

BILLS SUPPLEMENT

to The Uganda Gazette No. 41, Volume CXVI, dated 16th June, 2023

Printed by UPPC, Entebbe, by Order of the Government.

Bill No. 22 Occupational Safety and Health (Amendment) Bill 2023**THE OCCUPATIONAL SAFETY AND HEALTH
(AMENDMENT) BILL, 2023****MEMORANDUM****1. The object of the Bill**

The object of this Bill is to expand the scope of the Occupational Safety and Health Act, 2006 to cater for health and safety in all workplaces; to remove the inconsistencies in the Act, and to streamline the power of the Minister to make regulations.

2. Defects in the existing law

The Occupational Safety and Health Act, 2006 was enacted in 2006. Since then, there has been a significant change in the workplace dynamics for example teleworking, virtual jobs, outsourcing and subcontracting of labour are on the increase. The law does not effectively address the rapidly evolving sectors such as telecommunication and extractive industry.

In addition, the Act considered workplaces to have a large workforce. However, the increased automation of work has drastically reduced the number of workers required in certain work activities, thereby creating new safety and health challenges.

The Act provides for the development and implementation of an occupational safety and health workplace policy for the establishment of safety committees by an employer who has at least twenty employees. The Act leaves out employers who have

less than twenty employees at a workplace who need to comply with other provisions of the Act.

The Act provides a limited list of environmental hazards. The key hygiene parameters such as noise, vibration and dust are not included in the environmental hazards, yet these are critical hazards in the construction and extractives industries and need to be monitored for compliance.

The Act provides that a lifting gear used to lift loads exceeding 50 kilograms shall not be used unless it has been tested and examined by a competent authority. This implies that a lifting gear used to lift loads below 50 kilograms may not be subjected to examination. This omission leads to use of untested gears which may endanger lives and property.

The formulae used and the maximum allowable fines in the Occupational Safety and Health Act, 2006 and the Workers' Compensation Act are different in terms of compensation for injured workers. This leads to different compensation rates for similar degrees of incapacitation. Additionally, if both Acts are used, the employer would be punished twice for the same offence.

3. Remedies

The Bill proposes to expand the scope of the Occupational Safety and Health Act, 2006 to cater for all workplaces. The Bill proposes to provide for a clear process and responsibilities for prosecution of offenders in the courts of law. In addition, the Bill will streamline powers of the Minister responsible for labour to make regulations, and will also remove inconsistencies from the Occupational Safety and Health Act, 2006 and harmonise it with other laws.

Provisions of the Bill

- 4. Clause 1** seeks to amend section 2 by expanding the scope of the definitions of the terms, "lifting appliance", "lifting gear" and "lifting machine".

5. **Clause 2** seeks to replace section 9 to empower an inspector to institute before a court any charge, information, complaint or other proceeding arising under this Act, or in the discharge of his or her duty, in consultation with the Director of Public Prosecutions.
6. **Clause 3** seeks to amend section 13 by repealing the words “as far as is reasonably practicable” in subsection (1)(a) and (b), to require employers in all cases to protect their employees.
7. **Clause 4** seeks to amend section 14 by repealing the words “who has at least twenty employees at a workplace in subsection (1), to require all employers regardless of the number of employees to put in place health and safety measures of the employees at a workplace.
8. **Clause 5** seeks to amend section 16 to impose a duty on every employer, to establish a safety committee, regardless of the number of employees.
9. **Clause 6** seeks to amend section 47, to broaden the scope of the provision by requiring an occupier to put in place measures to prevent exposure of persons to noise, dust, vibration and other hazards and to monitor the noise, dust, vibration and other hazards in the workplace as recommended by a risk assessment report.
10. **Clause 7** seeks to amend section 69 (b) for clarity.
11. **Clause 8** seeks to amend section 71 (2) by repealing the words “exceeding fifty kilograms”, to ensure that lifting gear is not used unless it is tested and examined by an authorised person, and to require every lifting gear, whether used regularly or not to be annealed in accordance with the Act.
12. **Clause 9** seeks to amend section 72 by repealing subsection (2), to require all lifting appliances, regardless of the weight they lift to be tested and examined by an authorised person before use.

13. **Clause 10** seeks to replace section 73, to widen the scope of the provision by requiring training and certification of machines, plants and equipment operators.
14. **Clause 11** seeks to amend section 74 by substituting for the headnote to section 74, to provide for the non-liability of inspectors and authorised persons.
15. **Clause 12** seeks to amend section 76 paragraphs (c) and (d), to provide for other internationally recognised units of measurements of steam pressure.
16. **Clause 13** seeks to amend section 78(2)(c) to provide for other internationally recognised units of measurements of steam pressure.
17. **Clause 14** seeks to amend section 80 to provide for other internationally recognised units of measurements of steam pressure.
18. **Clause 15** seeks to replace section 84 to require every occupier to take adequate measures to ensure electrical safety.
19. **Clause 16** seeks to amend section 98(2) to require manufacturers, suppliers, importers, all distributors of hazard substances to dispose of waste resulting from the substances in accordance with the Waste Management Laws.
20. **Clause 17** seeks to amend section 119 to empower Minister to make regulations.
21. **Clause 18** seeks to amend section 120(2) by repealing the words “with approval of the Occupational Safety and Health Board”, to streamline the power of the Minister to make regulations.

BETTY AMONGI,
Minister of Gender, Labour and Social Development.

THE OCCUPATIONAL SAFETY AND HEALTH
(AMENDMENT) BILL, 2023

ARRANGEMENT OF CLAUSES

Clause

1. Amendment of Occupational Safety and Health Act, 2006
2. Replacement of section 9 of principal Act
3. Amendment of section 13 of principal Act
4. Amendment of section 14 of principal Act
5. Amendment of section 16 of principal Act
6. Amendment of section 47 of principal Act
7. Amendment of section 69 of principal Act
8. Amendment of section 71 of principal Act
9. Amendment of section 72 of principal Act
10. Replacement of section 73 of principal Act
11. Amendment of section 74 of principal Act
12. Amendment of section 76 of principal Act
13. Amendment of section 78 of principal Act
14. Amendment of section 80 of principal Act

Bill No. 22 *Occupational Safety and Health (Amendment) Bill* **2023**

15. Replacement of section 84 of principal Act
16. Amendment of section 98 of principal Act
17. Amendment of section 119 of principal Act
18. Amendment of section 120 of principal Act

A Bill for an Act

ENTITLED

**THE OCCUPATIONAL SAFETY AND HEALTH
(AMENDMENT) ACT, 2023**

An Act to amend the Occupational Safety and Health Act, 2006 to expand the scope of the law to cater for all workplaces, to remove inconsistencies from the law, to streamline powers of the Minister to make regulations and to provide for related matters.

BE IT ENACTED by Parliament as follows:

1. Amendment of Occupational Safety and Health Act, 2006

The Occupational Safety and Health Act, 2006, in this Act referred to as the principal Act, is amended in section 2—

- (a) in the definition of “lifting appliance” by substituting for the word “means” the word “includes”;
- (b) in the definition of “lifting gear” by substituting for the word “means” the word “includes”;
- (c) in the definition of “lifting machine” by substituting for the word “means” the word “includes”;

2. Replacement of section 9 of principal Act

The principal Act, is amended by substituting for section 9, the following—

“9. Powers of the inspector to prosecute

An inspector may, in consultation with the Director of Public Prosecutions, prosecute, as the case may be, before a court any charge, information, complaint or other proceeding arising under this Act, or in the discharge of his or her duty.”

3. Amendment of section 13 of principal Act

The principal Act is amended in section 13 by repealing the words “as far as is reasonably practicable” in subsection (1)(a) and (b).

4. Amendment of section 14 of principal Act

The principal Act is amended in section 14 by repealing the words “who has at least twenty workers at a workplace” in subsection (1).

5. Amendment of section 16 of principal Act

The principal Act is amended in section 16—

(a) by substituting for subsection (1), the following—

“(1) An employer shall establish a safety committee for a workplace in accordance with regulations made under this Act.”;

(b) by repealing subsection (2).

6. Amendment of section 47 of principal Act

The principal Act is amended in section 47—

(a) by substituting for subsection (1) the following—

“(1) The occupier or owner of a workplace shall put in place measures to prevent exposure of persons to noise, dust, vibration and other hazards that can be a nuisance, irritant or could lead to health impairment.”

- (b) by inserting immediately after subsection (5), the following—

“(6) The employer shall monitor the noise, dust, vibration levels and other hazards as recommended by the risk assessment in the workplace.

(7) The Minister shall make regulations for monitoring of hygiene parameters within the workplace.”

7. Amendment of section 69 of principal Act

The principle Act is amended in section 69 by substituting for subsection (8)(b), the following—

“(b) every cage shall, on each side from which access is provided to a landing, be fitted with a gate, and for every gate efficient devices shall be provided to ensure that, when persons or goods are in the cage, the cage cannot be raised or lowered unless all the gates are closed, and the gate shall open only when the cage is at rest or landing;”

8. Amendment of section 71 of principal Act

The principal Act is amended—

- (a) in subsection (2) by repealing the words “exceeding fifty kilograms”;
- (b) in subsection (3) by repealing the words “but any lifting gear which is not in regular use is to be annealed only when necessary”.

9. Amendment of section 72 of principal Act

The principal Act is amended in section 72 by repealing subsection (2).

10. Replacement of section 73 of principal Act

The principle Act is amended by substituting for section 73, the following—

“73. Training of machine, plant and equipment operators

The Minister may make regulations for the training and certification of machine, plant and equipment operators.”

11. Amendment of section 74 of principal Act

The principle Act is amended by substituting for the headnote in section 74, the following—

“74. Non-liability of inspectors and authorised persons”

12. Amendment of section 76 of principal Act

The principal Act is amended in section 76(2) as follows—

(a) by substituting for paragraph (c) the following—

“(c) a correct steam pressure gauge, connected to the steam space and easily visible by the boiler attendant, which shall indicate the pressure of steam in the boiler in kilograms per square centimetre, bars, kilopascals, newton per square meter or pounds per square inch and have marked upon it in a distinctive colour, the maximum permissible working pressure with the units of measurement kept uniform for interconnected pressure vessels and their attachment”;

(b) in paragraph (d), by inserting immediately after the word “centimeter” the word “bars, kilopascals, newton per square meter or pounds per square

inch, with the units of measure kept uniform for interconnected pressure vessels and their attachments”.

13. Amendment of section 78 of principal Act

The principal Act is amended in section 78(2)(c) by inserting immediately after the word “centimeter” the words “, bars, kilopascals, newton per square meter or pounds per square inch, with the units of measure kept uniform for interconnected pressure vessels and their attachments”.

14. Amendment of section 80 of principal Act

The principal Act is amended in section 80(1)(c) by inserting immediately after the word “centimeter” the words “bars, kilopascals, newton per square meter or pounds per square inch, with the units of measure kept uniform for interconnected pressure vessels and their attachments”.

15. Replacement of section 84 of principal Act

The principal Act is amended by substituting for section 84, the following—

“84. Electrical safety

(1) Every occupier shall take adequate measures to ensure that—

- (a) all electrical machines, equipment and hand tools in a workplace are properly earthed or double insulated;
- (b) all electrical motors, fittings, attachments and switches are spark proof in workplaces where flammable liquids, vapours, dusts and gases are likely to be present; and
- (c) all electrical equipment and the related attachments are inspected every twelve months by a competent person and a record of the inspection kept.

(2) Every occupier shall take adequate measures to ensure that—

- (a) electrostatic charges do not build up where flammable substances are present;
- (b) the workplace building is adequately protected against lightening and its effects;
- (c) the person in charge of electrical fittings and apparatus at the workplace is trained and certified.

(3) Every workplace using electricity shall be inspected annually by an authorised electrical inspector and a certificate shall be issued upon payment of a prescribed fee.

(4) The owner or occupier of a workplace is obliged to apply to the Commissioner for a certificate, one month before expiry of the previous certificate.

(5) A person who contravenes this section commits an offence and is liable, on conviction, to a fine not exceeding one thousand currency points or to imprisonment for a term not exceeding two years or both.”

16. Amendment of section 98 of principal Act

The principal Act is amended in section 98(2) by inserting immediately after paragraph (c), the following—

- “(d) hazardous substance, mixture of substances, expired content, empty containers or related articles of hazardous products after their use is exhausted, are safely disposed of in accordance with the National Environment (Waste Management) Regulations, 2019;”

17. Amendment of section 119 of principal Act

The principal Act is amended in section 119 by substituting for subsection (1), the following—

“(1) The Minister may make regulations for the implementation of this Act.”

18. Amendment of section 120 of principal Act

The principal Act is amended in section 120(2) by repealing the words “with the approval of the Occupational Safety and Health Board”.

Cross References

National Environment (Waste Management) Regulations, 2019, S.I. No. 49 of 2019