

L. N. 31/2004

THE FACTORIES AND OTHER PLACES OF WORK (SAFETY AND HEALTH COMMITTEES) RULES, 2004

Citation 1. These Rules may be cited as the Factories and Other Places of work (Safety and Health Committees) Rules, 2004.

Interpretation 2. In these Rules except, where the context otherwise requires:--
“audit” means, periodic evaluation of working environment and organizational management systems in a factory or a workplace for prevention of accidents, occupational diseases and ill health and damage to property.

“chairman” means chairman referred to in rule 5(5);

“committee” means the Safety and Health Committee established pursuant to section 9 of the Act;

“competent person”, in relation to any duty or function, means a person who has had adequate training, relevant qualifications and experience to enable him to perform that duty or function;

“director” means the Director of Occupational Health and Safety Services appointed under the Act;

“management” means the occupier and the administrative staff, as opposed to the workers;

“occupational health and safety officer” means an officer appointed under section 26 of the Act;

“occupier” means the person or persons in actual occupation of a workplace, whether as the owner or not;

“regular employee” means a person employed on permanent, temporary, or contract terms, including contractors or suppliers, and “regularly employ” shall be construed accordingly;

“workplace” includes any land, premises, location, vessel or thing at, in, upon, or near which a worker performs his duty in accordance with his contract of employment;

- Application
3. These Rules shall apply to all factories and other workplaces, which regularly employ twenty or more employees.
- Formation of Committees
4. (1) The occupier of every factory or other workplace to which these Rules apply shall establish a Safety and Health Committee in the manner provided in these Rules.
- (2) A safety and Health Committees shall consist of safety representatives from the management and the workers in the following proportions-
- (a) in the case of factories or other workplaces which regularly employ between twenty and one hundred employees, not less than three safety representatives each from the management and from the workers;
 - (b) in the case of factories or other workplaces which regularly employ between one hundred and one thousand employees, not less than five safety representatives each from the management and the workers; and
 - (c) in the case of factories or other workplaces which employ one thousand or more employees, not less than seven safety representatives each from the management and the workers.
- (3) The occupier shall, not later than six months after the coming into operation of these Rules, appoint a competent person, being a member of the management staff, to be responsible for safety, health and welfare in the factory or workplace.
- (4) The person appointed under paragraph (3) shall be the Secretary to the Committee.
- Organization of the Committee
5. (1) The safety representatives from -
- (a) the management, shall include the occupier or his duly authorized representative, and other persons appointed for the purpose of these Rules by the occupier; and
 - (b) the workers, shall be elected by the workers in accordance with these rules.
- (2) The Occupier shall organize and oversee the election of the representatives of the workers following a procedure agreed upon between the occupier and the workers
- (3) The occupier shall, in overseeing elections under paragraph (2), ensure, as far as possible –
- (a) equitable representation of departments or units that are detached from the main office; and
 - (b) gender parity.
- (4) Safety representatives shall serve on the Committee for a term of three years and shall be eligible for re-election or re-appointment for one further term.
- (5) The occupier, or the occupier’s duly authorized representative, shall be the chairman of the Committee.

Functions and duties of the Committees

6. The functions of the Committee shall be to –
- (a) establish a schedule of inspection of the workplace for each calendar year;
 - (b) conduct safety and health inspections at least once in every three months;
 - (c) inspect, investigate and make recommendations to the occupier immediately any accident or dangerous occurrence takes place;
 - (d) identify occupational hazards and cases of ill health among workers at the workplace and make appropriate recommendations to the occupier.
 - (e) compile statistics of accidents, dangerous occurrences and cases of ill-health as primary data for providing remedial measures, planning and allocation of resources.
 - (f) investigate complaints relating to workers' health, safety and welfare at the workplace and make representations to the occupier on their findings;
 - (g) advise on the adequacy or otherwise of safety and health measures for particular hazardous work or activities;
 - (h) establish effective communication channels on matters of health and safety between the management and the workers;
 - (i) organize such contests or activities necessary for achieving the fulfilment of the mandate of the committee;-
 - (j) conduct seminars and workers' education programmes and provide information for safety, health and welfare at the workplace, and
 - (k) carry out any other functions necessary for the promotion of a safe and healthy working environment.

Meetings and minutes of the committee

7. (1) The Committee shall meet not less than four times every year and not more than three months shall elapse between the date of one meeting and the date of the next meeting.
- (2) (a) Notwithstanding paragraph (1), the chairman may convene a meeting of the Committee within twenty four hours following any accident or other dangerous occurrence, or the outbreak of an unusual illness, at the workplace.
- (b) The minutes of a meeting convened under subparagraph (a) shall be forwarded to the director within seven days.

- (3) Without prejudice to the foregoing, the chairman of a Committee may, on the application of at least half of the members, convene a special meeting of the Committee.
- (4)(a) The quorum shall be not less than two thirds of members representing employees and one third representing the employer.
- (b)The director or his representative may, on his own initiative or upon invitation by the chairman, attend a meeting of the committee
- (5) At least seven days' written notice of every meeting of the committee shall be given to every member of the Committee.
- (6) The Committee may invite on an *ad hoc* basis to its meetings or interview any person it believes has information in relation to any matter which is being considered by the Committee.
- (7) The Committee may co-opt one or more persons by reason of their particular knowledge or experience in health and safety matters as an advisory member of the committee, but such co-opted member shall not be entitled to vote.
- (8) The secretary of the Committee shall in the course of exercising his functions as such cause a summary of the minutes of every meeting, giving the final decisions and plans of actions arrived at therein to be posted at a prominent place so as to be easily accessible to the workers.
- (9) The director may require the occupier to furnish his office with a schedule of the meetings of the Committee and the proceedings of the same.

Role of the Committee

8. (a) The chairman of the Committee shall -
 - (i) preside over all committee meetings at which he is present;
 - (ii) keep the members informed of the safety and health policy of the organization;
 - (iii) assist the Committee in setting its objectives and its scope of activities; and
 - (iv) assign responsibilities to members.
- (b) The Secretary to the Committee shall -
 - (i) arrange and co-ordinate Committee meetings in consultation with the chairman;
 - (ii) take minutes at Committee meetings;
 - (iii) maintain an up to date record of the activities of the Committee;
 - (iv) obtain and analyse statistics for Committee meetings;
 - (v) co-ordinate and monitor occupational safety and health programmes;
 - (vi) disseminate safety and health information to members;
 - (vii) draw up safety and health inspection schedules;
 - (viii) ensure that all reports arising from the functions of the

Committee, from the director, or persons approved under these rules or under the Act are available to the Committee.

- (c) The members of the Committee shall -
 - (i) attend all Committee meetings;
 - (ii) provide feedback to their departments or units on safety, health and welfare issues raised in the meetings.
 - (iii) set good examples of safe and healthy work practices;
 - (iv) monitor compliance with safety and health rules in their respective departments or units;
 - (v) participate in the training of workers in matters related to health and safety;
 - (vi) carry out any other activities necessary for the promotion of occupational safety, health and welfare in the workplace; and
 - (vii) provide written recommendations to the occupier on areas and issues requiring action following inspections carried out under these Rules.

Duties of the occupier

- 9.** The occupier shall –
 - (a) provide, at no cost to the Committee, a suitable venue and other facilities for holding Committee meetings;
 - (b) allow members to attend the meetings and other functions of the Committee without loss of earnings, opportunities for promotion or advancement;
 - (c) ensure that all safety representatives have undertaken the training courses organized for purposes of these Rules;
 - (d) provide the Committee with -
 - (i) any information or report on any accidents, dangerous occurrences and incidents of occupational diseases immediately it comes to his knowledge;
 - (ii) statistics of accidents, dangerous occurrences, and incidents of occupational diseases;
 - (iii) all the necessary and relevant information on hazardous substances;
 - (iv) Safety and health reference materials and facilities;
 - (e) cause the monitoring and evaluation of hazards and risks identified by the Committee to be carried out by a competent person;
 - (f) develop a clearly defined safety and health policy and bring it to the notice of all employees at the work place, and send a copy of the policy to the director;
 - (g) facilitate the implementation and review of the organization's safety and health policy;
 - (h) make available to the Committee legislation on occupational safety and health;
 - (i) make a report to the director on all accidents as required under the Act;

- (j) chair meetings, and, in his absence delegate the function to a senior member of the management;
- (k) cause further specialized evaluation as necessitated by the audit report in regard to medical examination of the workers, testing and examination of plant and equipment, monitoring of the work environment or other scope whenever he is required to do so in writing by the Director
- (l) cause to be maintained a record of the proceedings of Committee meetings and reports of the audit referred to in these rules; and
- (m) ensure that all matters set out in these Rules are complied with;

Approval of safety and health advisers

10. (1) The director may invite applications by competent persons, for approval to serve as a safety and health advisers.

(2) A person shall be qualified be a safety and health advisor if such person holds a minimum qualification of a certificate in occupational safety and health from a recognised institution and has proven practical experience in this field for a minimum period of five years.

(3) The director shall consider all applications received and approve suitable persons to serve as health and safety and advisers for purposes of these Rules.

(4) The director shall by notice in the Gazette notify the appointments made under paragraph (3) and maintain a register of all persons appointed there under.

(5) Every adviser shall be issued with a certificate by the director, upon payment of the prescribed fee.

(6) The certificate issued under 10 (4) shall be renewable annually.

Duties of a safety and health adviser

11. The safety and health adviser shall; -

- (1) carry out safety and health audits of the workplace at the request of the occupier.
- (2) advise the occupier and the safety and health committee members on matters relating to occupational health and safety arising from the audit report.
- (3) submit a copy of the audit report to the director.

Training of the committee

12. (1) Every member of the Committee shall undertake a prescribed basic training course in occupational health and safety within a period of six months from the date of appointment or election as the case may be, and thereafter further training from time to time.

(2) The training course referred to in subparagraph (1) shall be in such

form and in such institutions as may be approved by the director.

- (3) The director may, on application, exempt any person from undertaking the training courses referred to in paragraph (1) where the director is satisfied that the applicant is suitably qualified for the purposes of these Rules;
- (4) The director shall, once every year, publish in the Gazette a list of the institutions approved for purposes of paragraph (2).
- (5) The director may revoke any approval or certificate issued under these Rules.

Health and safety audit

- 13.** (1) The occupier of every factory or workplace shall cause a health and safety audit of the workplace to be carried out at least once in every period of twelve months by a safety and health adviser at such a fee as may be agreed upon such adviser.
- (2) The report of the audit shall be kept by the occupier for the purposes of these Rules and a copy of the same shall be sent to the director by the adviser within a period of thirty days following the audit;

Offence in relation to audit

- 14.** (1) Any person authorized to carry out an audit under these Rules who -
 - (a) fails to make a thorough report as required by these rules;
 - (b) makes a report which is false or deficient in its technical content;
 - (c) fails to send to the director a copy of any report as required,

shall be guilty of an offence and liable to a fine not exceeding fifty thousand shillings or to imprisonment for a term not exceeding three months, or to both such fine and imprisonment.

Other offences

- 15.** Any occupier or any other person who contravenes any of these Rules shall be guilty of an offence and liable to a fine not exceeding fifty thousand shillings.