

Chapter 175.
Industrial Safety, Health and Welfare Act 1961.

Certified on: / /20 .

INDEPENDENT STATE OF PAPUA NEW GUINEA.



Chapter 175.

Industrial Safety, Health and Welfare Act 1961.

ARRANGEMENT OF SECTIONS.

PART I – PRELIMINARY.

1. Interpretation.
 - “certificate of registration”
 - “dangerous substance”
 - “employee”
 - “employer”
 - “factory”
 - “Industrial Safety Officer”
 - “manufacturing process”
 - “medical officer”
 - “permit”
 - “place of employment”
 - “premises of employment”
 - “registration”
 - “the regulations”
 - “this Act”

2. Application.
3. Factories.

PART II – ADMINISTRATION.

4. Administration of Act.
5. Industrial Safety Officers.
6. Medical officers.
7. Delegation.
8. Exemptions.
9. Reports.

PART III – INSPECTION AND GENERAL.

10. Power of inspection.
11. Orders and directions.

12. Prohibition of use of certain machines or appliances.
13. Appeals.
14. Report of offences against other legislation.

PART IV – REGISTRATION OF FACTORIES.

15. Requirement of registration.
16. Application for registration.
17. Registration, etc.
18. Certificates of registration and permits to occupy.
19. Period of registration.
20. Reasons for failure to register, etc.
21. Vacation of premises.
22. Alteration of business, premises, etc.
23. Cancellation of registration.
24. Failure to pay fees.
25. Applications in respect of more than one factory.
26. Approval for erection, etc.
27. Notification of defects.
28. Authority to occupy temporary premises.

PART V – CONDITIONS OF WORK.

Division 1 – General Provisions.

29. Cleanliness, space and ventilation.
30. Meals.
31. Sanitary and ablution facilities.
32. Means of access.
33. First-aid facilities and personnel.
34. Notification of disease or injury.

Division 2 – Particular Provisions.

35. Dangerous work.
36. Installation, operation and maintenance of boilers, etc.
37. Clothing, etc., of employees working with machinery.
38. Ventilation, etc., in certain kinds of work.
39. Protection from dust, fluff, fumes, etc.
40. Work in confined spaces.
41. Particular safety responsibilities of employees.

Division 3 – Industrial Safety Orders.

42. Declaration of dangerous trades, occupations and processes.
43. Orders.
44. Application of declarations of dangerous trades and industrial safety orders.

PART VI – MISCELLANEOUS.

45. Obstruction, etc.
46. Unlawful use of buildings, etc.
47. Institution of proceedings, etc.
48. Relation of this Act to other laws.
49. Application of Standard Codes.
50. Regulations.

INDEPENDENT STATE OF PAPUA NEW GUINEA.



AN ACT

entitled

Industrial Safety, Health and Welfare Act 1961,

Being an Act relating to industrial safety, health and welfare, and for related purposes.

PART I. – PRELIMINARY.

1. INTERPRETATION.

(1) In this Act, unless the contrary intention appears–

“**certificate of registration**” means a certificate of registration issued under Section 18;

“**dangerous substance**” means a substance of an explosive, inflammable, combustible, corrosive, poisonous, infectious, irritating, toxic, obnoxious or otherwise dangerous nature;

“**employee**” means a person who has entered into or works under a contract of service or apprenticeship;

“**employer**” means a person, firm or association employing one or more employees;

“**factory**” means a building or place–

(a) in which employees are engaged directly or indirectly–

(i) in a manufacturing process; or

(ii) in the generation of power (other than for private domestic purposes of the owner); or

(b) that is declared under Section 3 to be a factory for the purposes of this Act;

“**Industrial Safety Officer**” means an industrial Safety Officer appointed under Section 5;

“manufacturing process” means a handicraft or process in or incidental to the making, assembling, altering, repairing, renovating, preparing, ornamenting, finishing, cleaning, washing or adapting of goods or articles or parts of goods or articles—

(a) for trade, sale or gain; or

(b) as an ancillary to a business,

other than the processing of copra, rubber, coffee, cocoa, or other agricultural produce by a means that does not involve the use of electricity or of machinery worked by electrical, steam or other mechanical power;

“medical officer” means a medical officer appointed under Section 6;

“permit” means a permit under Section 17(b);

“place of employment” means premises of employment or any other place at which an employee is employed, other than an aircraft, vessel or private residence, except when it is under repair, construction, alteration or demolition;

“premises of employment” means a building, shed or other roofed or partly roofed structure in which an employee is regularly employed;

“registration” means registration as a factory under Section 17;

“the regulations” means any regulations made under this Act;

“this Act” includes the regulations.

(2) In this Act, a reference to a Standards Association of Australia Code shall be read as a reference to a Standard Code published by the Standards Association of Australia, as more particularly described from time to time by the Minister by notice in the National Gazette.

2. APPLICATION.

(1) This Act applies to and in relation to the State, and an authority established by or under law.

(2) This Act does not apply to or in relation to a mine, matter or thing to which the *Mining (Safety) Act 1977* applies.

(3) Except where otherwise specifically stated, this Act does not derogate any power granted under, or relieve a person from any liability or duty under, any other law.

3. FACTORIES.

(1) The Minister may, by notice in the National Gazette, declare a building or place to be a factory for the purposes of this Act.

(2) Where the Minister, by special order, so directs, parts of a factory in which different branches or departments of work are carried on shall be deemed to be different factories for all or any of the purposes of this Act specified in the order.

(3) A part of a factory may, on the written application of the occupier and with the written approval of the Departmental Head, be taken for the purposes of this Act to be a separate factory.

(4) Where a place situated within the close, curtilage or precincts of a factory is solely used for some purpose other than a manufacturing process carried on in the factory, that place—

- (a) shall be deemed not to form part of the factory for the purposes of this Act; and
- (b) shall, if it would otherwise be a factory, be deemed to be a separate factory.

PART II. – ADMINISTRATION.

4. ADMINISTRATION OF ACT.

(1) The Departmental Head is, subject to any directions of the Minister, charged with the administration of this Act.

(2) The Departmental Head has and may exercise all the powers and functions of an Industrial Safety Officer under this Act.

5. INDUSTRIAL SAFETY OFFICERS.

(1) The Minister may, by notice in the National Gazette, appoint officers to be Industrial Safety Officers.

(2) On appointment, an Industrial Safety Officer shall be issued with a certificate of appointment in the prescribed form.

(3) An Industrial Safety Officer has such powers, functions, duties and responsibilities as are conferred or imposed on him by this Act.

6. MEDICAL OFFICERS.

The Director of Public Health may, by notice in the National Gazette, appoint medical practitioners to be medical officers for the purposes of this Act.

7. DELEGATION.

The Departmental Head may, by writing under his hand, delegate to an Industrial Safety Officer all or any of his powers and functions under this Act (except this power of delegation).

8. EXEMPTIONS.

The Departmental Head may, by written notice, exempt an employer or a place of employment from all or any of the provisions of this Act, subject to such conditions and for such period as he thinks fit.

9. REPORTS.

The Departmental Head shall present to the Minister, at least once in every year, for presentation to the Parliament, a report—

- (a) reviewing the operation of this Act; and
- (b) drawing attention to any measures that are, in his opinion, desirable for achieving the purposes of this Act.

PART III. – INSPECTION AND GENERAL.

10. POWER OF INSPECTION.

(1) An Industrial Safety Officer may, at all reasonable times and with or without notice to any person, enter any premises or place at which he has reasonable grounds for suspecting that an employee is, or has recently been, employed.

(2) For the purpose of or in the course of an inspection under Subsection (1), an Industrial Safety Officer may inspect, test and record details of—

- (a) boilers, pressure vessels, machinery, plant, equipment, fittings, appliances, tools or dangerous substances; and
- (b) storage facilities; and
- (c) safety measures, devices and appliances; and
- (d) such other things used, kept or stored at or on the premises or place of employment as are prescribed.

(3) An Industrial Safety Officer may, for the purposes of this Act, examine, test or take samples of any material, matter or thing on, produced, used or stored on, any place referred to in Subsection (1).

(4) At the time of taking a sample under Subsection (3), an Industrial Safety Officer shall, if so required by the employer or the owner or occupier—

- (a) divide the sample into three parts; and
- (b) label or mark, and seal or fasten up, each separate part in such manner as its nature allows; and
- (c) deliver one part to the owner, employer or occupier, retain one part and arrange for the remaining part to be submitted to examination, test or analysis.

(5) Where an accident has occurred at a place of employment, an Industrial Safety Officer may take—

- (a) for examination, test or analysis; or
- (b) as an exhibit in any proceedings under this Act,

anything that he thinks may have been concerned in or responsible for the accident.

(6) An Industrial Safety Officer may at all reasonable times question an employee and the employer or the occupier or owner of the property in regard to any matter that, in the opinion of the Officer questioning, affects the safety, health or welfare of an employee.

11. ORDERS AND DIRECTIONS.

(1) The Departmental Head may issue directions, not inconsistent with this Act, to an employer as to the manner of doing or refraining from doing any matter or thing required by or under this Act to be done or not to be done.

- (2) An Industrial Safety Officer may give an order, not inconsistent with this Act—
- (a) if he is of the opinion that the continued use of any machine, plant, equipment or appliance is of danger to life, health or limb—prohibiting the use of the machine, plant, equipment or appliance, absolutely or conditionally; or
 - (b) requiring—
 - (i) the fitting of guards to any specified machine, plant, equipment or appliance; or
 - (ii) the taking of such other safety precautions or measures for the protection of persons,
 - as are, in his opinion, necessary or reasonable in the circumstances; or
 - (c) requiring the issue and the use of safety equipment or protective clothing.

12. PROHIBITION OF USE OF CERTAIN MACHINES OR APPLIANCES.

For the purposes of this Act, the Departmental Head may, by notice in the National Gazette, prohibit the use of any specified type or make of machine, plant, equipment or appliance, absolutely or conditionally.

13. APPEALS.

(1) A person aggrieved by a decision, order or requirement of an Industrial Safety Officer under this Act may appeal to the Departmental Head.

(2) A person aggrieved by a decision, order, direction, requirement, declaration or notice of the Departmental Head under this Act may appeal to the Minister, whose decision is final.

(3) Notwithstanding that an appeal under this section is being or is to be made—

- (a) the decision or declaration stands; and
- (b) the order, direction or requirement shall be complied with,

until the appeal is upheld.

(4) Where—

- (a) an appeal under this section is upheld; and
- (b) a person has suffered loss or injury by reason of the matter appealed against,

the State shall pay to the person such amount by way of compensation for the loss or injury as the Minister thinks proper.

14. REPORT OF OFFENCES AGAINST OTHER LEGISLATION.

Where, on an inspection of a place of employment under this Part, an Industrial Safety Officer notices or suspects that an offence against a law other than this Act relating to—

- (a) employment; or
- (b) health or sanitation; or
- (c) fire precautions or safety measures; or
- (d) electrical equipment, installations or appliances; or
- (e) building; or
- (f) town planning,

is being or has been committed, he shall immediately report the matter in writing to the appropriate authority.

PART IV. – REGISTRATION OF FACTORIES.**15. REQUIREMENT OF REGISTRATION.**

A person shall not occupy or use any premises as a factory unless he holds a certificate of registration, a permit or an authority under Section 17(b) or 28 in respect of the premises.

16. APPLICATION FOR REGISTRATION.

Application for the registration of premises as a factory–

- (a) shall be made to the Departmental Head by written notice in the prescribed form; and
- (b) shall be accompanied by–
 - (i) a plan of the premises showing such particulars of the premises and the process to be carried on as are prescribed; and
 - (ii) such other information as the Departmental Head requires.

17. REGISTRATION, ETC.

On receipt of an application under Section 16, the Departmental Head may–

- (a) register the premises as a factory and issue to the applicant a certificate of registration; or
- (b) issue to the applicant a permit authorizing the use of the premises as a factory for a period named in the permit, or such further period as the Departmental Head allows, pending the carrying out of any alterations or repairs required to make the premises suitable for a factory; or
- (c) refuse to register the premises as a factory.

18. CERTIFICATES OF REGISTRATION AND PERMITS TO OCCUPY.

If the Departmental Head decides to register or to issue a permit to occupy the premises as a factory, he shall, on payment of the prescribed registration fee, issue to the applicant a certificate of registration or a permit, as the case may be, in the prescribed form, specifying–

- (a) the name of the occupier; and
- (b) the address and situation of the factory; and
- (c) the nature of the manufacturing process to be carried on in it.

19. PERIOD OF REGISTRATION.

(1) Subject to this Act, the registration of any premises as a factory–

- (a) continues in force until 31 December after the date of the registration; and

(b) on payment of the registration fee, may be renewed from time to time for periods each not exceeding 12 months.

(2) The Departmental Head may—

(a) refuse to renew the registration of a factory; or

(b) hold the renewal over and issue a permit to occupy the factory pending the carrying out of any order, direction or requirement under this Act.

20. REASONS FOR FAILURE TO REGISTER, ETC.

When the Departmental Head refuses—

(a) to register any premises as a factory; or

(b) to renew the certificate of registration of a factory,

he shall, on the written request of the applicant for registration or renewal, state in writing the grounds of his refusal.

21. VACATION OF PREMISES.

The person in whose name a factory has been registered shall, on ceasing to be its occupier, serve on the Departmental Head a written notice of the fact, and until he does so he—

(a) shall be deemed to be an occupier of the factory; and

(b) is subject to all the provisions of this Act relating to the factory.

22. ALTERATION OF BUSINESS, PREMISES, ETC.

(1) Where—

(a) in a registered factory there is a change in the nature of the process in respect of which the premises have been registered; or

(b) there is an extension or structural alteration of the premises constituting a registered factory,

then—

(c) the occupier shall immediately notify the Departmental Head of the change or of the extension or alteration, as the case may be; and

(d) the Departmental Head may, by written notice, require the occupier to make a fresh application for registration in the prescribed manner.

(2) If the occupier of any premises to which Subsection (1) applies fails to notify or to make application under that subsection within 14 days, or such further time as the Departmental Head allows, of the change, extension or alteration, as the case may be, the factory shall be deemed to be unregistered.

23. CANCELLATION OF REGISTRATION.

The Departmental Head may cancel the registration of a factory in respect of which an offence has been committed against this Act or against any other law relating to—

- (a) employment; or
- (b) health or sanitation; or
- (c) fire precautions or safety measures; or
- (d) electrical equipment, installations or appliances; or
- (e) building.

24. FAILURE TO PAY FEES.

If a fee is unpaid at the expiration of one month after the due date, the factory in respect of which the fee is payable shall be deemed to be an unregistered factory.

25. APPLICATIONS IN RESPECT OF MORE THAN ONE FACTORY.

(1) Subject to Subsection (2), an application for a certificate of registration or a permit may relate to more than one factory owned by the applicant and situated—

- (a) on the one block of land; or
- (b) on more blocks of land than one if those blocks are worked as a single property,

and a certificate of registration or a permit may be issued accordingly.

(2) Where, in the case of an application referred to in Subsection (1), the purposes of one or more of the factories the subject of the application are so disparate from those of the other or others that it is desirable in the circumstances that—

- (a) separate applications be made; or
- (b) separate certificates of registration or separate permits be issued,

the Departmental Head may—

- (c) reject the application and require fresh applications; or
- (d) issue separate certificates of registration or separate permits.

26. APPROVAL FOR ERECTION, ETC.

(1) A person shall not—

- (a) commence the erection of a building intended for use as a factory, or cause it to be commenced; or
- (b) carry out any structural alterations or additions to any premises—
 - (i) intended for use as a factory; or

- (ii) in respect of which a permit is in force, or cause them to be carried out,

without the prior approval of the Departmental Head.

(2) Application for approval under Subsection (1) shall—

- (a) be made in the prescribed manner by the builder or owner or his architect; and
- (b) be accompanied by—
 - (i) two copies of the plans and specifications of the building or of the structural alterations or additions, as the case may be; and
 - (ii) such other information as the Departmental Head requires.

(3) The Departmental Head shall retain one copy of the plans and specifications supplied under Subsection (2)(b).

(4) The Departmental Head shall consider an application under Subsection (2) and the plans and specifications accompanying it, and may—

- (a) approve the application, plans and specifications; or
- (b) approve them subject to conditions, or disapprove them.

(5) A building intended for use as a factory, and a structural alteration or addition to premises intended for use as a factory or in respect of which a permit is in force, shall be erected and carried out, to the satisfaction of the Departmental Head, in conformity with the relevant application, plans and specifications approved under Subsection (4).

(6) A person who—

- (a) does work, or causes work to be done, in connection with the erection of a building intended for use as a factory; or
- (b) carries out structural alterations or additions, or causes them to be carried out, to premises intended for use as a factory or in respect of which a permit is in force,

without the approval required by this section, or otherwise than in conformity with the approval, is guilty of an offence.

Penalty: A fine not exceeding K200.00.

27. NOTIFICATION OF DEFECTS.

(1) If, in the opinion of an Industrial Safety Officer, a building or place used or about to be used as a factory is unfit for that use, he shall, by written notice served personally or by post to his last-known address, on the occupier or the applicant for registration of the factory, request the occupier or applicant to comply with such requirements as the Industrial Safety Officer thinks necessary to render the office, building or place fit for occupation as a factory and specifies in the notice.

(2) Where an Industrial Safety Officer reports that in his opinion, by reason of structural difficulties, sanitary defects or otherwise, no requirements that may be specified under Subsection (1) will fit a building or place for use as a factory, he shall so report to the Departmental Head and the Departmental Head may make—

- (a) an order forbidding the use of the building or place as a factory; or
- (b) such other order as he thinks proper; or
- (c) an order cancelling the registration of the building or place.

28. AUTHORITY TO OCCUPY TEMPORARY PREMISES.

Where, through fire, tempest or other calamity, an occupier is unable to carry on his factory in the premises for which a certificate of registration has been issued, the Departmental Head may, without payment of further fee, grant an authority to occupy, for a period specified in the authority, other premises as a factory, pending the obtaining by the occupier of permanent premises.

PART V. – CONDITIONS OF WORK.

Division 1.

General Provisions.

29. CLEANLINESS, SPACE AND VENTILATION.

(1) The occupier of a factory shall maintain, to the satisfaction of an Industrial Safety Officer, the factory and the surroundings in a clean condition and free from effluvia arising from drains, earth or water closets, privies or other nuisances.

(2) A factory shall, to the satisfaction of an Industrial Safety Officer—

- (a) not be so overcrowded while work is carried on in it as to be injurious, or to tend to be injurious, to the safety, health or welfare of the persons employed in it; and
- (b) contain such amount of cubic and clear floor space for each person employed as is prescribed; and
- (c) have the prescribed amount of unobscured natural lighting; and
- (d) be ventilated in such a manner as to remove or make harmless, as far as practicable, all the gases, vapours, dust and other particles and other impurities generated in the course of the process carried on in it.

(3) The occupier of a factory shall comply promptly with any reasonable instruction given by an Industrial Safety Officer for the purpose of requiring compliance by the occupier with any of the provisions of this section.

30. MEALS.

The Departmental Head may, by written notice—

- (a) forbid the occupier of a factory to permit employees to take their meals in a room while work is being carried out in the room; or
- (b) direct the occupier to provide in or near the factory a suitable room for the purposes of a dining or eating room for the employees.

31. SANITARY AND ABLUTION FACILITIES.

An employer shall provide at all places of employment—

- (a) such sanitary and ablution facilities; and
- (b) such change-rooms, lockers and rest-rooms,

as are prescribed.

32. MEANS OF ACCESS.

In any premises of employment there shall be provided, as prescribed or as the Departmental Head in a particular case directs—

- (a) sufficient and safe means of access into and egress from any room or part of the premises for persons working in it; and
- (b) sufficient and safe means of access and passage for persons in the course of their duties in and around plant, equipment, machinery and appliances in the premises; and
- (c) barriers of adequate strength and construction to prevent persons from falling from floors, walkways, platforms, stairs, ladders, ramps or walking or working surfaces.

33. FIRST-AID FACILITIES AND PERSONNEL.

At a factory and at such other places of employment as a medical officer directs, the prescribed first-aid personnel and first-aid kit shall be provided and maintained by the employer.

34. NOTIFICATION OF DISEASE OR INJURY.

Where an employee suffers a disease or injury that arose or might have arisen out of or in the course of his employment, and that—

- (a) requires attention by a medical practitioner or medical assistant; or
- (b) results in death,

the employer must immediately give notice in the prescribed form to the Departmental Head setting out—

- (c) the nature and cause of the disease or injury; and
- (d) the circumstances in which it occurred.

Penalty: A fine not exceeding K200.00.

Division 2.

Particular Provisions.

35. DANGEROUS WORK.

(1) This section applies to work that is of a dangerous nature involving the risk of loss of life or limb or deterioration in health, and particularly in work connected with—

- (a) the use, transport or storage of dangerous substances; or
- (b) dangerous industrial processes; or
- (c) the operation of plant, appliances, equipment and machinery; or
- (d) the use of electrical equipment, appliances or tools; or
- (e) building construction; or
- (f) the use of scaffolding, ladders, overhead walks, runways or platforms; or

- (g) deep-sea diving; or
- (h) such other processes as are prescribed.

(2) An employer must not employ an employee in any work to which this section applies unless the employer—

- (a) is satisfied that the employee's physical and mental capacity are such as to fit him for the duties; and
- (b) has—
 - (i) given appropriate prior warning to the employee of the risks involved and of the measures required of the employee to reduce those risks to a minimum; and
 - (ii) appropriately instructed the employee—
 - (A) in the safe performance of his duties; and
 - (B) in the use and handling of any boilers, pressure vessels, machinery, appliances, equipment, fittings, tools and dangerous substances used in connection with those duties; and
 - (iii) provided for the use of the employee such protective clothing and equipment as is necessary for the safe performance of his duties and for his personal safety or as is prescribed; and
 - (iv) taken such other measures as will ensure that the employee is adequately safe-guarded and protected whilst employed in that work, including all safety precautions that are—
 - (A) necessary to reduce, as far as is practicable, the risk of accidental death or injury; or
 - (B) normal in relation to the particular risks involved; or
 - (C) required to be taken in any particular case by an Industrial Safety Officer or medical officer; or
 - (D) prescribed.

Penalty: A fine not exceeding K200.00.

36. INSTALLATION, OPERATION AND MAINTENANCE OF BOILERS, ETC.

The occupier of a factory must—

- (a) install, maintain and operate, in a manner adequate to safeguard and protect employees from injury, boilers, pressure vessels, machinery, plant, driving belts, electrical equipment, fittings, appliances and tools that are used or are to be used at or in any place or premises—
 - (i) in which employees work; or

- (ii) in which employees or their dependants are accommodated by or on behalf of the employer, or which they use; and
- (b) provide and maintain in good condition guards for all dangerous parts of machinery so as to prevent, as far as is practicable, accidental contact with—
 - (i) the dangerous parts of the machinery; or
 - (ii) material or objects projected from the machinery,

and in regard to such matters must in addition comply promptly with any reasonable instruction given by an Industrial Safety Officer or medical officer relating to measures for the protection of employees and their dependants.

Penalty: A fine not exceeding K500.00.

37. CLOTHING, ETC., OF EMPLOYEES WORKING WITH MACHINERY.

(1) An employee who while employed in feeding or operating machinery, or working in close proximity to machinery—

- (a) wears—
 - (i) a long-sleeved shirt, coat or garment, a rami or lava lava, a loose dress or blouse or any clothing or adornment likely to become entangled in the machinery; or
 - (ii) footwear of the type commonly known as scuffs; or
 - (iii) any protection to the hand except a glove that is not fastened at the wrist; or
- (b) unless his hair is cut safely short, fails to wear a cap, scarf or other suitable means of fastening and confining his hair,

is guilty of an offence.

(2) An employer who permits an employee to contravene Subsection (1) is guilty of an offence.

Penalty: A fine not exceeding K100.00.

38. VENTILATION, ETC., IN CERTAIN KINDS OF WORK.

(1) This section applies in any case where—

- (a) grinding, glazing or polishing on a wheel, or dressing timber, or any other process in which dust is generated that is or may be inhaled by an employee to a dangerous extent, is carried on in any premises or place of employment, and it appears to an Industrial Safety Officer that such inhalation could be to a great extent prevented by the use of a fan or by other mechanical means of ventilation; or
- (b) atmospheric humidity is artificially produced in any premises of employment by steaming or other mechanical appliances by which the

health of an employee is or may be injuriously affected, and it appears to an Industrial Safety Officer that the humidity so produced could be to a great extent lessened by the adoption of sufficient means of ventilation or prevention; or

- (c) the conditions in any premises of employment are, by reason of defective ventilation or otherwise, such that the health of an employee is or may be injuriously affected, and it appears to an Industrial Safety Officer that those conditions could be improved by use of a fan or by other sufficient means of ventilation.

(2) In a case to which this section applies, the Industrial Safety Officer may serve on the occupier of the premises or place a notice requiring him to provide a fan or other means of ventilation, as the case requires, to the satisfaction of the Industrial Safety Officer.

39. PROTECTION FROM DUST, FLUFF, FUMES, ETC.

Where, in connection with any process carried on in any premises of employment, dust, fluff, fumes or other impurities are generated or given off, of such a character or to such an extent that the inhalation of them would be likely to be injurious or offensive to persons employed in the premises—

- (a) effective measures shall be taken by the occupier—
 - (i) to prevent the accumulation in a work-room of any such dust, fluff, fumes or impurities; and
 - (ii) to protect such persons from the inhalation of the dust, fluff, fumes or impurities,

whether or not a notice has been served under Section 38;
and

- (b) where the nature of the process makes it practicable, exhaust appliances shall be provided and maintained as near as possible to the point of origin of the dust, fluff, fumes or impurities, so as to prevent them from entering the air of a work-room.

40. WORK IN CONFINED SPACES.

(1) Where work is to be done inside a chamber, tank, vat, pit, pipe, sewer, underground culvert, flue or similar confined space in which dangerous fumes, gas, dust or vapour are or is likely to be present, to enter or to be generated in the course of the work to such an extent as to involve a risk of a person being overcome—

- (a) the space shall, unless there is other adequate means of egress, be provided with a manhole that—
 - (i) is rectangular, oval or circular in shape; and

- (ii) is not less than 450 mm long and 400 mm wide, or in the case of tank wagons and other mobile plant not less than 400 mm long and 350 mm wide; and
- (b) the employer shall cause the following requirements to be complied with:—
 - (i) all practicable steps shall be taken—
 - (A) to remove any fumes, gas, dust or vapour that are present; and
 - (B) to prevent ingress of fumes, gas, dust or vapour, and, unless it has been ascertained by a suitable test that the space is free from dangerous fumes, any person entering or working in the space shall wear a belt to which there is securely attached a rope the free end of which is held by a person outside;
 - (ii) in case of emergency or where it is impracticable to comply with the requirements of Subparagraph (i), any person entering or working in the confined space shall wear a breathing apparatus of a type approved by the Departmental Head;
 - (iii) effective provision shall be made—
 - (A) to collect as near as practicable to the point of origin, and remove to the outer air, any fumes, gas, dust or vapour generated during the course of the work; and
 - (B) to ventilate the confined space;
 - (iv) breathing apparatus and reviving apparatus of a type approved by the Departmental Head and suitable belts and ropes shall be provided and maintained in a good order and condition and so as to be readily accessible;
 - (v) a sufficient number of persons employed in and about the confined space shall be persons trained and practised, to the satisfaction of an Industrial Safety Officer, in the use of apparatus referred to in Subparagraph (iv) and in the method of restoring respiration.

(2) A person shall not be permitted to work in a boiler furnace or boiler-flue or a confined space referred to in Subsection (1) in which excessive heat is present until it has been sufficiently cooled by ventilation or otherwise to make work safe for the persons employed in it.

41. PARTICULAR SAFETY RESPONSIBILITIES OF EMPLOYEES.

An employee who fails—

- (a) to immediately report to his employer any defect that he discovers in any boiler, pressure vessel, machinery, driving belt, electrical equipment, fitting, appliance or tool; or
- (b) to pay due regard to all warnings issued to him as to the risk in which he is involved in the performance of his duties; or
- (c) to take such measures as he is required to take to reduce such risks to a minimum; or
- (d) to make proper use of all safeguards, safety devices, protective clothing and equipment, and other appliances furnished for his protection,

is guilty of an offence.

Penalty: A fine not exceeding K100.00.

Division 3.

Industrial Safety Orders.

42. DECLARATION OF DANGEROUS TRADES, OCCUPATIONS AND PROCESSES.

The Minister may, by notice in the National Gazette, declare a trade, occupation or process to be a specially dangerous trade, occupation or process.

43. ORDERS.

Where a declaration has been made under Section 42, the Minister may, by order in the National Gazette, specify the special precautions to be taken in the trade, occupation or process, including—

- (a) the conditions under which persons may be employed in it; and
- (b) restrictions on employment in it.

44. APPLICATION OF DECLARATIONS OF DANGEROUS TRADES AND INDUSTRIAL SAFETY ORDERS.

Without limiting the generality of Sections 42 and 43, a declaration or an order under either of those sections may relate to a trade, occupation or process when it is carried on—

- (a) in a certain part of the country; or
- (b) during a certain period, or at certain times, seasons or occasions; or
- (c) generally, in certain circumstances,

specified in the declaration or order.

PART VI. – MISCELLANEOUS.

45. OBSTRUCTION, ETC.

A person who—

- (a) hinders or obstructs a person in the exercise of his powers or the performance of his functions under this Act; or
- (b) refuses or fails, without reasonable excuse (proof of which is on him), to comply with a notice, order, direction or requirement given under this Act; or
- (c) refuses or fails, without reasonable excuse, to answer questions asked of him under this Act,

is guilty of an offence.

Penalty: A fine not exceeding K100.00.

46. UNLAWFUL USE OF BUILDINGS, ETC.

The owner and the occupier of any building or place in respect of which the provisions of this Act, or of a notice, order, direction or requirement under this Act, are not complied with, is guilty of an offence.

Penalty: A fine not exceeding K500.00.

47. INSTITUTION OF PROCEEDINGS, ETC.

(1) Proceedings under this Act may be instituted in the name of the Departmental Head by the Departmental Head or an Industrial Safety Officer authorized for the purpose by the Departmental Head.

(2) A written authority or a telegram purporting—

- (a) to be signed or sent by the Departmental Head; and
- (b) to authorize an Industrial Safety Officer to institute any proceedings under this Act,

is, on production—

- (c) admissible in evidence in the proceedings; and
- (d) conclusive evidence of the authority of the Industrial Safety Officer to institute proceedings in the name of the Departmental Head.

48. RELATION OF THIS ACT TO OTHER LAWS.

(1) Where, in relation to an employee or to all employees at a place of employment, an act, matter or thing required to be done or provided under this Act is substantially also required to be done or provided under any other law, compliance with that last-mentioned law shall be deemed to be compliance with the relevant

provisions of this Act in relation to the employee or to the place of employment, as the case may be.

(2) Where—

- (a) an application, report, return or notice is required under this Act to be made, given or sent to an officer or authority; and
- (b) an application, report, return or notice with the same or similar requirements is also required to be made, given or sent under any other law to an officer or authority,

compliance with this Act shall be deemed to be compliance with that other law and compliance with that other law shall be deemed to be compliance with this Act.

(3) In a case referred to in Subsection (2), the officer or authority to whom the application, report, return or notice is actually made, given or sent shall immediately forward it or a copy of it to the other officer or authority.

49. APPLICATION OF STANDARD CODES.

(1) The regulations may adopt any Standard Code or procedure laid down by the Standards Association of Australia or any other prescribed authority in relation to—

- (a) the construction, maintenance or operation of plant or machinery; or
- (b) the carrying out of processes; or
- (c) any other matter or thing relating to industrial safety, health or welfare,

and compliance with that Code or procedure shall be deemed to be compliance with the relevant provisions of this Act or of any order or direction under this Act.

(2) In adopting a Standard Code or procedure under Subsection (1), the regulations may adopt it subject to such additions, modifications, conditions or restrictions as are prescribed.

50. REGULATIONS.

¹The Head of State, acting on advice, may make regulations, not inconsistent with this Act, prescribing all matters that by this Act are required or permitted to be prescribed, or that are necessary or convenient to be prescribed for carrying out or giving effect to this Act and in particular for prescribing—

- (a) the notices to be given, and the returns and records to be made, under this Act, and the form of such notices, returns and records; and
- (b) the form and conditions of registration of premises of employment and the fees payable; and
- (c) the control of thermal conditions in premises of employment; and

¹ Section 50 amended by No. 5 of 1976.

- (d) requirements for the adequate lighting of any place or places of employment; and
- (e) the space to be provided for persons employed in premises of employment, and the measures necessary to prevent the over-crowding of persons so employed; and
- (f) the nature of the flooring, lining, roofing and ceiling of premises of employment and the methods of construction to be used; and
- (g) the precautions to be taken against the risk of injury to, or impairment of, the health of employees and other persons in or at places of employment, and for imposing on certain persons the duty of seeing that the precautions are taken; and
- (h) the sanitary and ablution facilities, the change-rooms, lockers, rest-rooms, the supply and conditions of drinking water and other amenities to be provided at places of employment; and
- (i) the dimensions, situation, design, construction, material, approach space and ventilation of the places and things referred to in Paragraph (h) necessary for the health and convenience of employees and to secure proper sanitation; and
- (j) the cleaning of premises of employment; and
- (k) the measures to be taken for the prevention and extinguishing of fires at premises of employment; and
- (l) the conditions under which, and the manner in which, any goods or things may be stored in or on places of employment; and
- (m) the measures necessary for securing the safe working and usage of machinery; and
- (n) the measures necessary for securing the safe working and use of cranes and hoists; and
- (na) the measures necessary for securing the safe working and usage of lifts; and
- (o) the measures necessary for securing the safe working and use of boilers and pressure vessels; and
- (oa) the fees to be paid by employers for the inspection of boilers, pressure vessels and lifts; and
- (p) the qualifications necessary for the operation of any plant, equipment, machinery or appliance; and
- (q) the restrictions necessary on the employment of young persons or females in certain trades, occupations or processes; and
- (r) penalties of fines not exceeding K500.00 for offences against the regulations.

Office of Legislative Counsel, PNG