



LAWS OF SEYCHELLES

OCCUPATIONAL SAFETY AND HEALTH DECREE

CHAPTER 151

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CHAPTER 151

OCCUPATIONAL SAFETY AND HEALTH DECREE*(14th December, 1978)*

Dec. 54 of 1978.

Act 3 of 1989.

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1. This Decree may be cited as the Occupational Safety and Health Decree. Short title.

2. In this Decree unless the context otherwise requires — Interpretation.
2/3/1989.
Cap. 69.

“Director” means the Chief Executive responsible for the general administration of the Employment Act; and

“Premises” includes any place, means of transport, work place in the open air or fixed or moveable structure on land or off-shore.

3.(1) This Decree shall apply to— Application.
3/3/1989.

- (a) all employees including employees of the Government;
- (b) all employers including the Government;
- (c) all self-employed persons where the activities could put themselves or other person at risk; and
- (d) any other persons on whom special duties are imposed by Part II.

(2) The Minister may be order, exempt any person or category of persons from the operation of all or any provisions of the Decree and subject to such conditions as he thinks fit.

PART II - DUTIES

4.(1) It shall be the duty of every employer to ensure, in accordance with the Decree and any other written law, the health, safety and welfare at work of all his employees. General Duties of employer to employees.
4/3/1989.

(2) Without prejudice to subsection (1) those duties include—

- (a) the provision and maintenance of plant and systems of work that are safe and without risks to health;
- (b) arrangement for ensuring safety and absence of risks to health in connection with the use, handling, storage and transport of articles and substances;

- (c) the provision of such information, instruction, training and supervision as is necessary to ensure the health and safety at work of his employees;
- (d) as regards any place of work under the employer's control, the maintenance of it in a condition that is safe and without risks;
- (e) the provision and maintenance of a working environment for his employees that is safe, without risks to health and adequate as regards facilities and arrangements for their welfare at work.

General duties of employers and self-employed persons to persons other than employees.
4/3/1989.

5.(1) It shall be the duty of every employer to conduct his undertaking in such a way as to ensure that persons not in his employment who may be affected thereby are not thereby exposed to risks to their health or safety.

(2) It shall be the duty of every employer to ensure that every person whom he seeks to engage as an employee has undergone, prior to engagement, a medical examination prescribed for the job category in which he is to be engaged and thereafter to ensure such periodical medical examination of the employee as may be prescribed.

(3) It shall be the duty of every self-employed person to conduct his undertaking in such a way as to ensure that he and other persons, not being his employees, who may be affected thereby are not exposed to risks to their health or safety.

Duties concerning premises.
4/3/1989.

6.(1) It shall be the duty of any person having control of premises which are used as a place of work by persons not in his employment or in which there is any plant or substance provided for use by persons not in his employment, to ensure that the premises, plant or substances are safe and without risk to health.

(2) It shall be the duty of any person having control of any premises to prevent or render harmless and inoffensive the emission from the premises of noxious or offensive gases and of smoke, grit and dust.

7.(1) It shall be the duty of any person who designs, manufactures, imports or supplies any article or substance for use at work to —

- (a) ensure that the article or substance is safe and without risk to health when properly used;
- (b) carry out any necessary testing and examination of the article or substance;
- (c) provide adequate information about the use of the article or substance to ensure that it will be safe and not a risk to health when properly used.

Duties of designers, manufacturers, importers and suppliers.
4/3/1989.

(2) It shall be the duty of any person who designs and manufactures any article or substance for use at work to carry out research to discover and eliminate or minimise any risks to safety or health caused by the article or substance when properly used.

(3) It shall be the duty of any person who erects or installs any article for use at work to ensure that the erection or installation is not unsafe or a risk to health when properly used.

8. It shall be the duty of every employee while at work—

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

General duties of employees at work.
4/3/1989.

9.(1) No person shall intentionally, or recklessly interfere with or misuse anything provided in the interest of health, safety or welfare.

(2) No employer shall levy or permit to be levied on any employee of his, any charge in respect of anything done or provided in pursuance of any specific requirement of this Decree.

Prohibition of interference or of levying of charges.
4/3/1989.

PART III - OCCUPATIONAL SAFETY BOARD

- Establishment. **10.** The Occupational Safety Board is hereby established to advise and assist the Minister in his functions under this Decree and to perform such other functions as may be assigned to it by this Decree or by the Minister.
- Membership.
5/3/1989. **11.** The Board shall consist of a chairman and not less than nine members appointed by the Minister of whom equal numbers shall represent Government, employers and employees.
- Employee
members.
5/3/1989. **12.** The members representing employees shall be appointed after consultation with such organisations as appear to the Minister to be representative of employees generally.
- Employer
members. **13.** The members representing employers shall be appointed after consultation with such organisation as appear to the Minister to be representative of employers generally.
- Vice-Chairman
and secretary. **14.** The Minister shall appoint a vice-chairman from the members and shall also appoint a secretary.
- Term of office. **15.** The chairman and other members shall hold office for periods of up to three years, as determined by the Minister, and may be reappointed.
- Vacancies. **16.** A member may resign at any time, and if a member becomes, in the opinion of the Minister, unfit to continue in office or incapable of performing his duties, the Minister may declare his office vacant.
- Quorum. **17.** The quorum at a meeting of the Board shall be seven which shall include the chairman and at least one member from each of the three groups.
- Meetings and
specialist advice. **18.** The Board shall meet not less than once every six months and may invite persons having specialist knowledge or experience to advise it.
- Other matters. **19.** The Board may otherwise regulate its own procedure.

PART IV - OFFICIALS AND HEALTH AND SAFETY
REPRESENTATIVES

20. Subject to the directions of the Minister, the Director shall be responsible for the administration of this Decree and shall perform all such functions as may be necessary for its effective implementation and enforcement.

Director
responsible for
administration.
6/3/1989.

21. For the purposes of this Decree the Minister shall appoint officers from amongst persons who in his opinion are suitably qualified to enforce the Decree.

Appointment of
officers.
6/3/1989.

22. Officers appointed under section 21 shall be provided with written instruments of appointment which the officers would be required to produce for inspection, if so requested, during the course of their duty.

Instruments of
appointment.
6/3/1989.

23. An Officer appointed under section 21 may for the purpose of carrying into effect this Decree—

Powers of
officers.
6/3/1989.

- (a) enter at any reasonable time (or at any time in a dangerous situation) any premises which he has reason to believe it is necessary for him to enter;
- (b) call for and obtain the assistance of a police officer if he apprehends any resistance to the exercise of his powers;
- (c) take with him any other person duly authorised by the Minister, and any equipment or materials;
- (d) make such examination and investigation as may be necessary;
- (e) take such samples, measurements and photographs and make such recordings as he may consider necessary;
- (f) require any person who he has reasonable cause to believe to be able to give any information relevant to any examination or investigation under paragraph (d) to answer such questions as the officer thinks fit to ask

and to sign a declaration of the truth of his answers provided that no such answers shall be admissible in evidence against that person or his spouse;

- (g) issue and require compliance with any improvement or prohibition notice which it may be his duty to serve under Part V;
- (h) exercise any other power which is necessary for the effective performance of his duties.

Prohibition of
obstruction of
officials.
6/3/1989.

24. No person shall resist, hinder or obstruct the Director or officer appointed under section 21 in the exercise of his functions under this Decree.

Health and safety
representatives.
6/3/1989.

25. In categories of enterprises designated by the Director as involving particular risks to safety, the employees in such categories of enterprises shall elect from amongst themselves a health and safety representative and the employer of such categories of enterprises may, in addition to a representative elected by the employees, also designate an employee as a health and safety representative.

Health and safety
representatives to
attend courses.
6/3/1989.

26. Health and safety representatives elected or designated under section 25 shall attend without loss of earning, short courses on basic safety and health to be organised by the Government.

Duties of health
and safety
representatives.
6/3/1989.

27. Health and safety representatives appointed or designated under section 25 shall monitor and report safety and health problems and needs in the enterprise to management and shall be released from their other duties for this purpose without loss of earnings.

PART V - IMPROVEMENT AND PROHIBITION NOTICES

Improvement
notices.
7/3/1989.

28. If an officer appointed under section 21 is of the opinion that a person is contravening a statutory provision he may serve on him an improvement notice specifying the provision, giving reasons and requiring the person to remedy the contravention within a specified period which shall be not less than the appeal period under section 30(4).

29.(1) If an officer appointed under section 21 is of the opinion that activities involve a risk of serious personal injury, he may serve a prohibition notice on the employer or person in control.

Prohibition
notices.
7/3/1989.

(2) A prohibition notice shall—

- (a) specify the activities causing the risk;
- (b) where the activities involve a contravention of any statutory provision specify the provision and the contravention; and
- (c) direct that the activities shall not continue after a specified date, unless the contravention has been ended prior to that date.

(3) If the officer appointed under section 21 is of the opinion that the risk of serious injury is imminent, he may serve a prohibition notice directing that the activities shall cease immediately, and shall not be restarted until the contravention is ended.

30.(1) An improvement or prohibition notice may include instructions on the method of ending any contravention.

Appeals.
8/3/1989.

(2) An improvement notice relating to a building shall not direct any measures which are more onerous than necessary to conform to the building regulations which would be applicable if the building was being newly erected.

(3) An officer appointed under section 21 shall consult the Chief Fire Officer before serving a notice requiring measures affecting fire escapes or other fire precautions.

(4) A person on whom an improvement notice or a prohibition notice is served may within 15 days of the receipt of the notice appeal to the Minister who may cancel, amend or affirm the notice.

(5) An appeal against an improvement notice shall suspend the execution of the notice until the appeal is finally disposed of.

(6) An appeal against a prohibition notice shall not suspend the execution of the notice unless the Minister directs otherwise.

(7) Any decision of the Minister on an appeal under subsection (4) shall be final.

Imminent danger.
9/3/1989.

31.(1) If an officer appointed under section 21 has reasonable cause to believe that any article or substance creates an imminent danger of serious personal injury, he may render it harmless, and shall prepare a report on his action, a copy of which shall be given to the employer or person having control of the article or substance.

(2) An officer appointed under section 21 preparing a report under subsection (1) of this section shall forward a copy thereof to the Minister who may take such further action as may be necessary to rectify the situation.

PART VI - OBTAINING AND DISCLOSING INFORMATION

Obtaining
information and
reporting of
accidents.
10/3/1989.

32.(1) In order to obtain information for the discharge of his functions, the Director or an officer appointed under section 21 may serve on any person a notice requiring the production of specified information within a reasonable time.

(2) Any accident to an employee at work which results in his death or in injury to him of sufficient seriousness to necessitate absence from work for a period exceeding 3 days shall be reported by the employer of that employee as soon as possible to the Director giving the details set out in the Schedule.

Restrictions on
disclosure.
10/3/1989.

33.(1) No information obtained under the Decree shall be disclosed without the consent of the person by whom it was furnished, except—

- (a) to the Board or to the Director or to an officer appointed under section 21 for the purposes of the functions under this Decree;
- (b) for legal proceedings or any official investigation or inquiry under this Decree.

(2) Nothing in subsection (1) or in any other written law which

restricts the disclosure of information shall prevent or penalise the disclosure by an officer appointed under section 21 to the Director or by the Director to the Board of information obtained in the discharge of functions under the Decree.

PART VII - REGULATIONS

34. The Minister may make regulations for the better carrying out of the provisions of this Decree and, without prejudice to the generality of the foregoing such regulations may make provision for all or any of the following matters—

- (a) regulation or prohibition of—
 - (i) the manufacture, supply, or use of plant;
 - (ii) the manufacture, supply, storage or use of substances;
 - (iii) the carrying on of processes or operations;
- (b) requirements for the design, construction, guarding, siting, installation, commissioning, use, examination, repair, maintenance, alteration, adjustments, dismantling, testing or inspection of plant;
- (c) requirements for the marking of plant or components, including containers and packaging;
- (d) prohibition or regulation of the import, export or transport of plant, articles and substances;
- (e) prohibiting any activity except under licence or with other official approval;
- (f) providing for the grant, renewal, variation, amendment, transfer and revocation of licences;
- (g) requiring any person, premises or thing to be registered in specified circumstances or as a condition for the carrying on of specified activities;
- (h) requiring the appointment of persons to perform specified functions, and imposing duties or conferring powers on them;

- (i) restricting the performance of functions to persons possessing specified qualifications or experience;
- (j) regulating or prohibiting the employment in specified circumstances of all persons or a class of persons;
- (k) securing the health of persons at work or other persons, including by medical examinations and health surveys;
- (l) monitoring the atmosphere and other conditions in which persons work;
- (m) requirements for the conditions in which persons work, including the structure, condition and stability of premises, exits and entrances, cleanliness, temperature, lighting, ventilation overcrowding, noise vibrations, ionising and other radiation, dust and fumes;
- (n) securing appropriate welfare facilities for persons at work including water supply, sanitary conveniences, washing and bathing facilities, ambulance and first aid arrangements, sitting and refreshment facilities;
- (o) requirements for the provision and use of protective clothing and equipment;
- (p) requirements for fire precautions;
- (q) prohibiting or imposing requirements on the emission and monitoring of gas, smoke or dust or any other substance or material;
- (r) prohibiting or imposing requirements on the emission and monitoring of noise, vibrations, or ionising or other radiations;
- (s) requirements for the instructions, training and supervision of workers;
- (t) requirements for warning and other signs;

- (u) requirements for preservation of records, plans, maps and other documents;
- (v) requirements for precautions against dangers to which work premises or persons therein may be exposed by reasons of conditions (including natural conditions) in the vicinity;
- (w) provisions for the evacuation of premises;
- (x) conferring powers to search a person for any article likely to cause a fire or explosion if there is a risk of explosion, and power to seize and dispose of any such article; and
- (y) restricting, prohibiting or requiring specified acts where an accident or similar event has taken place.

35. All such regulations may provide penalties for their contravention and shall provide for appeals against decisions taken under them.

Penalties and
appeals.

PART VIII - OFFENCES

36. Any person who—

Offences.
11/3/1989.

- (a) without reasonable excuse fails to discharge a duty to which he is subject under sections 4,5,6,7, and 8;
- (b) contravenes sections 9 or 24 or 33(1); or
- (c) fails to comply with a prohibition or improvement notice served under section 28 or 29,

is guilty of an offence.

37. Any person who commits an offence under section 36 shall be liable on conviction—

Penalties.
11/3/1989.

- (a) in the case of an employee, to a fine of R.2,500;
- (b) in the case of any other person, to a fine of R.10,000;
- (c) in the case of an offence under section 36(c), in

addition to any penalty under paragraph (a) or (b), to a further fine of R.1,000 for each day the non-compliance continues after conviction.

Enhanced
penalty.
11/3/1989.

38. Where in a prosecution for an offence under this Decree the court is satisfied that the act or omission constituting the offence was occasioned by gross misconduct or neglect on the part of accused, the court may, in addition to or in lieu of any penalty under section 37, impose a term of imprisonment not exceeding 2 years.

Diligence a
defence.
11/3/1989.

39. It shall be a defence for a person charged with an offence under this Decree to prove that he exercised all due diligence to avoid the commission of the offence.

Direction to
remedy or
comply.
11/3/1989.

40. Persons convicted of an offence under this Decree may be directed by the court to remedy or comply with the act or omission constituting the offence in addition to or in lieu of the penalty for the offence.

Closure,
destruction or
forfeiture.
11/3/1989.

41. After having given the employer or the person in control, as the case may be, an opportunity to be heard, the court may order the closing of an enterprise or the destruction or forfeiture of an article or substances if imminent danger or serious personal injury exists.

Officers may
prosecute.
11/3/1989.

42. An officer authorised by the Minister may prosecute an offence under this Decree in a Magistrates' court.

Saving of
Attorney
General's
powers.
11/3/1989.

43. Nothing in section 42 derogates from the powers of the Attorney General in respect of the prosecution of criminal offences.

PART IX - MISCELLANEOUS

Display of
summary.
12/3/1989.

44. Every employer and person in control of premises covered by this Decree, shall display in a prominent place a non-legal summary of this Decree which shall be provided by the Director.

Section 32

SCHEDULE

13/3/1989.

DETAILS REQUIRED OF ACCIDENT AT WORK

Name of Employer:

Address of Employer:

Name of Injured Employee:

Age of Injured Employee:

Address of Injured Employee:

Occupation of Injured Employee:

Date of Accident:

Time of Accident:

Description of Accident: e.g. fall from building under construction (giving height) fingers caught in ...etc.

Machine Involved if any:

.....

.....

Make, type and purpose eg. Robinson combined woodworking machine.

Nature of Injury: e.g. tip of forefinger of left hand severed, broken arm, etc.

Nature and Type of Work being done at Time of Accident:

.....

.....

Estimated Length of Absence:

If Fatal the Official Cause of Death e.g. fractured skull, internal injuries, shock, etc.