: Provisions may be established by order in council specifying that this Act and the provisions based on it do not apply, in whole or in part, to:

work performed in the course of military service

References:

- [Working Conditions Act, Art. 16 clause 4b](#)

Related CEACR Comments

- [Occupational Safety and Health Convention, 1981 \(No. 155\)](#) Observation 2014
- [Occupational Safety and Health Convention, 1981 \(No. 155\)](#) Direct Request 2015
- [Labour Clauses \(Public Contracts\) Convention, 1949 \(No. 94\)](#) Observation 2012
- [Labour Clauses \(Public Contracts\) Convention, 1949 \(No. 94\)](#) Direct Request 2013

2.4.5 Other

Summary/citation: The Working Conditions Decree regulates which parts of the Working Conditions Act apply for several branches of economic activities such as education, civil public services, transport, judicial facilities and defence.

References:

- [Working Conditions Act, Art. 16](#)
- [Working Conditions Decree, Chapter 1](#)

2.5 Definition of occupational accident

Summary/citation: An occupational accident is a labour related unwanted, sudden event, which causes damage to an employee's health as an immediate cause and has led to absence, or to death as an immediate cause.

References:

- Working Conditions Act, Art. 1 clause 3 part i

2.6 Definition of occupational disease

Summary/citation: An occupational disease is a disease or illness caused by a pressure that primarily occurred during labour or working conditions.

References:

- Working Conditions Regulation, Art. 1.11

2.6.1 List of occupational diseases

Summary/citation: The Netherlands Centre for Occupational Diseases registers and reports on occupational diseases via the national notification and registration system.

References:

- Website Netherlands Centre for Occupational Diseases
- List of occupational diseases

2.6.2 Mechanism for compensating other diseases as occupational ones

No data available.

3 Institutions and programmes relating to OSH administration and/or enforcement

3.1 Competent national authority for safety and health at work

Summary/citation: Based on the Working Conditions Act the monitoring institution is designated by the minister of Social Affairs and Employment (Sociale Zekerheid en Werkgelegenheid). The appointed monitoring institution is the Inspectorate SZW. The Ministry of Social Affairs and Employment has a role in the field of OSH. The Inspectorate is part of the Ministry of Social Affairs and Employment.

The Inspectorate is obliged to supervise the compliance with the Working Conditions Act and other OSH related legislation.

Also the compliance with other acts to fight illegal labour, circumvention of minimum wage, labour exploitation, mala fide job placement services and other labour market fraud.

The Inspectorate SZW is also responsible for offering an insight into the effectiveness of the system of work and income by studying the implementation of social security acts by the Employee Insurance Agency (UWV), the Social Insurance Bank (SVB) and municipalities. Besides that, the Inspectorate SZW monitors the risks and relevant developments in the policy fields of the Ministry of Social Affairs and Employment.

The Analysis, Programming and Monitoring (APS) department of the Inspectorate SZW is responsible for strategy development and programming of supervision and investigation activities, risk analyses, monitoring, measuring effects and the communication activities.

References:

- [Working Conditions Act, Art. 24 clause 1](#)
- [What does the Inspectorate SZW do?](#)

[Organogram of the Inspectorate SZW](#)

Related CEACR Comments

- [Occupational Safety and Health Convention, 1981 \(No. 155\) Observation 2014](#)
- [Occupational Safety and Health Convention, 1981 \(No. 155\) Direct Request 2015](#)

3.1.1 Objectives, roles and/or functions

Summary/citation: The core tasks of the Inspectorate related to OSH legislation are the following:

Supervising the compliance with the working conditions legislation and the Working Hours Act.

Supervising the compliance with the Foreign Labour Act.

Supervising the compliance with the Major Accidents (Risks) Decree.

Supervising the compliance with the Plant Protection Products and Biocides Act.

Supervising the compliance with the Commodities Act partly, for the part related to the safety of products on the professional market.

Supervising the compliance with the Economic Offences Act.

The Inspectorate is also obliged to supervise the compliance with collective agreements.

The Inspectorate supervises the compliance with the Acts and related legislation. In order to do that the Inspectorate is granted certain authorities by the acts they are supervising. For example, by the Working Conditions Act the authority to start an investigation at all times in case of an accident at work. It is granted inspection powers by the Working Conditions Act such as the power to enter dwellings without the inhabitant's consent. The inspectorate can impose a penalty for a violation of these acts. If employees do not comply with the regulations contained for them in the Working Conditions Act, they can also be imposed a penalty. The penalty report contains the violation(s) based on which you'll receive the penalty.

Furthermore, the Inspectorate has to draw attention to developments and risks in the field of social affairs and employment.

The Ministry of Social Affairs and Employment also has OSH-related functions, such as:

Supporting employers and employees in creating healthy and safe work environments.

Establishing frameworks (legislation, regulations and working conditions catalogues).

Setting the agenda and stimulating a healthy and safe working environment, with for example the sustainable employability programme, commissioning project and a focus on corporate culture.

Monitoring and enforcing via the Inspectorate SZW.

References:

- Working Conditions Act, Art. 24
- Foreign Labour Act, Art. 19a
- Major Accidents Risks Decree 2015, Art. 13
- Commodities Act
- Economic Offences Act, Art. 17
- Dutch vision and strategy for occupational safety and health

3.1.2 Chairperson and composition

Summary/citation: The chair of the inspectorate is the inspector general.

The Inspectorate SZW is divided in seven departments, 2 general departments and 5 operational departments.

General departments:

Analysis, Programming and Monitoring (APS)

Inspectorate Support and Information Management

Operational departments:

Work and Income

Investigations

Major Hazard Control

Working Conditions

Labour Market Fraud

The department Working Conditions is responsible for the supervision of OSH legislation.

The headquarter of the inspectorate is at the Ministry of Social Affairs and Employment in The Hague: Parnassusplein 5, 2511 VX Den Haag, The Netherlands

References:

- [Website Inspectorate SZW](#)
- [Organogram of the Inspectorate SZW](#)
- [Organogram of the Ministry of Social Affairs and Employment](#)
- [English description of the Organisational structure of the Ministry of Social Affairs and Employment](#)

3.2 National OSH research programme or institute

No data available.

3.2.1 Objectives, roles and/or functions

No data available.

3.2.2 Governance board constitution and chairmanship

No data available.

3.2.3 Source of funding

No data available

3.3 National OSH programme

Summary/citation: The budget of the ministry of SZW articulates the goals for a safe and healthy working environment. On the basis of this the ministry of SZW has formed its vision and strategy on OSH.

Every year the Inspectorate SZW drafts an annual plan and every few year a long-term plan is drafted. The plans provide information on the choices and priorities of the Inspectorate SZW in performing their tasks. The plans deal with the developments in the area of responsibility and the way the Inspectorate will react to the developments. Besides that, the plans provide an overview and analysis of the risks. Based on that overview the Inspectorates considers what areas need more or less supervision. In the annual plan the Inspectorate SZW also records the allocation of people and sources to achieve the goals.

References:

- [Inspectorate SZW annual plans and reports](#)
- [Dutch vision and strategy for occupational safety and health](#)

3.3.1 Consultation on the national OSH programme

No data available.

Related CEACR Comments

- [Occupational Safety and Health Convention, 1981 \(No. 155\) Observation 2014](#)
- [Occupational Safety and Health Convention, 1981 \(No. 155\) Direct Request 2015](#)

4 Employers' duties and responsibilities to protect the safety and health of workers and others

4.1. Duty to ensure the health and safety of employees

Summary/citation: The employer is obliged to ensure that the health and safety conditions are respected for the sake of his employees. The employer shall produce a written inventory and assessment of the risks to which employees are exposed as a result of their work. The employer shall take the measures required to prevent and limit serious accidents involving dangerous substances.

References:

- Working Conditions Act, Art. 3
- Working Conditions Decree, Art. 4.1b

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2015

4.2 Duty to protect the health and safety of people other than their own employees

Summary/citation: If the safety or health of persons other than employees can be put at risk as a result of, or in direct connection with, the work that the employer has done by his/her/its employees in a business or establishment, or in the immediate surroundings, the employer shall take appropriate measures to prevent that hazard.

References:

- Working Conditions Act, Art 10

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2015

4.3 Collaboration among two or more employers at the same workplace

Summary/citation: If more than one employer has work performed in a business or establishment, they shall cooperate appropriately in order to ensure compliance with the provisions established in or by virtue of this Act.

Before work falling under a category specified in an order in council starts, the employers shall ensure that a written description of how they are to cooperate is produced, what action is to be taken in respect of cooperation and how this is to be monitored.

References:

- Working Conditions Act, Art. 19

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2015

4.4 Surveillance of workers' health in relation to work

Summary/citation: Employers have the obligation to provide workers with the opportunity to undergo a medical examination in order to ensure that their health is up to the standard required for the work they will be doing.

Remarks/comments: Workers that work with asbestos, who might be exposed to biological agents and those who are entrusted with diving work, caisson work or other work under excess pressure have more extensive rights to undergo medical examinations.

Another example of a group that has stricter medical rights are workers who can come into contact with radiation. The employer is obliged to arrange medical supervision and prevent that employees are exposed to a maximum dosage of radiation during their work.

References:

- Working Conditions Act, Art. 18
- Working Conditions Decree, Art. 4.1
- Working Conditions Decree, Art. 4.10a
- Working Conditions Decree, Art. 4.23
- Working Conditions Decree, Art. 4.52

- Working Conditions Decree, Art. 4.91
- Working Conditions Decree, Art. 6.14a
- Radiological Protection Decree, paragraph 7.4

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2015

4.4.1 Specific hazards for which surveillance is required

Summary/citation: There are specific hazards for which surveillance is required. Please find below some examples: Employers have the obligation to provide workers that can come into contact with asbestos with the opportunity to undergo a medical examination prior to carrying out any work involving exposure to asbestos and at least once every three years for as long as the exposure to asbestos lasts.

Workers who are entrusted with diving work, caisson work or other work under excess pressure are obliged to have a medical health examination that focusses on the specific risks for their health related to working under excess pressure before the start of the work. After a period of no more than 12 months the employer is obliged to repeat the examination.

Employers have the obligation to provide workers with the opportunity to periodically undergo a medical examination when they are exposed to loud sounds above a certain threshold level.

Employers have the obligation to provide workers with the opportunity to undergo a medical examination when they start when they are exposed to biological agents and vibrations. Workers who are exposed to biological agents can also undergo such a research in case they came into contact with the biological agents.

Employers have the obligation to provide workers with the opportunity to undergo a medical examination when they are exposed to optical radiation or electromagnetic radiation above a certain threshold.

References:

- Working Conditions Decree, Art. 4.52

- Working Conditions Decree, Art. 4.91
- Working Conditions Decree, Art. 6.10
- Working Conditions Decree, Art. 6.11e
- Working Conditions Decree, Art. 6.12g
- Working Conditions Decree, Art. 6.12n
- Working Conditions Decree, Art. 6.14a
- Radiological Protection Decree, Art. 98
- Radiological Protection Decree, Art. 99

4.5 Surveillance of the working environment and working practices

Summary/citation: For the creation of its working conditions policy, the employer shall produce a written inventory and assessment of the risks to which employees are exposed as a result of their work. This risk assessment and evaluation also includes a description of the measures aimed at limiting hazards and risks, and risks affecting particular groups of employees.

The Working Conditions Decree gives a more detailed description of specific risks that have to be assessed pertaining to dangerous substances and major accidents.

References:

- Working Conditions Act, Art. 5
- Working Conditions Decree, Art. 2.5b

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2015

4.6 Duty to provide personal protective equipment

Summary/citation: Employers are obliged to ensure that employees have sufficient personal protective equipment if there is a hazard or a potential hazard to the safety or health of an employee.

References:

- Working Conditions Decree, Art. 8.3

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2015
- Safety Provisions (Building) Convention, 1937 (No. 62) Observation 2009
- Safety Provisions (Building) Convention, 1937 (No. 62) Direct Request 2014

4.7 Duty to ensure the usage of personal protective equipment

Summary/citation: Employers are obliged to ensure that employees use the personal protective equipment available to them when there is a hazard or potential hazard to the safety or health of an employee.

In certain situations the Working Conditions Decree directly obliges that personal protective equipment is used. Such situations are for example when dealing with loud noises, vibrations and exposure to dangerous substances.

References:

- Working Conditions Decree, Art. 8.3 clause 2
- Working Conditions Decree, Art. 4.1c
- Working Conditions Decree, Art. 6.8

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2015

4.8 Duty to provide first-aid and welfare facilities

Summary/citation: Employers are obliged to provide employees with various facilities such as washing facilities, shower rooms, toilets, washbasins. In addition to that, they shall have clear first-aid stations.

References:

- Working Conditions Act, Art. 3 clause 1e
- Working Conditions Act, Art. 15
- Working Conditions Decree, Art. 3.25

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2015

4.8.1 Arrangements for first-aid

Summary/citation: First-aid stations are obliged to comply with the following requirements:

1. If the nature of the work or the associated hazards make it necessary, in addition to the minimum requirements needed to fulfil the obligations coming forth from the risk assessment that an employer is obliged to make, there should be sufficient first aid stations available in the business or establishment.
2. Clearly visible instructions for first aid for accidents should be present in the first aid stations.
3. An alarm number should be clearly visible in the first aid station.
4. The first aid stations should be provided with the necessary first aid equipment.
5. First aid stations should be easily accessible with stretchers.
6. First aid stations and first aid equipment should be supplied with a sign that makes it adequately visible.

References:

- Working Conditions Act, Art. 3 clause 1e
- Working Conditions Act, Art. 15
- Working Conditions Decree, Art. 3.25

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2015

4.8.2 Sanitary installations

Summary/citation: Employers shall make sure that there is a workplace hygiene strategy and that employees can eat and drink without any hazard of exposure. Protective hygiene measures shall also be taken into account regarding working clothes.

If the employees are exposed to dirt, dust or high temperatures to such an extent that the necessary cleaning of their bodies involves more than washing their hands and face or because of the nature of their work or the care of their health, there should also be a shower room with a sufficient number of showers. The shower room must have sufficient room, be effectively fitted out and separated according to the sexes; the showers must have cold and hot running water.

References:

- [Working Conditions Decree, Art. 3.22](#)
- [Working Conditions Decree, Art. 3.23](#)
- [Working Conditions Decree, Art. 3.24](#)
- [Working Conditions Decree, Art. 4.20](#)
- [Working Conditions Decree, Art. 4.51](#)

Related CEACR Comments

- [Occupational Safety and Health Convention, 1981 \(No. 155\) Observation 2014](#)
- [Occupational Safety and Health Convention, 1981 \(No. 155\) Direct Request 2015](#)

4.8.3 Drinking water

Summary/citation: There is no specific obligation for employers to provide drinking water except that employers shall ensure that there is sufficient drinking water or other soft drinks on a construction site.

References:

- [Working Conditions Decree, Art. 3.27](#)

Related CEACR Comments

- [Occupational Safety and Health Convention, 1981 \(No. 155\) Observation 2014](#)
- [Occupational Safety and Health Convention, 1981 \(No. 155\) Direct Request 2015](#)

4.8.4 Rest and eating areas

Summary/citation: An easily accessible area should be available in the business or the establishment or in its direct vicinity where the employees can spend their breaks. This area should be suitable for this purpose and also - depending on the number of employees - sufficiently spacious in size and equipped with sufficient tables and chairs.

For employees who usually stay over in the business or the establishment in which they are working during the time between the end and the beginning of their daily working hours, a night room should be available. A night room should be fitted out adequately and should only be intended for persons of the same sex.

A suitable, lockable, enclosed space should be available for pregnant and breast-feeding employees in which there is an opportunity to take a rest or one can be made immediately available. In such a space a proper, folding or non- folding bed or a suitable couch should be available.

References:

- [Working Conditions Decree, Art. 3.20](#)
- [Working Conditions Decree, Art. 3.21](#)
- [Working Conditions Decree, Art. 3.48](#)

Related CEACR Comments

- [Occupational Safety and Health Convention, 1981 \(No. 155\) Observation 2014](#)
- [Occupational Safety and Health Convention, 1981 \(No. 155\) Direct Request 2015](#)

5 Employers' duty to organize prevention formally along generally accepted OSH management principles and practices

5.1 Elements of an OSH management system

5.1.1 Policy or plan specifying responsibilities and arrangements for health and safety

Summary/citation: The employer must protect the health and safety of employees with respect to all employment-related aspects. To this end the employer must conduct a policy aimed at achieving the best possible working conditions.

Further, when operating a working conditions policy, the employer shall produce a written inventory and assessment of the risks to which employees are exposed as a result of their work. This risk assessment and evaluation also includes a description of the measures aimed at limiting hazards and risks, and risks affecting particular groups of employees.

References:

- [Working Conditions Act, Art. 3](#)
- [Working Conditions Act, Art. 4](#)
- [Working Conditions Act, Art. 5](#)

5.1.2 Appointment of a person for health and safety

Summary/citation: Companies have to appoint one or more "competent persons" providing support to employees to ensure suitable working conditions and health protection. However, in smaller companies (with less than 15 employees), the employer can act as a "competent person".

References:

- [Working Conditions Act, Art. 14](#)
- [Working Conditions Act, Art. 15](#)

5.1.3 Written risk assessment

Summary/citation: When operating a working conditions policy, the employer shall produce a written inventory and assessment of the risks to which employees are exposed as a result of their work. This risk assessment and evaluation shall include a description of the measures aimed at limiting hazards and risks, and risks affecting particular groups of employees.

Certain companies storing hazardous substances (not classed as major hazard facilities) are obliged to establish a so-called "additional risk inventory and evaluation" (ARIE), specifying how risks of major accidents can be reduced as far as possible.

References:

- [Working Conditions Act, Art. 5](#)

- Working Conditions Decree, Art. 2.5b

5.1.4 Safe operating work systems and procedures

Summary/citation: When operating a working conditions policy, the employer shall produce a written inventory and assessment of the risks to which employees are exposed as a result of their work. This risk assessment and evaluation shall include a description of the measures aimed at limiting hazards and risks, and risks affecting particular groups of employees.

References:

- Working Conditions Act, Art. 5
- Working Conditions Decree, Art. 2.5b

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2015

5.1.5 Training and information on risks

Summary/citation: The employer shall ensure that the employees are given information on risks and measures to prevent them. Where there is a danger of being exposed to psycho-social workload, information and instructions should be given to employees who carry out such work about the risks of psycho-social workload as well as the measures aimed at preventing or restricting this load.

References:

- Working Conditions Act, Art. 8
- Working Conditions Decree, Art. 2.15
- Working Conditions Decree, Art. 2.42h

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2015

5.1.6 Review or assessment of the results of preventive measures

Summary/citation: In order to effectively determine the exposure level, suitable, normalised measuring methods must be used or other measuring methods or quantitative evaluation measures suitable for the purpose. After assessing the results the measures can be adjusted if necessary.

References:

- Working Conditions Act, Art. 5
- Working Conditions Decree, Art. 2.5b

5.1.7 Consultation with workers in health and safety

Summary/citation: The employer shall consult the works council or staff representation body in relation to matters affecting the working conditions policy and its implementation. This process shall involve an active exchange of information. The employer shall also seek the assistance of one or more expert employees in connection with compliance with his/her/its obligations under the Working Conditions Act.

References:

- Working Conditions Act, Art. 12
- Working Conditions Act, Art. 13

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2015

5.2 Obligation to implement a specific OSH management system or standard

No data available.

6 Employers' duty to ensure availability of expertise and competence in health and safety

6.1 OSH competence

Yes.

6.1.1 Requirement to access expert advice and/or support in health and safety

Summary/citation: An employer must seek the assistance of one or more expert employees with regard to his compliance with the obligations he/she has under the Working Conditions act. When he/she does not have the required expertise within his/her business then he/she is obliged to consult other experts.

References:

- Working Conditions Act, Art. 13
- Working Conditions Act, Art. 14
- Working Conditions Act, Art. 14a
- Working Conditions Act, Art. 15

6.1.1.1 Qualifications of experts or professional services

Summary/citation: Employees and external experts are obliged to have such knowledge, experience and resources to be able to provide proper assistance with regard to fulfilling their obligations under the Working Conditions act. They must hold the necessary certificates to that effect.

Company doctors need to be registered in an acknowledged specialist register. A company doctor must be a qualified doctor, but also needs to have received special qualification to be a company doctor.

Remarks/comments: To qualify as a "competent person" the following certificates have to be obtained:

- Certificate of Professional Competence Occupational Hygiene (Certificaat van vakbekwaamheid arbeidshygiene) that complies with the requirements of Version 1 of the Rules SAH (Occupational Hygiene Manager), SVK (Occupational Health and Safety) ref nr. SKO/03034S of the Association for the Certification of Professional Competence (Stichting voor de Certificatie van Vakbekwaamheid - SKO) concerning occupational hygienists, established on 19 November 2003. SKO provides this certificate;

- Certificate of Professional Competence Safety (Certificaat van vakbekwaamheid veiligheidskunde) that complies with the requirements of Version 1 of the Rules SAH (Occupational Hygiene Manager), SVK (Occupational Health and Safety) ref nr. SKO/03034S of the SKO concerning safety specialists, established on 19 November 2003. SKO provides this certificate; and
- Certificate of Professional Competence Labour and Organisation (Certificaat van vakbekwaamheid arbeids- en organisatiekunde) that complies with Version 3.0 of the Certification scheme Person certification Labour- and Organisation experts (Certificatiescheme Persoonscertificatie Arbeids- en Organisatiedeskundigen) of the Foundation Registration Labour and Organisation experts (Stichting Registratie Arbeids- en Organisatiedeskundigen), established on 26 April 2005. KIWA is the institute that provides this certificate.

It is also possible that there are three "competent persons" and each has one of the aforementioned certificates, or there are "competent persons" and one has two of the aforementioned certificates and the other one has just one of the aforementioned certificates. In other words, the certificates can be spread over different competent persons.

References:

- [Working Conditions Act, Art. 13 clause 4](#)
- [Working Conditions Act, Art. 20](#)
- [Working Conditions Decree, Art. 2.7](#)
- Healthcare Professionals Act, Art. 14

6.2 Appointment of an OSH practitioner

Summary/citation: The employer must appoint someone to assist him to comply with his obligations under the Working Conditions Act. When a company has less than 25 employees the employer himself can fulfil assistance related tasks if he has sufficient knowledge, experience and resources.

References:

- [Working Conditions Act, Art. 13](#)

6.2.1 Workforce size threshold for the appointment of OSH practitioners

Summary/citation: There is no minimum threshold before OSH experts need to be consulted. However, when a company has less than 25 employees the employer himself can fulfil assistance related tasks if he has sufficient knowledge, experience and resources.

References:

- Working Conditions Act, Art. 13 clause 10

7 Workers' rights and duties

7.1 Duty to take reasonable steps to protect their own safety and health

Summary/citation: Workers are provided with all the necessary tools and knowledge they need in order to avoid situations that could jeopardize their safety and health. Accordingly, workers are obliged to comply with instructions given to them as laid down in the Act.

References:

- Working Conditions Act, Art. 11

7.2 Duty to take reasonable steps to protect the safety and health of others

Summary/citation: Every individual worker is obliged to perform his work with utmost care towards every individual concerned and accordingly not jeopardize others health and safety. In order to do so, every worker is obliged to comply with instructions, related to his/her performance, given by his/her employer. Furthermore, when they act as emergency response experts after being trained for it, they are obliged to prevent accidents from happening and make sure that, in case of emergency situations, workers safety and health is not negatively affected by the accident.

References:

- Working Conditions Act, Art. 11
- Working Conditions Act, Art. 15

7.3 Supervisors' duty to take reasonable steps to protect the safety and health of others

Summary/citation: Employers are obligated to take appropriate measures needed in order to protect others from hazards they might suffer as a result from a risk taken in the course of business. Supervisors protect the safety and health of others by issuing orders which employers and/or employees need to comply with. Under certain conditions, they are obliged to cooperate with other agencies, by way of data exchange, in order to ensure the health and safety of workers. Supervisors' are obliged to investigate every information that they receive from a therefore competent body regarding violations. During their investigation they have the right to do what is necessary to gather information insofar as their actions are proportional to the aim they want to achieve.

References:

- Working Conditions Act, Art. 10
- Working Conditions Act, Art. 27
- Working Conditions Act, Art. 28
- Working Conditions Act, Art. 29a

7.4 Senior officers' duty to take reasonable steps to protect the safety and health of others

No data available.

7.5 Self-employed persons' duty to take reasonable steps to protect their own and other people's health and safety

Summary/citation: Employers are obligated to take appropriate measures needed in order to protect others from hazards they might suffer as a result from a risk taken in the course of business. The Working Conditions Decree also extends this obligation to self-employed persons.

References:

- Working Conditions Act, Art. 10

- Working Conditions Decree, Art. 9.5 clause 1 sub g

7.6 Duty to comply with OSH-related requirements

Summary/citation: Every worker has the obligation to comply with OSH-related requirements such as:

- use tools and dangerous substances properly;
- use personal protective equipment supplied to them properly, and return it to the proper storage place after use;
- not to modify protective devices fitted to tools or other objects or to remove them without need, and to use them correctly;
- to participate properly in the trainings for their particular tasks in respect of the working conditions;
- to notify the employer or their local manager immediately of any hazards to safety or health of which they become aware;

If they fail to do so than this is seen as a violation of the Working Conditions Act.

References:

- Working Conditions Act, Art. 11
- Working Conditions Decree, Art. 9.3

7.7 Right to enquire about risks and preventive measures

Summary/citation: The employer shall ensure that every employee can take notice of the risk assessment and evaluation.

References:

- Working Conditions Act, Art. 5 clause 6

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2015

7.8 Right to remove themselves from a dangerous situation

Summary/citation: The workers have a right to stop work and not to resume if they have reason to assume there is a serious threat to individuals and the threat is imminent. During those hours, the workers are entitled to the normal hourly wage for the time they are not working. The workers should not be disadvantaged and able to stop working in a dangerous situation as a result of stopping work.

References:

- Working Conditions Act, Art. 29 clause 1

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2015

7.9 Right to be reassigned to non-hazard work

No data available.

7.9.1 Right to withdraw with compensation when workers are not reassigned to non-hazard work

No data available.

8 Consultation, collaboration and co-operation with workers and their representatives

8.1 National OSH committee, commission, council or similar body

Summary/citation: There shall be a Health Council.

References:

- Health Act, Art. 21 clause 1

8.1.1 Objectives, roles and/or functions

Summary/citation: The Health Council is an independent scientific advisory body whose legal task it is to advise ministers and Parliament in the field of public health and health/healthcare research. The Health Council can be asked by Ministers for advice which can be used to substantiate policy decisions, as well as give unsolicited advice.

References:

- Health Act, Art. 22

8.1.2 Constitution and chairmanship modalities

Summary/citation: The board of the Health Council consists of a President and Vice President. There is no upper limit for the amount of members of the Health Council. The members are appointed by Royal decree.

The President can appoint Committees from its Members.

Comments/remarks: Two of the Committees of the Health Council are related to OSH: the Dutch Expert Committee on Occupational Safety (DECOS) and the Committee on the Identification of Workplace Risks.

DECOS focusses on advising on protection against harmful substances, carcinogenic substances and reproductive toxins while the Committee on the Identification of Workplace Risks focusses on the identification of risks at the workplace.

References:

- Health Act, Art. 21
- Health Act, Art. 24
- Advisory Bodies Framework Act, Art. 10

8.2 Employers' duty to consult workers on risks

Summary/citation: The employer and the workers must co-operate in the implementation of the working conditions policy. The employer is obliged to consult the Works Council or staff representative body in relation to matters affecting the working conditions policy and its implementation.

The endorsement of the Work Council shall be required for every proposed decision on the part of regulations relating to working hours and rest periods or holidays and on the part of regulations relating to working conditions, sick leave or reintegration.

Besides that, the Works Council shall do all within its power to ensure any regulation applying to the enterprise regarding terms of, amongst others, working conditions and working and resting hours are respected.

Restrictions/obligations: A Works Council is only required by law for enterprises with at least 50 persons working in the enterprise.

In case the enterprise has 10 - 50 workers, but no Works Council or staff representative body, the employer must give the workers the opportunity of meeting with the employer at least twice a year. The employer shall give the workers the opportunity in this meeting to render advice about any proposed decision on the part of the entrepreneur that make major changes in the terms of, amongst others, working conditions.

If the enterprise has 10 - 50 workers, but no Works Councils, the employer may set up a staff representative body. At the request of the majority of the workers, the employer is obliged to set up such a body. The employer has a duty to submit any proposed decision regarding the working conditions to the staff representative body. The staff representative body shall notify the employer in writing of its standpoint on the proposal. This applies as well to the staff representative body in an enterprise with 10 or less workers.

If there is no Works Council or staff representative body, the employer has to consult the affected workers. In the absence of a Works Council or staff representative body the employer has a duty to notify the affected workers of a decision. This decision shall not take effect with regard to the workers before the employer has complied with its duty to notify.

References:

- Working Conditions Act, Art. 12
- Works Councils Act, Art. 2 clause 1
- Works Councils Act, Art. 27
- Works Councils Act, Art. 28

- [Works Councils Act, Art. 35b](#)
- [Works Councils Act, Art. 35c](#)
- [Works Councils Act, Art. 35d](#)

Related CEACR Comments

- [Occupational Safety and Health Convention, 1981 \(No. 155\) Observation 2014](#)
- [Occupational Safety and Health Convention, 1981 \(No. 155\) Direct Request 2015](#)

8.3 Workers' right to select their representatives for health and safety matters

Summary/citation: Based upon the Works Councils Act, enterprises with at least 50 persons working, are obliged to have a Works Council to ensure the proper consultation and representation of the persons working in the enterprise.

The Works Councils Act shall regulate the procedure of nomination and election. It states that members of the Works Council shall be elected by secret written ballot from one or more lists of candidates.

The list of candidates may be submitted by any employees' organisation whose membership includes persons working in the enterprise who are eligible to vote. The employees' organisation can only submit a list of candidates if the composition of the list has been consulted with its members in the enterprise.

That employees' organisation also has to live up to certain formal standards. The employees' organisation has as goal to protect the interests of its members as employees based upon its Articles of Association. Furthermore, the employees' organisations shall have had full legal competence for the last two years.

A list of candidates can also be submitted by any person (or group of persons) working in the enterprise who is eligible to vote, but who is not a member of an employees' organisation.

The Works Council shall lay down additional rules in its Rules of Procedure relating to candidature, elections and the determination of election results, and to the filling of interim vacancies in the Works Council.

Restrictions/obligations: A Works Council is only an obligation by law for enterprises with at least 50 persons working in the enterprise. Therefore, this procedure only applies if the enterprise has a Works Council.

References:

- Works Councils Act, Art. 2 clause 1
- Works Councils Act, Art. 9 clause 2
- Works Councils Act, Art. 10

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2015

8.3.1 Workforce size conditions for workers' representation in health and safety

Summary/citation: The size of the Works Council is based upon the number of persons working in the enterprise.

50 or less: 3 members in the Works Council

50 - 100: 5 members

100 - 200: 7 members

200 - 400: 9 members

400 - 600: 11 members

600 - 1000: 13 members

1000 - 2000: 15 members

For every further 1000 persons, two additional members should be added to the Works Council, up to a maximum of 25 members.

References:

- Works Councils Act, Art. 6

8.3.2 Conditions of eligibility to represent workers in health and safety

Summary/citation: The Works Councils Act regulates who is eligible to vote and who is eligible to stand for election.

Persons who have been working in an enterprise for at least 6 months have the right to vote, persons who have been working in the enterprise for at least 12 months have the right to stand for election. The Works Council is allowed to incorporate rules that differ from this if it is in the interest of proper implementation of the Act within the enterprise.

Restrictions/obligations: These regulations only apply to enterprise's with an (voluntarily set) Works Council.

References:

- Works Councils Act, Art. 6

8.4 OSH representatives' functions, rights and powers

8.4.1 Right to inspect the workplace

Summary/citation: The Works Council or staff representative body can request an investigation of the workplace by the Inspectorate SZW.

References:

- Working Conditions Act, Art. 24 clause 7

8.4.2 Right to access OSH information

Summary/citation: The supervisor of the Inspectorate SZW is obliged to send his report to the employer, as well as to the Works Council or staff representative body.

The employer can seek assistance of one or more expert workers to comply with the OSH-regulations. The employer shall ensure that workers who are experts can be made aware of certain aspects of the OSH-information.

The information the expert workers can access, is:

the accident reports and list of accidents at work;

a requirement issued by a designated supervisor to an employer with an order specifying how they must comply with one or more provisions adopted under or by virtue of this Act;

an order to suspend work and an order to suspend work because of a repeated offence;

a ruling instructing that the infringement be rectified under threat of administrative coercion or imposing an order subject to a penalty;

a request for dispensation as referred to in article 30, second paragraph Working Conditions Act;

a report of an administrative fine;

an injunction imposing a fine.

The right to access the aforementioned information also applies to the expert workers and expert individuals, company emergency response staff and the health and safety service.

In some specific cases the Works Council or staff representative body must be informed, for example in cases of an accident with biological agents.

References:

- [Working Conditions Act, Art. 13](#)
- [Working Conditions Act, Art. 14](#)
- [Working Conditions Act, Art. 15](#)
- [Working Conditions Act, Art. 15a](#)
- [Working Conditions Act, Art. 24 clause 5](#)
- [Working Conditions Decree, Art. 4.92](#)
- [Working Conditions Decree, Art. 4.93](#)

Related CEACR Comments

- [Occupational Safety and Health Convention, 1981 \(No. 155\) Observation 2014](#)
- [Occupational Safety and Health Convention, 1981 \(No. 155\) Direct Request 2015](#)

8.4.3 Right to be present at interviews

Summary/citation: The Works Council or staff representative body does have the right to hold confidential discussions with the supervisor when he/she visits the enterprise.

References:

- [Working Conditions Act, Art. 12 clause 4](#)

8.4.4 Right to receive professional assistance from OSH experts

Summary/citation: The Works Council is allowed to invite experts related to particular subjects. The experts can be invited to join a meeting of the Works Council, as well as to submit advice in writing.

The staff representative body also has the right to invite experts

References:

- Works Councils Act, Art. 16
- Works Councils Act, Art. 35c clause 5

8.4.5 Right to accompany inspectors

Summary/citation: The Works Council / staff representative body is allowed to accompany the supervisor of the Inspectorate when he/she visits the enterprise.

Restrictions/obligations: The members of the Works Council / staff representative body do not have this right if the supervisor indicates that that would impede him/her in the proper performance of his/her duties.

References:

- Working Conditions Act, Art. 12 clause 4

Related CAECR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2009

8.4.6 Right to use facilities

Summary/citation: The Works Council is allowed to use any facility that the employer has at his disposal in his capacity as employer and which the Works Council may reasonably require in order to perform their duties.

The staff representative body in smaller enterprises, have this right as well.

References:

- Works Councils Act, Art. 17 clause 1
- Works Councils Act, Art. 35c clause 3
- Works Councils Act, Art. 35d clause 2

8.4.7 Right to have time off work with pay to perform duties

Summary/citation: The Works Council shall, as far as possible, hold their meeting during normal working hours. During this time, the members retain their entitlement to full pay remuneration for the time they do not perform the work specified in their employment contract. Members of the staff representative bodies have the same rights.

Besides that, the members of the Works Councils have the opportunity - for a specified total number of hours per year - to meet in mutual consultation and to consult with other persons relating to the performance of their duties, with full pay or remuneration. Members of the staff representative bodies have the same rights.

References:

- [Works Councils Act, Art. 17 clause 2](#)
- [Works Councils Act, Art. 17 clause 3](#)
- [Works Councils Act, Art. 18 clause 1](#)
- [Works Councils Act, Art. 35c clause 3](#)
- [Works Councils Act, Art. 35d clause 2](#)

8.4.8 Right to issue remedial notices

No data available.

8.4.9 Right to resolve OSH issues in consultation with employers

No data available.

8.4.10 Right to direct that dangerous work cease

No data available.

8.5 Right of workers' representatives from outside the undertaking to address OSH issues at the workplace

No data available.

8.5.1 Right to enter the workplace

No data available

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2015

8.5.2 Right to investigate suspected non-compliance with OSH legislation

No data available.

8.5.3 Right to consult with workers

No data available.

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2015

8.5.4 Right to advise workers

No data available.

8.5.5 Right to initiate enforcement action

No data available.

8.6 Joint OSH Committee

Summary/citation: Based upon the Works Councils Act, enterprises with at least 50 persons working, are obliged to have a Works Council to ensure the proper consultation and representation of the persons working in the enterprise.

Comments/remarks: The Works Council is not a joint council.

References:

- Works Councils Act, Art. 2

8.6.1 Participation of workers' representatives in joint OSH committee

Summary/citation: To be eligible for election to a position on the Works Council one has to be working at the enterprise for 12 months, to be eligible to vote one has to be working at the enterprise for 6 months.

Comments/remarks: The Works Council is not a joint council.

References:

- Works Councils Act, Art. 6

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2015

8.6.2 Conditions for establishing a joint OSH committee

Summary/citation: The size of the Works Council is based upon the number of persons working in the enterprise.

50 or less: 3 members in the Works Council

50 - 100: 5 members

100 - 200: 7 members

200 - 400: 9 members

400 - 600: 11 members

600 - 1000: 13 members

1000 - 2000: 15 members

For every further 1000 persons, two additional members should be added to the Works Council, up to a maximum of 25 members.

Comments/remarks: The Works Council is not a joint council.

References:

- Works Councils Act, Art. 6

8.6.3 Objectives, roles and/or functions of joint OSH committees

Summary/citation: The overall goal of the Works Council is to ensure the proper consultation and representation of the persons working in the enterprise.

Comments/remarks: The Works Council is not a joint council.

References:

- Works Councils Act, Art. 17 clause 2

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2015

8.6.4 Keeping record of the work of joint OSH committees

Summary/citation: The Works Council shall have Rules of Procedure which govern the taking of the minutes of Works Council meetings and the drawing up of the annual report of the Works Council, and the manner in which these are to be made available to the entrepreneur, the members of the Works Council and the other persons working in the enterprise.

Comments/remarks: The Works Council is not a joint council.

References:

- Works Councils Act, Art. 14 clause 2h

8.6.5 Sharing the minutes of joint OSH committees meetings

Summary/citation: The Works Council shall have Rules of Procedure which govern the taking of the minutes of Works Council meetings and the drawing up of the annual report of the Works Council, and the manner in which these are to be made available to the entrepreneur, the members of the Works Council and the other persons working in the enterprise.

Comments/remarks: The Works Council is not a joint council.

References:

- Works Councils Act, Art. 14 clause 2h

8.7 Mandatory training for members of joint OSH committee(s)

No data available.

Related CEACR Comments

- [Occupational Safety and Health Convention, 1981 \(No. 155\)](#) Observation 2014
- [Occupational Safety and Health Convention, 1981 \(No. 155\)](#) Direct Request 2015

8.8 Protection against reprisals

Summary/citation: An employer shall ensure that no employee is placed at any disadvantage with respect to his or her position in the enterprise on the grounds of any candidature for or membership of the Works Council or a Works Council committee. An employee may not be let of on the grounds of any candidature for or membership of the Works Council or a Works Council committee.

The Works Council may not be ordered to pay the costs of any legal proceedings between the employer and the Works Council.

References:

- [Works Councils Act, Art. 21](#)
- [Works Councils Act, Art. 22a](#)
- [Civil Code, Art. 7:670 clause 4](#)

Related CEACR Comments

- [Occupational Safety and Health Convention, 1981 \(No. 155\)](#) Observation 2014
- [Occupational Safety and Health Convention, 1981 \(No. 155\)](#) Direct Request 2015

8.9 Immunity from civil and criminal liability for exercising OSH related rights and duties

No data available.

Related CEACR Comments

- [Occupational Safety and Health Convention, 1981 \(No. 155\)](#) Observation 2014
- [Occupational Safety and Health Convention, 1981 \(No. 155\)](#) Direct Request 2015

9 Specific hazards or risks

9.1 Biological hazards

Summary/citation: If an employee is or might be exposed to one or more biological agents specifically occurring or expected to occur at his workplace, with respect to the risk assessment and evaluation that an employer is obliged to make, the nature, extent and duration of the exposure must be assessed in order to determine the hazard for the employee. The assessment must be regularly reviewed, in any event each time there is a change in circumstances which might affect the exposure of employees to biological agents.

If employees are exposed to biological agents effective technical or organisational steps must be taken to prevent any exposure to biological agents and reduce the risks to exposure. An appropriate register must be kept at the facility of all workers exposed to biological agents.

Further, every employee that is or can be exposed to biological agents must be given the possibility to undergo a medical examination.

All work areas where work is carried out with biological agents must be clearly defined and marked with the appropriate safety signs. Also, hygienic protection measures must be taken and facilities have to provide appropriate instruction and training to those employees exposed to biological agents.

Finally, each accident or incident that occurred, almost did occur or possibly did occur with biological agents leading to the release, almost release or possible release of certain biological agents must be notified to the relevant bodies, authorities and employees.

The Working Conditions Decree furthermore contains the following definitions:

Biological hazards: genetic modified micro-organisms or otherwise, celcultures and human endoparasites which can cause infection, allergy or toxicity.

Celculture: the artificial cultivating of cells of multicellular organisms.

Micro-organisms: a cellular or non-cellular microbiological entity with the ability to multiplication or transferring genetic material.

Comments/remarks: Directive 2000/54 is transposed into Dutch Law

References:

- Working Conditions Act, Art. 5

- Working Conditions Decree, Art. 4.84-4.101

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2015

9.2 Chemical hazards

Yes.

9.2.1 Handling, storage, labelling and use

Summary/citation: The Globally Harmonised System of Classification and Labelling of Chemicals (GHS) has been implemented in the EU by Regulation (EC) No 1272/2008 on classification, labelling and packaging of substances and mixtures (the 'CLP Regulation'). The CLP Regulation replaces previous rules on classification, labelling and packaging of substances (Directive 67/548/EEC) and preparations (Directive 1999/45/EC) after this transitional period.

In line with the GHS standard, CLP allows for the identification of hazardous chemicals and the communication of these hazards to users through labelling. It also provides the basis for safety data sheets (SDS) regulated under the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) Regulation, and sets requirements for the packaging of hazardous chemicals. Since it is an Regulation its obligations are directly applicable in Dutch law and employers must follow them.

Comments/remarks: In the Netherlands the EC Regulation 1272/2008, on classification, labelling and packaging of substances and mixtures, has been implemented as follows.

	Situation	If	Than	Comment
1	Substance or mixture brought to	Categorized in accordance to the EU-GHS	Labeling and package in accordance to EU-GHS obliged	

	market before 1 December 2010			
2	Substance brought to market after 1 December 2010	Delivered before 1 December 2010	Labelling and package in accordance to Environmental Management Act allowed	Exemption till 1 December 2012
3	Substance brought to market after December 2010	Delivered after 1 December 2010	Labelling and package in accordance to EU-GHS obliged	Exceptions 6,7,8 could be applicable
4	Mixture brought to market before 1 June 2015	Delivered before 1 June 2005	Labelling and package in accordance to Environmental Management Act allowed	Exempted till 1 June 2017
5	Mixture brought to market after 1 June 2015	Delivered after 1 June 2005	Labelling and package in accordance to EU-GHS obliged	
6	Combination packaging (Outer-, Inner-	Outer package needs to comply in accordance to the	Only for the inner- and intermediate packaging in	EU-GHS pictograms on the

	and intermediate packaging)	transportation legislation concerning labelling requirements	accordance to EU-GHS	outer package are allowed
7	Outerpackage	Outer package does NOT need to comply in accordance to the transport legislation	Only for the Inner and intermediate packaging in accordance to EU-GHS is required	If the inner and or intermediate package are clearly visible than a labelling on the outerpakage is not required
8	Single Packages	Single package needs to comply to the Conditions of Carriage in accordance to the transport legislation	Packaging in accordance to EU-GHS is required as well as the requirements in accordance to the transport legislation	It is allowed to omit the labelling if the Hazards are the same.

References:

- Wet vervoer gevaarlijke stoffen
- Working Conditions Decree, Art. 1.1 clause 5
- Accord Européen relatif au transport international des Marchandises Dangereuses par route
- Accord Européen relatif au Transport International des Marchandises Dangereuses par voie de Navigation
- Regulation (EC) No 1272/2008

- Classification and Labelling (CLP/GHS)

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2015

9.2.2 Duty of manufacturers, suppliers and importers of chemicals in relation to the safety and health of users

Summary/citation: Activities which manufacture, import or use chemical substances or preparations shall also comply with the stipulations in the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) Regulation. According to the regulation, manufacturers, importers and downstream users are obliged to provide a Material Safety Data Sheet (MSDS).

Regulation (EC) No 1272/2008 on classification, labelling and packaging of substances and mixtures (the CLP Regulation) provides the basis for these MSDS.

References:

- Environmental Act Chapter 9
- Decree of 6 April 1994 to amend the Decree on packaging and indication of substances and preparations hazardous to the environment.
- Regulation (EG) No 1272/2008
- Regulation (EC) No 1907/2006

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2015

9.2.3 Pesticides

Summary/citation: The regulation of the European Union (EG) Nr. 1107/2009, applies to substances classified as an active substance, safeners or synergists and which are meant for the following use:

protecting plants or plant products against all harmful organisms or preventing the action of such organisms, unless the main purpose of these products is considered to be for reasons of hygiene rather than for the protection of plants or plant products;

influencing the life processes of plants, such as substances influencing their growth, other than as a nutrient;

preserving plant products, in so far as such substances or products are not subject to special Community provisions on preservatives;

destroying undesired plants or parts of plants, except algae unless the products are applied on soil or water to protect plants;

checking or preventing undesired growth of plants, except algae unless the products are applied on soil or water to protect plants.

It is forbidden to use a working substance which is not regulated in an admitted plant protection product, unless the substance is approved as a basic substance through Art. 23 of the regulation.

References:

- Regulation (EC) No 1107/2009
- Plant protection products and pesticides Act, Art. 19
- Plant protection products and pesticides Act, Art. 20

9.3 Ergonomic hazards

Summary/citation: The Working Conditions Act obliges the employers to ensure that the design of the workstations, the working methods, tools, and the actual work required are adapted to employees' individual characteristics. The Working Conditions Decree furthermore gives more detailed rules according to which the employer must organise workspaces, such as visual screen equipment and manual handling of loads.

Remarks/comments: Council directive 90/270/CEE, Directive 90/269/CEE are transposed into Dutch Law.

References:

- Working Conditions Act, Art. 3 clause 1 sub c

- Working Conditions Decree, Chapter 5

9.4 Physical hazards

9.4.1 Ionising radiation

Summary/citation: The Nuclear Energy Act is the main legal instrument. It regulates the use of nuclear energy and radioactive techniques and lays down rules for the protection of the public and workers against the associated risks. Based on this act, the most important decree in relation to the safety aspects of working with ionizing radiation is the Decree Radiation Protection. The Decree requests that all exposure is kept to an absolute minimum. Work and monitoring with radiation sources must only be carried out by competent persons. Employees working with radiation must have received appropriate information and instruction.

Remarks/comments: Directive 96/29/EURATOM is transposed into Dutch law.

References:

- Nuclear Energy Act
- Radiological Protection Decree

Related CEACR Comments

- Radiation Protection Convention, 1960 (No. 115) Observation 2004
- Radiation Protection Convention, 1960 (No. 115) Direct Request 2015

9.4.2 Vibration and noise

Summary/citation: The risk inventory and evaluation must determine the nature, extent and the duration of vibration and noise exposure in order to assess the risk to the health and safety of the worker in question.

The assessment and measurement of exposure to vibrations and noise must be carefully planned and carried out. If the limit values are exceeded the necessary measures must be taken, such as providing protect equipment and reduction of the duration and intensity of the exposure.

Employees who are exposed to risks from vibrations and noise at work must receive information and instruction on the outcome of the risk assessment and have the possibility to undergo medical examination when they carry out the work (for the first time – applies only to vibration).

Remarks/Comments: Council Directive 2003/10/EC and 2002/44/EC are transposed into Dutch Law.

References:

- Working Conditions Act, Art. 5
- Working Conditions Decree Art. 6.6
- Working Conditions Decree Art. 6.7
- Working Conditions Decree Art. 6.8
- Working Conditions Decree Art. 6.9
- Working Conditions Decree Art. 6.10
- Working Conditions Decree Art. 6.10a
- Working Conditions Decree Art. 6.11a
- Working Conditions Decree Art. 6.11b
- Working Conditions Decree Art. 6.11c
- Working Conditions Decree Art. 6.11d
- Working Conditions Decree Art. 6.11e

9.4.3 Working at height

Summary/citation: In case temporary work activities at height cannot be performed safely and under fitted ergonomical circumstances on an appropriate work floor, the most suitable work tools will be chosen to safeguard and maintain safe working conditions. To achieve this

Collective safety measures are prioritised above personal safety measures .

The dimensions of the work tools

Is adjusted to the nature of the work

Is adjusted to the foreseeable pressure, and

In such a way that passing through without danger is possible

The most suitable tools will be chosen for the temporary work place at height depending on traffic, the height and the duration.

The chosen access tool has the possibility of evacuation when there is the threat of danger.

Transferring from an access tool onto a platform, floor or bridge and vice versa does not bring any extra fall risk.

Where there is a risk of falling from heights or a risk from falling objects, the area in question is appropriately sign posted and access thereto is restricted. Where there is a risk of falling, safe scaffolding, frameworks, platforms or work floors are erected or the hazard is averted by mounting effective screens, railings or other such provisions.

Remarks/Comments: Directive 92/57 is transposed into Dutch Law.

References:

- [Working Conditions Decree Art. 3.15](#)
- [Working Conditions Decree Art. 3.16](#)
- [Working Conditions Decree Art. 7.23](#)

Related CEACR Comments

- [Safety Provisions \(Building\) Convention, 1937 \(No. 62\) Observation 2009](#)
- [Safety Provisions \(Building\) Convention, 1937 \(No. 62\) Direct Request 2014](#)

9.4.4 Working in confined spaces

Summary/citation: Risks that working in confined spaces can bring along are to be assessed in a risk assessment and suitable preventative measures shall be taken to minimise them.

Remarks/Comments: Council Directive 92/57, 1999/92/EC and Directive 98/24/EC are transposed into Dutch Law.

References:

- [Working Conditions Act, Art. 5](#)
- [Working Conditions Decree, Art. 3.5g](#)

9.4.5 Risks arising from poor maintenance of workplace facilities

Summary/citation: Workplaces need to be properly designed, constructed, equipped, taken into operation, used and maintained in such a way that danger to the health and safety of employees is

prevented as much as possible. Employees must have sufficient work space to ensure their health, safety and well-being and to enable them to carry out their work effectively.

References:

- Working Conditions Decree, Art. 3.1b
- Working Conditions Decree, Art. 3.2
- Working Conditions Decree, Art. 3.3
- Working Conditions Decree, Art. 3.19
- Building Decree 2012

9.4.6 Exposure to extreme temperatures

Summary/citation: The temperature at a workplace must not damage the health of employees. Otherwise, measures must be taken, such as providing personal protective equipment or limit the duration of the work.

References:

- Working Conditions Decree, Art. 6.1

9.4.7 Fire risks

Summary/citation: The Working Conditions Decree requires that sufficient fire-detectors and alarm systems to be installed at the workplace if necessary. In addition, the Building Decision 2012 contains technical requirements for the fire safety of buildings.

References:

- Working Conditions Decree, Art. 3.8
- Building Decree 2012

9.4.8 Tobacco

Summary/citation: There is a ban on smoking at work places. The employer is obliged to enforce this ban.

References:

- Tobacco Act, Art. 10 clause 1 sub c

9.4.9 Asbestos

Summary/citation: Asbestos is the collective name for a number of minerals that are made up of long, thin and microscopic fibres. It is defined by the Working Conditions Decree as:

Asbestos: substances containing one or more of the following fibrous silicates:

- 1°.actinoliet (CAS-number 77536-66-4);
- 2°.amosiet (CAS-number 12172-73-5);
- 3°.anthofylliet (CAS-number 77536-67-5);
- 4°.chrysotiel (CAS-number 12001-29-5);
- 5°.tremoliet (CAS-number 77536-68-6);
- 6°.crocidoliet (CAS-number 12001-28-4);

The risk inventory and evaluation must determine the nature, extent and the duration of asbestos exposure in order to assess the risk to the health and safety of the worker in question.

Employee exposure to asbestos must not exceed certain occupational exposure limits of asbestos fibers. If the limit values are exceeded the necessary measures must be taken, such as providing protect equipment and reduction of the duration and intensity of the exposure. Employers have the obligation to provide workers that can come into contact with asbestos with the opportunity to undergo a medical examination prior to carrying out any work involving exposure to asbestos and at least once every three years for as long as the exposure to asbestos lasts. They also must receive suitable instruction and training when working with asbestos and having the risk to be exposed to it.

Remarks/Comments: Directive 2009/148 is transposed into Dutch Law.

References:

- Working Conditions Decree, Art. 4.10a
- Working Conditions Decree, Art. 4.11
- Working Conditions Decree, Art. 4.12
- Working Conditions Decree, Art. 4.13
- Working Conditions Decree, Art. 4.17

- [Working Conditions Decree, Art. 4.18](#)
- [Working Conditions Decree, Art. 4.19](#)
- [Working Conditions Decree, Art. 4.20](#)
- [Working Conditions Decree, Art. 4.37-4.52](#)
- Asbestos Removal Decree 2005

Related CEACR Comments

- [Asbestos Convention, 1986 \(No. 162\)](#) Observation 2014
- [Asbestos Convention, 1986 \(No. 162\)](#) Direct Request 2004

9.4.10 Risks related to nanotechnology

No data available

9.4.11 Contraction of HIV in the workplace

Summary/citation: Contraction of HIV is covered by the Dutch legal framework. Employers are obliged to take action to prevent needlestick injury through measures of using safety needle devices and using needle containers for the safe disposal of sharp materials.

Employers have a duty to educate, train, and supervise on safe needle practices, as well as what to do if an injury occurs. This includes drawing up an emergency plan that is required by the Working Conditions Decree and is placed at the workplace.

The Emergency Plan includes:

Perform a risk assessment within two hours after any injection accident and, if necessary, the employee may undergo treatment. If there is a risk of HIV infection, the employee must receive PEP (post-exposure prophylaxis).

Record the risk of needlestick injuries in the risk assessment and evaluation.

Providing hepatitis B vaccination to all staff that are at risk of a needlestick injury.

Employees are also responsible for their safety and shall follow safe needle procedures and instructions of use and ask their employers for safe needle systems.

References:

- Working Conditions Act, Art. 5
- Working Conditions Decree, Art. 4.85
- Working Conditions Decree, Art. 4.97

9.5 Psychosocial hazards

Summary/citation: The employer is obliged to create a general working conditions policy that is aimed at preventing, or if this is not possible limiting, employment-related psychosocial pressure.

If employees are or can be exposed to a psycho-social workload, the risks with regard to the psycho-social workload must be assessed in connection with the risk assessment and evaluation the employer is obliged to make under the Working Conditions Act, and, with due observance of the latest technological and scientific insights, measures be determined and implemented in the plan of action meant in based on this risk assessment in order to prevent the psycho-social workload or – if this is not possible – to restrict this.

Where there is a danger of being exposed to psycho-social workload, information and instructions should be given to employees who carry out such work about the risks of psycho-social workload as well as about the measures aimed at preventing or restricting this load.

References:

- Working Conditions Act, Art. 3
- Working Conditions Decree, Art. 2.15
- Working Conditions Decree, Art. 5

9.5.1 Psychosocial risks

Summary/citation: The employer is obliged to create a general working conditions policy that is aimed at preventing, or if this is not possible limiting, employment-related psychosocial pressure. This includes psychosocial risks.

If employees are or can be exposed to a psycho-social workload, the risks with regard to the psycho-social workload must be assessed in connection with the risk assessment and evaluation the employer is obliged to make under the Working Conditions Act, and, with due observance of the latest technological and scientific insights, measures be determined and implemented in the

plan of action meant in based on this risk assessment in order to prevent the psycho-social workload or – if this is not possible – to restrict this.

Where there is a danger of being exposed to psycho-social workload, information and instructions should be given to employees who carry out such work about the risks of psycho-social workload as well as about the measures aimed at preventing or restricting this load.

References:

- Working Conditions Act, Art. 3
- Working Conditions Decree, Art. 2.15
- Working Conditions Decree, Art. 5

9.5.2 Occupational violence

Summary/citation: The employer is obliged to create a general working conditions policy that is aimed at preventing, or if this is not possible limiting, employment-related psychosocial pressure. This includes sexual intimidation, aggression and violence, discrimination aggravation and pressure of work in the employment situation that cause stress.

If employees are or can be exposed to a psycho-social workload, the risks with regard to the psycho-social workload must be assessed in connection with the risk assessment and evaluation the employer is obliged to make under the Working Conditions Act, and, with due observance of the latest technological and scientific insights, measures be determined and implemented in the plan of action meant in based on this risk assessment in order to prevent the psycho-social workload or – if this is not possible – to restrict this.

Where there is a danger of being exposed to psycho-social workload, information and instructions should be given to employees who carry out such work about the risks of psycho-social workload as well as about the measures aimed at preventing or restricting this load.

References:

- Working Conditions Act, Art. 3
- Working Conditions Decree, Art. 2.15
- Working Conditions Decree, Art. 5

9.6 Other hazardous substances

Summary/citation: Dangerous substances are defined as substances or mixtures to which employees can be exposed to during labour that because of their characteristics or the circumstances, under which the substances or mixtures exist, can be dangerous for the safety of health.

In the risk assessment and evaluation that an employer is obliged to make, the risks of accidents with dangerous substances will be systematically identified and evaluated on the basis of procedures determined to this end by the employer both during the normal operations as well as the abnormal operations of the installation or the industrial process. In this respect the presence of other substances are taken into account that in a specific situation can contribute to the risk of a major accident. The scenarios for possible major accidents shall be described. In choosing the scenarios, external hazards for the installation are taken into account. The chance of a major accident occurring and the effect of a major accident having taken place will be quantified as much as possible in the scenarios.

Reference:

- Working Conditions Act, Art. 5
- Working Conditions Decree, Art. 1.1 under 5
- Working Conditions Decree, Art. 2.5b

9.7 Machineries

Summary/citation: Machineries under Dutch law are all machines, installations, appliances and tools used at the workplace. The Working Condition Degree regulates the safety of machineries used at the workplace. The employer has to provide a safe workplace. This applies thus as well for the machineries that an employee has to work with.

The Commodities Act Decree Machines contains detailed requirements on the design, construction and the characteristics of work equipment. This should ensure that the machinery does not pose a risk to the health and safety of workers when they are appropriately installed, maintained and used.

References:

- Commodities Act Decree Machines

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2015t

9.7.1 Risks related to machinery and tools

Summary/citation: With respect to the choice of the work equipment which the employer makes available, the employer shall take into account the specific characteristics of the work as shown in the risk assessment and evaluation he is obliged to make under the Working Conditions Act, the circumstances under which it is carried out, together with the hazards already existing in the workplace and the additional hazards which might result from the use of the respective work equipment.

In order to prevent the use of the work equipment creating a hazard to the health and safety of the employees, the work equipment being made available to the employees in the workplace shall be used exclusively for the purpose, and in the manner and the place for which they have been fitted out and intended. Moreover, the work equipment should be suitable for the work to be carried out or suitably adjusted to this end. Insofar as it is not reasonably possible to avoid the hazards when using the work equipment, such measures should be taken that the hazards are restricted as much as possible. In order to achieve this the Working Conditions Decree contains provisions relating to the installation, testing, maintenance and operation of machinery, as well as requirements regarding machine guarding, alarm signals, control systems and mobile work equipment.

Remarks/Comments: Directives 2006/42 and 2009/104 are transposed into Dutch Law.

References:

- Working Conditions Act, Art. 5
- Working Conditions Decree, Art. 7.3

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2015

9.7.2 Duty of designers and/or manufacturers of machineries in relation to the occupational safety and health of operators' machineries

Summary/citation: The Commodities Act Decree Machines applies to the design, manufacture, conformity assessment and the operation of machines. Manufactures need to carry out a risk assessment to identify which health and safety requirements apply to their machinery and identify the hazards. Further, they need to ensure that their machinery complies with the essential health and safety requirements of Directive 2006/42. In the end the machinery needs to have a CE mark and must also be accompanied by a certificate of conformity, and user instructions on safe use/installation/maintenance before it can be placed on the EU market.

Remarks/Comments: Council Directive 2006/42/EC is transposed into Dutch Law.

References:

- [Decree to lay down rules concerning the safety of machines, Art. 3](#)
- [Decree to lay down rules concerning the safety of machines, Art. 3a](#)
- [Decree to lay down rules concerning the safety of machines, Art. 3b](#)
- [Decree to lay down rules concerning the safety of machines, Art. 3c](#)
- [Decree to lay down rules concerning the safety of machines, Art. 4](#)
- [Decree to lay down rules concerning the safety of machines, Art. 5](#)
- [Decree to lay down rules concerning the safety of machines, Art. 5a](#)
- [Decree to lay down rules concerning the safety of machines, Art. 6](#)
- [Decree to lay down rules concerning the safety of machines, Art. 6a](#)

Related CEACR Comments

- [Occupational Safety and Health Convention, 1981 \(No. 155\) Observation 2014](#)
- [Occupational Safety and Health Convention, 1981 \(No. 155\) Direct Request 2015](#)

9.7.3 Duty of designers, manufacturers, importers or suppliers of machineries to provide machineries information

Summary/citation: Designers, manufacturers, importers or suppliers of machineries need to ensure that machinery has a CE mark and is accompanied by a certificate of conformity, and user instructions on safe use/installation/maintenance before being placed on the EU market.

Remarks/Comments: Council Directive 2006/42/EC is transposed into Dutch Law.

References:

- [Decree to lay down rules concerning the safety of machines, Art. 3](#)
- [Decree to lay down rules concerning the safety of machines, Art. 3a](#)
- [Decree to lay down rules concerning the safety of machines, Art. 3b](#)
- [Decree to lay down rules concerning the safety of machines, Art. 3c](#)
- [Decree to lay down rules concerning the safety of machines, Art. 4](#)
- [Decree to lay down rules concerning the safety of machines, Art. 5](#)
- [Decree to lay down rules concerning the safety of machines, Art. 5a](#)
- [Decree to lay down rules concerning the safety of machines, Art. 6](#)
- [Decree to lay down rules concerning the safety of machines, Art. 6a](#)

Related CEACR Comments

- [Occupational Safety and Health Convention, 1981 \(No. 155\) Observation 2014](#)
- [Occupational Safety and Health Convention, 1981 \(No. 155\) Direct Request 2015](#)

9.7.4 Duty to purchase machineries from authorised/certificated suppliers or only if approved/certificated

Summary/citation: Companies have to ensure that they only buy machinery that has a CE mark and is accompanied by a certificate of conformity, and user instructions on safe use/installation/maintenance.

Remarks/Comments: Council Directive 2006/42/EC is transposed into Dutch law.

References:

- [Decree to lay down rules concerning the safety of machines, Art. 3](#)
- [Decree to lay down rules concerning the safety of machines, Art. 3a](#)
- [Decree to lay down rules concerning the safety of machines, Art. 3b](#)
- [Decree to lay down rules concerning the safety of machines, Art. 3c](#)
- [Decree to lay down rules concerning the safety of machines, Art. 4](#)
- [Decree to lay down rules concerning the safety of machines, Art. 5](#)
- [Decree to lay down rules concerning the safety of machines, Art. 5a](#)
- [Decree to lay down rules concerning the safety of machines, Art. 6](#)
- [Decree to lay down rules concerning the safety of machines, Art. 6a](#)

Related CEACR Comments

- [Occupational Safety and Health Convention, 1981 \(No. 155\) Observation 2014](#)
- [Occupational Safety and Health Convention, 1981 \(No. 155\) Direct Request 2015](#)

9.7.5 Maintenance of machinery and equipment

Summary/citation: The necessary measures shall be taken to ensure that the work equipment is sufficient maintained over its full useful life so as to remain in such a condition that a hazard to the health and safety of the employees is prevented as much as possible. Maintenance, repair and cleaning activities to work equipment, or to production and adjustment activities with or to work equipment, shall only be carried out if the work equipment is switched off and has been de-pressurised or is dead. If this is not possible, suitable measures should be taken in order to be able to carry out those activities safely.

Maintenance books belonging to work equipment must be kept properly up-to-date.

Assembly and disassembly of work equipment shall take place in a safe manner with due observance of any instructions from the manufacturer.

With respect to work equipment the use of which might create a specific hazard to the safety of the employees, their use must be reserved to employees who have been entrusted with this.

Employees entrusted with the conversion, maintenance, repair or cleaning of such work equipment must have specific expertise and experience to this end.

Remarks/Comments: Directive 2009/104/EC is transposed into Dutch Law.

References:

- [Working Conditions Decree, Art. 3.2](#)
- [Working Conditions Decree, Art. 7.5](#)
- [Working Conditions Decree, Art. 7.6](#)

Related CEACR Comments

- [Occupational Safety and Health Convention, 1981 \(No. 155\) Observation 2014](#)
- [Occupational Safety and Health Convention, 1981 \(No. 155\) Direct Request 2015](#)

9.7.5.1 List of equipment where applicable

No data available.

Related CEACR Comments

- [Occupational Safety and Health Convention, 1981 \(No. 155\) Observation 2014](#)
- [Occupational Safety and Health Convention, 1981 \(No. 155\) Direct Request 2015](#)

9.8 Provisions to protect workers in specific condition of vulnerability

Yes.

9.8.1 Protection of pregnancy at work

Summary/citation: When carrying out the risk assessment pregnant workers are taking into account and the specific risks that they might be exposed to are addressed. A pregnant employee's labour is organized in such a way, that her specific circumstances are taken into consideration. A pregnant employee is allowed to take more breaks in between labour. The extra break time can be no more than 1/8 of the total working hours per shift.

The pregnant employee has the right to perform the labour in a stable and regular work- and rest patron.

The pregnant employee of 18 years of age or older cannot be obligated to perform more labour than:

10 hours per shift

An average of 50 hours per week in every period of 4 joint weeks

An average of 45 hours per week in every period of 16 joint weeks

The pregnant employee cannot be obligated to perform labour on the night shift, unless the employer makes it credible this cannot reasonably be demanded of him/her.

The employer gives the pregnant employee the occasion to undergo the necessary pregnancy examinations. She maintains her salary established by time, in case she is prevented to perform her labour due to such an examination.

They also may not be exposed to certain biological agents and special rest rooms must be available.

Restrictions/obligations: The employer organises the labour of a pregnant employee and a lactating employee in such a way, and organises the work place in such a way, adapts a production- and work method in such a way and allows such tools, so the labour cannot bring any danger to the employee's safety and health and cannot cause repercussions to the pregnancy or the lactation.

References:

- [Working Hours Act, Art. 4:5](#)
- [Working Hours Act, Art. 4:6](#)
- [Working Hours Act, Art. 4:7](#)
- [Working Hours Act, Art. 4:8](#)
- [Working Conditions Act, Art. 5](#)
- [Working Conditions Decree, Art. 1.41](#)
- [Working Conditions Decree, Art. 3.48](#)
- [Working Conditions Decree, Art. 4.108](#)
- [Working Conditions Decree, Art. 4.109](#)

Related CEACR Comments

- [Maternity Protection Convention, 2000 \(No. 183\) Observation 2013](#)
- [Maternity Protection Convention, 2000 \(No. 183\) Direct Request 2011](#)

9.8.2 Protection of lactating women at work

Summary/citation: A female employee who lactates, has, when she has informed the employer of this, the right to interrupt her labour in the first 9 months of the child's life, in order to take the

necessary rest and seclusion to nurse her child or to express breastmilk. The employer offers her occasion and in case needed, a closable space at her disposal.

Restrictions/obligations: The interruptions, as meant in the first clause, happen as often and as long as needed, yet take at the highest $\frac{1}{4}$ of the working time per shift. Determining the time and duration of the interruption happens by the female employee involved after deliberation with the employer.

The duration of the interruptions is applicable to this Act [Working Hours Act] and the resting acts of labour time, on which the female employee retains her salary set per time.

Reference:

- Working Hours Act, Art. 4:8
- Working Conditions Decree, Art. 3.48
- Working Conditions Decree, Art. 4.108

Related CEACR Comments

- Maternity Protection Convention, 2000 (No. 183) Observation 2013
- Maternity Protection Convention, 2000 (No. 183) Direct Request 2011

9.8.3 Limits to women's access to specific occupations, undertakings or shifts

Summary/citation: Pregnant employees are prohibited to carry out diving work, caisson work and other work under excess pressure, work in the underground mining industry and being exposed to certain noise levels and vibrations.

Reference:

- Working Conditions Decree, Art. 6.29
- Working Conditions Decree, Art. 6.29a
- Working Conditions Decree, Art. 6.29b
- Working Conditions Decree, Art. 6.29c

Related CEACR Comments

- Underground Work (Women) Convention, 1935 (No. 45) Observation 1996

9.8.4 Limits to workers' access to specific occupations, undertakings or shifts by reason of age

Summary/citation: Since 1874 child labour is not allowed for children till the age of 12. In accordance to the current rules and regulations it is forbidden that children between the ages 13 to 15 work. There are exceptions for, for example, the movie industry but under strict rules.

At the age of 15 children are allowed to do light non-industrial work, which means they are not allowed to work in:

Factories

Activities which require the use of machines (or be in its vicinity)

Work with hazardous materials

Lift materials heavier than 10 kg

Push materials heavier than 20 kg

Work behind a cash register

Work that requires one to be at least 18 years of age

In hospitality if they serve alcohol

The maximum working hours for a 15 year old are:

2 hours (Per school day)

8 hours (Per non-school day or holiday)

12 hours (Per school week)

40 hours (Per week of holiday)

The required rest of a 15 year old is at least 12 hours per day (of which at least between 19.00 and 7.00 (for regular days) and 21.00 to 7.00 (during holidays)) after working 4.5 hours straight they are required to have a break of 30 minutes.

Children at the age of 15 are not allowed to work on Sunday unless:

The work requires it to do so and it is stated in the labour agreement

Parents have given clear consent

Children between the ages of 16 to 17 are allowed to do a few risky activities, but only under competent supervision. Which means the supervisor knows the risks of the activities is, keeps a close eye on the activities and if the child does not cause any hazardous situations within these activities. Amongst these activities are:

Working in an environment in risk of collapse

Working on or in the vicinity of high voltage

Working with exploding, caustic or corrosive substances

Working with pressurised gasses (or the chamber where it is maintained)

Working with wild or venomous animals or animals which can cause a dangerous situation

Working in a slaughter house

Monotonous work

Working behind a machine in the form of a conveyor belt in which he/she cannot determine its pace

Ride a tractor (not on the public road) and hitching or unhitching machines

Children between the ages of 16 to 17 are not allowed to do activities which can cause a danger to the safety or health of the child at hand such as working in loud environments or working with (very) hazardous materials/ toxic substances or materials.

The maximum working hours for a child between the ages of 16 to 17 are:

9 hours a day

45 hours per week

160 hours per 4 weeks

There is a minimum daily rest of 12 hours of which at least between 23.00 till 6.00. After working 4.5 hours straight they are required to have a break of 30 minutes. (Note: School hours are also considered as working hours)

Working on Sundays is only allowed if the following conditions are met:

The work requires it to do so and it is stated in the labour agreement

The (individual) employee has given implicit consent

Circumstances that require the company to work on Sundays this needs to be in compliance to:

The Work Council or,

Employee representation or,

The workers involved

References:

- Working Hours Act, Art. 1:1 clause 3
- Working Hours Act, Art. 1:2
- Working Hours Act, Chapter 3
- Working Hours Act, Art. 4:4
- Working Hours Act, Art. 5:3
- Working Hours Act, Art. 5:4
- Working Hours Act, Art. 5:5
- Working Hours Act, Art. 5:7
- Working Hours Act, Art. 5:15

Related CEACR Comments

- Minimum Age Convention, 1973 (No. 138) Direct Request 2012
- Night Work of Young Persons (Industry) Convention (Revised), 1948 (No. 90) Direct Request 2012

10. Recording, notification and investigation of accidents/incidents and diseases

Yes.

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2015

10.1 Duty to record and/or investigate the causes of work accidents, near misses incidents and cases of occupational diseases

Summary/citation: Yes. The Inspectorate SZW (Inspectorate Social Affairs and Employment) is responsible for enforcing the OSH legislation and investigating the causes of work accidents. The Inspectorate is only notified of accidents at work leading to death, lasting injury or hospital admission. After notification the Inspectorate can start an investigation into such an accident.

References:

- [Working Conditions Act, Art. 9](#)
- [Website SZW](#)

Related CEACR Comments

- [Occupational Safety and Health Convention, 1981 \(No. 155\)](#) Observation 2014
- [Occupational Safety and Health Convention, 1981 \(No. 155\)](#) Direct Request 2015

10.1.1 Work-related accidents

Summary/citation: The employer must keep a record of any notified accidents at work, and of accidents at work leading to employees taking more than three days off work.

The employer shall ensure that the expert employees and other experts have access to these records. In addition to this obligation, the employer is also obliged to notify the supervisor about unusual events occurring in traffic which have or might have jeopardised safety, situations when safety is threatened in any way and about all incidents during the use of explosive substances which jeopardised or could have jeopardised safety. The employer shall do this every month.

References:

- [Working Conditions Act, Art. 9 clause 2](#)
- [Working Conditions Act, Art. 15a](#)
- [Working Conditions Decree, Art. 2.42c](#)

10.1.2 Near miss incidents

Summary/citation: The employer has a duty to notify the supervisor of near miss incidents. There is a specific duty for the employer to do so in case of major and unusual events in traffic or transport that might have jeopardised safety, situations that endangered the lives of persons and

in case of incidents that occurred during the use of explosive substances that could have jeopardised safety.

References:

- Working Conditions Decree, Art. 2.42c

10.1.3 Occupational diseases

Summary/citation: The responsible person, being a company doctor or the health and safety service, shall notify occupational diseases to the OSH authorities. Notification of an occupational disease shall contain at least the following information, presented in such a way that the identity of the individual concerned cannot be deduced:

- a. the diagnosis;
- b. the employee's gender and his or her year of birth;
- c. the nature and extent of the pressure at work or in working conditions;
- d. the nature of the work being done when the occupational disease arose;
- e. the employee's profession at the time of exposure, and
- f. the employer's economic activity at the time of exposure.

References:

- Working Conditions Act, Art. 9 clause 3
- Working Conditions Act, Art. 14
- Working Conditions Regulation, Art. 1.11

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2015

10.2 Employers' duty to notify OSH authorities of work related death and/or injuries to health

Summary/citation: The employer must notify the OSH authorities of any work related incident leading to death, lasting injury or hospital admission.

Any accident leading to death, shall be reported immediately by phone. Accidents leading to hospital admission shall be reported immediately after admission or when it is clear that the accident will result in hospital admission. Accidents leading to lasting injury shall be reported immediately after the occurrence or when it is clear the accident will result in lasting injury.

References:

- [Working Conditions Act, Art. 9 clause 1](#)
- [Working Conditions Decree, Art. 2.1](#)

Related CEACR Comments

- [Labour Inspection Convention, 1947 \(No. 81\)](#) Observation 2015
- [Labour Inspection Convention, 1947 \(No. 81\)](#) Direct Request 2015
- [Occupational Safety and Health Convention, 1981 \(No. 155\)](#) Observation 2014
- [Occupational Safety and Health Convention, 1981 \(No. 155\)](#) Direct Request 2015

11 OSH inspection and enforcement of OSH legislation

11.1 Appointment of OSH inspectors

Summary/citation: Officials in the department of Social Affairs and Employment are in charge of the inspection and are designated by the Minister of Social Affairs and Employment by resolution.

References:

- [Working Conditions Act, Art. 24](#)

Related CEACR Comments

- [Occupational Safety and Health Convention, 1981 \(No. 155\)](#) Observation 2014
- [Occupational Safety and Health Convention, 1981 \(No. 155\)](#) Direct Request 2015

11.2 OSH inspectors' powers

Summary/citation: Supervisors are entitled to enter dwellings, using the necessary equipment, without the inhabitant's consent.

Supervisors are also entitled to initiate an investigation into an accident at work at any time. They will produce a report on the investigation.

Supervisors shall produce reports in order to comply with the General Administrative Law Act; these reports, and reports of accidents, will be sent by the supervisors to employers, works councils and staff representation bodies.

Supervisors are entitled to use citizen service numbers or, in the absence of such, tax and social insurance numbers in processing personal data, insofar as this is reasonably necessary for the performance of their duties.

Supervisors shall consider as rapidly as possible all requests to start an investigation submitted by a works council or a staff representation body, or by an association of employees which under its articles of association has been set up in order to defend the interests of its members as employees and acts in this capacity in the business or sector in question and has full legal capacity.

When conducting investigations into violations, supervisors are entitled to stop any individual and ask him/her to give his/her surname, first names, date of birth and year of birth and address, insofar as this is reasonably necessary to allow them to perform their duties.

Provisions may be established in or by virtue of an order in council stating that in circumstances and ways to be specified in the order, the individual performing work, or having it performed, in territorial waters or the exclusive economic zone is required to transport supervisors exercising their powers to locations indicated by the supervisors where the work is being or will be performed.

References:

- Working Conditions Act, Art. 24

11.2.1 Power to enter workplaces

Summary/citation: These are based on the General Administrative Law Act:

An inspector is empowered to enter any place with the exception of a dwelling if he does not have the occupant's consent, taking with him the necessary equipment. If necessary, he may gain entrance with the assistance of the police. He may be accompanied by persons he has designated for the purpose.

Additional powers can be found in the Workers Conditions Act:

Supervisors are entitled to enter dwellings, using the necessary equipment, without the inhabitant's consent.

References:

- Working Conditions Act, Art. 24 clause 3

General Administrative Law Act, Art 5:15

Related CEACR Comments

- Labour Inspection Convention, 1947 (No. 81) Observation 2015
- Labour Inspection Convention, 1947 (No. 81) Direct Request 2015

11.2.2 Power to inspect and carry out any examination, test or enquiry

Summary/citation: 1. An inspector is empowered to inspect, survey and take samples of goods or land.

2. He is empowered to open packaging for this purpose.

3. Unless otherwise provided by or pursuant to law, the inspector shall, if possible, take a second sample at the request of the interested party.

4. If it is impossible to inspect, survey or sample goods on-site, the inspector may take the goods away for a short time for this purpose, giving a written receipt for them.

5. Where possible, the samples taken shall be returned.

6. The interested party shall at his request be informed as soon as possible of the results of the inspection, surveying or sampling

References:

- General Administrative Law Act, Art. 5:18

Related CEACR Comments

- Labour Inspection Convention, 1947 (No. 81) Observation 2015
- Labour Inspection Convention, 1947 (No. 81) Direct Request 2015

11.2.3 Power to investigate

Summary/citation: Supervisors are entitled to initiate an investigation into an accident at work at any time. They must produce a report of the investigation. The power to investigate is based on the rules of the General Administrative Law Act with additional powers being regulated in specific laws such as the Working Condition Act.

The investigative powers in the General Administrative Law Act are the right to enter places, to demand information, business information and documents and inspect means of transport. In specific laws these powers can be expanded or limited.

References:

- Working Conditions Act, Art. 24
- General Administrative Law Act, Chapter 5.2

Related CEACR Comments:

Asbestos Convention, 1986 (No. 162) Observation 2014

11.2.4 Duty to provide advice on OSH

Summary/citation: Supervisors shall consider as rapidly as possible all requests to start an investigation submitted by a works council or a staff representation body, or by an association of employees which under its articles of association has been set up in order to defend the interests of its members as employees and acts in this capacity in the business or sector in question and has full legal capacity.

This advice can be given by either the Inspectorate SZW or by a government certified organisation ('Arbodienst'). In most of the cases the certified organisation is asked to provide advice on the matter since there is an in-depth knowledge of the specific sector.

The inspectorate gives general advice and this is provided on their website (www.arboportaal.nl).

Comments/Remark: The inspector is allowed to make use of an administrative enforcement order to empower the Inspectorate SZW to carry out an order it has given or if it is not carried out in time.

Reference:

- Working Conditions Act, Art. 12
- Working Conditions Act, Art. 13
- Working Conditions Act, Art. 24
- General Administrative Law Act, Chapter 5.1

Related CEACR Comments

- Labour Inspection Convention, 1947 (No. 81) Observation 2015
- Labour Inspection Convention, 1947 (No. 81) Direct Request 2015

11.3 OSH inspectors' enforcement powers

11.3.1 Power to issue orders or notices

Summary/citation: 1. Designated supervisors may issue employers with an order specifying how they must comply with one or more provisions adopted under or by virtue of the Working Conditions Act.

2. Such orders mention the rules to which the method of compliance applies and lay down a date by which this must be done.

3. Employers are obliged to obey the order. Employees are required to obey the order if this is specified in the order. Employers shall ensure that employees are informed of their obligations as rapidly as possible.

4. For the purposes of the preceding paragraphs, the word 'employers' also applies to the individuals such as self-employed persons, volunteers and others for as far as the the Working Conditions Act applies to them.

References:

- Working Conditions Act, Art. 27

Related CEACR Comments

- Labour Inspection Convention, 1947 (No. 81) Observation 2015
- Labour Inspection Convention, 1947 (No. 81) Direct Request 2015

11.3.2 Power to impose financial penalties

Summary/citation: The power to impose financial penalties is based on the General Administrative Law Act with additional powers being regulated in specific laws such as the Workers Conditions Act. In these specific laws these powers can be expanded or limited. Either an administrative fine, which works incremental, or a financial penalty may be imposed by the inspector depending on the severity of the infringement.

A designated official who answers to Our Minister may, in the event of a violation of any regulation or prohibition pursuant to the Working Conditions Act which has been made an administrative finable offence or a punishable offence under the Economic Offences Act, issue a warning in writing to the employer that, in the event of a repeated violation or a subsequent violation of the statutory obligations or prohibitions as specified in the warning, or similar obligations or prohibitions designated by order in council, an order will be imposed to the effect that the work specified by him will be shut down for not more than three months or may not commence.

References:

- Working Conditions Act, Art. 28a
- General Administrative Law Act, Chapter 5.3.1
- General Administrative Law Act, Chapter 5.3.2
- General Administrative Law Act, Chapter 5.4

11.3.3 Power to revoke or suspend licenses or authorisations

Summary/citation: The power to revoke or suspend licenses or authorisations is based on the General Administrative Law Act with additional powers being regulated in specific laws such as the Workers Conditions Act. In these specific laws these powers can be expanded or limited.

References:

- General Administrative Law Act, Chapter 5.3

Related CEACR Comments

- Labour Inspection Convention, 1947 (No. 81) Observation 2015
- Labour Inspection Convention, 1947 (No. 81) Direct Request 2015

11.3.4 Power to require the cessation of dangerous work

Summary/citation: Designated supervisors may give verbal or written and dated orders requiring individuals to leave locations designated by them, or requiring activities designated by them to be stopped (or not to be started), if they have good grounds to believe that individuals would be at serious risk if they remained in these locations or if the activities in question were carried out.

If a warning has been issued, and the violation is repeated or a subsequent violation the official referred to in the first paragraph, may make an administrative decision to issue the employer an order which will commence with effect from the point in time specified in the administrative decision. This administrative decision will not be issued as long as no administrative fine has been imposed for the first violation referred to in the first paragraph and no official report has been drawn up.

References:

- Working Conditions Act, Art. 28
- Working Conditions Act, Art. 28a

Related CEACR Comments

- Labour Inspection Convention, 1947 (No. 81) Observation 2015
- Labour Inspection Convention, 1947 (No. 81) Direct Request 2015

11.3.5 Power to initiate prosecutions

Summary/citation: The enforcement of the Workings Conditions act is essentially done by the Inspectorate SZW. However in certain cases, such as a fatal workplace accident, the public prosecutor will perform inquires and collaborates with the Inspectorate SZW.

References:

- Working Conditions Act, Art. 32
- Criminal Proceedings Act, Art. 167
- Criminal Proceedings Act, Art. 242

11.3.6 Power to conduct prosecutions

Summary/citation: The enforcement of the Workings Conditions act is essentially done by the Inspectorate SZW. However in certain cases, such as a fatal workplace accident, the public prosecutor will perform inquires and collaborates with the Inspectorate SZW.

References:

- Working Conditions Act, Art. 32
- Criminal Proceedings Act, Art. 167
- Criminal Proceedings Act, Art. 242

11.3.7 Other enforcement powers

Summary/citation: The inspector is allowed to make use of administrative enforcement. The employer concerned has to follow the instructions/remarks by the inspector.

The inspector may impose either an administrative fine, which works incremental, or a financial penalty depending on the severity of the infringement.

Reference:

- General Administrative Law Act, Chapter 5.1
- General Administrative Law Act, Chapter 5.3.1
- General Administrative Law Act, Chapter 5.3.2
- General Administrative Law Act, Chapter 5.4
- Economic Offences Act, Titel III

11.4 Application of sanctions by courts

Yes.

11.4.1 Financial penalties for legal persons

Summary/citation: The power to impose financial penalties is based on the Criminal Code with additional powers being regulated in specific laws such as the Workers Conditions Act. In these specific laws these powers can be expanded or limited.

The maximum financial penalty for the criminal act under the Working Conditions Act is a fine of the sixth category (2016; € 820.000/\$906.584) and for an infringement of the Working Conditions Act the penalty is a fine of the fifth category (2016; € 82.000/\$90.077).

Suspects who have committed a crime or offence under the Working Conditions Act will be subpoenaed for the financial criminal division of the court; however, depending on the crime they can also be subpoenaed for other criminal divisions of the court.

References:

- Working Conditions Act, Art. 34
- Criminal Code, Art. 23
- Economic Offences Act, Art. 1
- Economic Offences Act, Art. 36 clause 2

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2015

11.4.2 Financial penalties for natural persons

Summary/citation: The power to impose financial penalties is based on the General Administrative Law Act and the Criminal Code with additional powers being regulated in specific laws such as the Workers Conditions Act. In these specific laws these powers can be expanded or limited.

The inspector may impose either an administrative fine, which works incremental, or a financial penalty depending on the severity of the infringement.

The maximum financial penalty for the criminal act under the Working Conditions Act is a fine of the sixth category (2016; € 820.000/\$906.584) and for an infringement of the Working Conditions Act the penalty is a fine of the fifth category (2016; € 82.000/\$90.077).

Suspects who have committed a crime or offence under the Working Conditions Act will be subpoenaed for the financial criminal division of the court; however, depending on the crime they can also be subpoenaed for other criminal divisions of the court.

References:

- Working Conditions Act, Art. 34
- Criminal Code, Art. 23
- Economic Offences Act, Art. 1
- Economic Offences Act, Art. 36 clause 2

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2015

11.4.3 Non-financial sanctions

Summary/citation: Non-financial sanctions are dependent on the severity and type of the infringement. In the event that the infringement of the Working Conditions Act is seen as an economic offence it will be seen as a crime if it is proven to be intentional. Possible non-financial sanctions are:

A term of community service

Partial or full suspension of the activities of the convicted employer

Confiscation of objects

Disqualification from certain rights

Publication of the judgment

Withdrawal from circulation

Special confiscation of unlawfully obtained gains and compensation

References:

- Economic Offences Act, Art. 6 clause 1 sub 1
- Economic Offences Act, Art. 6 clause 1 sub 3
- Economic Offences Act, Art. 7
- Economic Offences Act, Art. 8

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2015

11.4.4 Criminal liability

Summary/citation: In the event that the infringement of the Working Conditions Act is seen as an economic offence it will be seen as a crime if it is proven to be intentional. Criminal intent is the case if the a repeated violation or a subsequent violation of the statutory obligations or prohibitions as specified in the warning, or similar obligations or prohibitions designated by order in council. The burden of proof is on the employer.

Reference:

- Economic Offences Act, Art. 1
- Criminal Proceedings Act, Art. 167

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2015

11.4.5 Terms of imprisonment for natural persons

Summary/citation: The maximum penalty for a criminal act under the Working Conditions Act is a prison sentence of six years and for an infringement of the Working Conditions Act the penalty is a prison sentence of six months.

Suspects who have committed a crime or offence under the Working Conditions Act will be subpoenaed for the financial criminal division of the court; however, depending on the crime they can also be subpoenaed for other criminal divisions of the court.

In the case the infringement has led to involuntary manslaughter the maximum penalty is four years imprisonment.

Reference:

- Economic Offences Act, Art. 1 clause 1
- Economic Offences Act, Art. 6 clause 1 sub 1
- Criminal Code, Art. 307

Related CEACR Comments

- Occupational Safety and Health Convention, 1981 (No. 155) Observation 2014
- Occupational Safety and Health Convention, 1981 (No. 155) Direct Request 2015