

CHAPTER 330

THE ACCIDENTS AND OCCUPATIONAL DISEASES (NOTIFICATION) ACT

[PRINCIPAL LEGISLATION]

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CHAPTER 330

THE ACCIDENTS AND OCCUPATIONAL DISEASES (NOTIFICATION) ACT

An Act to provide for the notification of accidents and occupational diseases,

[1st September, 1955]

Act No.
25 of 1953
[R.L. Cap. 330]

Short title **1.** This Act may be cited as the Accidents and Occupational Diseases (Notification) Act.

Interpretation **2.** In this Act, unless the context requires otherwise-
“employer” includes anybody of persons, corporate or unincorporate and the legal personal representative of a deceased employer, and, where the services of a worker are temporarily lent or let on hire to another person by the person with whom the worker has entered into a contract of service or apprenticeship, the latter shall, for the purposes of this Act, be deemed to continue to be the employer of the worker while he is working for that other person, and in relation to a person applying for hire with any vehicle or vessel the use of which is obtained by that person under a contract of bailment, the person from whom the use of the vessel or vehicle is so obtained shall, for the purposes of this Act, be deemed to be the employer, and, in relation to a person employed for the purpose of any game or recreation and engaged or paid through a club, the manager or members of the managing committee of the club shall, for the purposes of this Act, be deemed to be the employer;
“Labour Commissioner” means the person holding the appointment, or carrying out the duties of the head of the

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Department of Labour, or such other person as may be appointed to administer the provisions of this Act;

“labour officer” includes the Deputy Labour Commissioner, an Assistant Labour Commissioner and any person appointed to be a labour officer;

“medical practitioner” means a medical practitioner registered or licensed under the Medical, Dental and Allied Health Professionals Act;

“Minister” means the Minister responsible for labour matters;

“occupational disease” means any disease mentioned in the Schedule to this Act;

“outworker” means a person to whom articles or materials are given out to be made up, cleaned, washed, altered, ornamented, finished or repaired, or adapted for sale in his own home or on other premises not under the control or management of the person who gave out the materials or articles;

“prescribed” means prescribed by order of the Minister;

“worker” means any person who has entered into or works under a contract of service or apprenticeship with an employer, whether by way of manual labour, clerical work or otherwise, and whether the contract is expressed or implied, is oral or in writing, but does not include-

- (a) an outworker; or
- (b) a person whose employment is of a casual nature and who is employed otherwise than for the purposes of the employer’s trade, occupation or business; or
- (c) any class of persons whom the Minister may by notice published in the *Gazette* declare not to be workers for the purposes of this Act.

Notification of accidents and deaths

3.-(1) Where any accident arising out of and in the course of the employment worker of any worker occurs and-

- (a) causes loss of life to such worker; or
- (b) disables such worker for at least three consecutive days from earning full wages at the work at which he was employed at the time of such accident, a written

notice of the accident, in the prescribed form, and accompanied by the prescribed particulars shall as soon as practicable be sent by the employer to the labour officer for the area within which the accident has occurred:

Provided that, where, to the knowledge of the employer, the accident has been reported or notified pursuant to the provisions of any other law and the written notice or report required by that law complies substantially with the prescribed form and contains the prescribed particulars the employer shall be deemed to have notified the accident in accordance with the provisions of this subsection.

(2) Where any accident causing disablement has been notified under this section, and, after such notification, the accident results in the death of the person disabled, notice in writing of the death shall be sent by the employer to the labour officer for the area within which such accident has occurred as soon as the fact of the death comes to the knowledge of the employer.

(3) An employer who fails to comply with any of the requirements of subsections (1) and (2) of this section commits an offence under this Act.

(4) Where any accident to which this section applies occurs to a worker whose services are temporarily lent or let on hire to another person by the employer, such other person, if he fails to report the accident to the employer immediately, commits an offence under this Act and the employer shall not be liable under the provisions of subsection (3) of this section unless it is established that he knew of the accident.

(5) Without prejudice to the requirements of paragraph (a) of subsection (1) of this section when the death of a worker from any cause is brought to the notice of, or comes to the knowledge of, his employer, the employer shall, as soon as practicable after the occurrence of the death, give notice in the prescribed form to the labour officer for the area in which the worker was employed and such notice shall state the circumstances of the death of the worker if they are known to the employer.

Power to extend to dangerous occurrences provisions as to notification of accidents

4. Where the Minister considers that, by reason of the risk of serious bodily injury to workers, it is expedient that notice should be given in every case of any special class of explosion, fire, collapse of buildings, accidents to machinery or plant, or other occurrences in places where workers are employed, he may, by rules made under this Act, extend the provisions of section 3 of this Act with such adaptations as maybe specified in the rules to any such class of occurrences, whether death or disablement is caused or not, and may, by any such rules, allow the required notice of any occurrence to which the rules relate, instead of being sent forthwith, to be sent within the time limited by the rules.

Notification of occupational diseases and other diseases

5.–(1) A medical practitioner attending on or called in to visit a patient whom he believes to be suffering from any occupational disease contracted in the course of his employment as a worker shall, unless such a notice has been previously sent, forthwith send to the labour officer for the area a written notice stating the name and full postal address of the patient and the disease from which, in the opinion of such medical practitioner, the patient is suffering and the name and address of the place of which, and of the employer by whom, he is or was last employed, and any medical practitioner who is not in the full time employment of Government or in the full or part time service of the employer shall be entitled in respect of every notice sent in pursuance of this subsection to a fee of five shillings to be paid as part of the expenses incurred by the Labour Commissioner in the execution of this Act.

(2) Where a medical practitioner fails to send any notice in accordance with the requirements of this section, he commits an offence under this Act and on conviction shall be liable to a fine not exceeding fifty shillings.

(3) An employer who believes or suspects, or has reasonable grounds for believing or suspecting that a case of occupational disease has occurred among the workers employed by him, shall forthwith send written notice of

such case, in the prescribed form, and accompanied by the prescribed particulars to the labour officer for the area within which the place of employment of such workers is situated, and the provisions of this Act with respect to the notification of accidents shall apply to any such case in like manner as to any such accident as is mentioned in section 3.

(4) The Minister may, as respects any class or description of place where workers are employed, by rules made under this Act, apply the provisions of this section to any disease other than an occupational disease.

Inquest in case of death by accident or occupational disease

6.—(1) Where a coroner holds an inquest on the body of any person whose death may have been caused by any accident or disease of which notice is required by or under this Act to be given, the coroner shall adjourn the inquest unless a labour officer or other officer authorised for that purpose by the Labour Commissioner is present to watch proceedings, and shall, at least four days before holding the adjourned inquest, send to the labour officer for the area within the inquest is held, notice in writing of the time and place of holding the adjourned inquest:

Provided that the coroner, before the adjournment, may take evidence to identify the body and may order the interment thereof.

(2) With respect to any such inquest as aforesaid the following persons, that is to say-

- (a) a labour officer or other officer authorised for that purpose by the Labour Commissioner;
- (b) any relation of the person in respect of whose death the inquest is being held;
- (c) the employer in whose employment the accident or disease occurred or was contracted, shall, subject to the power of the coroner to disallow any question which in his opinion is not relevant or is otherwise not a proper question, be entitled to examine any witness either in person or by an advocate or agent.

(3) Where at any such inquest at which a labour officer or other officer authorised for that purpose by the Labour

Commissioner is not present, evidence is given of any neglect as having caused or contributed to the accident or disease or of any defect in or about the place of employment appearing to the coroner to require a remedy, the coroner shall send to the labour officer for the area within which the inquest is held notice in writing of the neglect or defect.

(4) The provisions of this section shall be in addition to, and not in derogation of, the Inquests Act.

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Power of Minister to direct formal investigation of accidents and cases of occupational disease
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7.–(1) The Minister may, where he considers it expedient so to do, direct a formal investigation to be held into any accident arising out of and in the course of the employment of any worker or case of occupational disease contracted or suspected to have been contracted in the course of the employment of any worker and of its causes and circumstances, and with respect to any such investigation the following provisions shall have effect-

- (a) the Minister may appoint a competent person to hold the investigation, and may appoint any person possessing legal or special knowledge to act as assessor in holding the investigation;
- (b) the person or persons so appointed (hereafter in this section referred to as “the court”) shall hold the investigation in open court in such manner and under such conditions as the court may think most effectual for ascertaining the causes and circumstances of the accident or case of occupational disease, and for enabling the court to make the report in this section;
- (c) the court shall have for the purposes of the investigation all the powers of a subordinate court when exercising criminal jurisdiction and, in addition power-
 - (i) to enter and inspect any place or building the entry or inspection whereof appears to the court requisite for the said purposes;
 - (ii) by summons signed by the court to require the attendance of all such persons as it thinks fit to call

- before it and examine for the said purposes, and to require answers or returns to such enquiries as it thinks fit to make;
- (iii) to require the production of all books, papers, and documents which it considers relevant;
 - (iv) to administer an oath and require any person examined to make and sign a declaration of the truth of the statements made by him in his examination;
- (d) persons attending as witnesses before the court may be allowed such detention allowances, travelling expenses and fees as would be allowed to witnesses attending in any court at the instance of the Government to give evidence in any criminal proceedings; and in case of dispute as to the amount to be allowed the dispute shall be referred by the court to the Registrar of the High Court who, on request signed by the court, shall ascertain and certify the proper amount of such detention allowances, travelling expenses and fees;
- (e) the court shall make a report to the Minister stating the cause and circumstances of the accident or case of occupational disease and adding any observations which the court thinks right to make;
- (f) the court may require the expenses incurred in and about an investigation under this section, including the remuneration of any persons appointed to act as assessors, to be paid in whole or part by any person summoned before it who appears to the court to be, by reason of any act or default on his part or on the part of any servant or agent of his, responsible in any degree for the occurrence of the accident or case of occupational disease, but any such expenses not required to be so paid shall be deemed to be part of the expenses of the Labour Commissioner in the administration of this Act;
- (g) a person who without reasonable excuse, proof whereof shall lie on him, either fails, after having had

the detention allowances, travelling expenses and fees, if any, to which he is entitled tendered to him, to comply with any summons or requisition of the court, or prevents or impedes the court in the execution of its duty, commits an offence, and on conviction shall be liable to a fine of two hundred shillings or imprisonment for one month or both, and, in the case of a failure to comply with the requisition for making any return or producing any document, if the failure in respect of which a person was so convicted is continued after the conviction he commits a further offence shall be liable to a fine of two hundred shillings for every day on which the failure was so continued.

(2) The Minister may cause the report of the court to be made public at such time and in such manner as he thinks fit.

(3) A person aggrieved by an order for the payment of expenses made by the court pursuant to the provisions of paragraph (f) of subsection (1) of this section may appeal there from within thirty days to the High Court; and after hearing such appeal the High Court may make such order as it thinks fit.

(4) The High Court may make rules regulating the procedure in respect of any such appeal.

Penalties

8.-(1) A person who commits an offence under this Act for which no special penalty is provided by this Act on conviction shall be liable to a fine of five hundred shillings, or to imprisonment for three months, or to both.

(2) Where an offence under this Act or any rules made there under committed by a company or other body of persons is proved to have been committed with the consent or connivance of, or to have been facilitated by any neglect on the part of, any director, president, chairman, manager, secretary or other officer of the company or other body of persons, he, as well as the company or body of persons, shall be deemed to have committed an offence and shall be liable to be proceeded against and punished accordingly.

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| Institution of proceedings | 9. The Labour Commissioner or any labour officer may institute proceedings for any offence under this Act or any rules made hereunder and may appear and prosecute in such proceedings. |
| Power of Minister to make rules | 10. —(1) The Minister may make rules generally for carrying into effect the provisions of this Act. (2) Without prejudice to the generality of the subsection (1), the Minister may by rules made under this section alter the Schedule to this Act by making additions thereto or deletions there from or otherwise amending it and the Schedule, as altered, shall be deemed to have been enacted by and to form part of this Act. |
| Application of Act to Government | 11. Without prejudice to the generality of the application of this Act, it is hereby declared that this Act shall apply in the case of accidents, occupational diseases, or diseases specified in rules made under section 5 of this Act occurring to persons employed by the Government and in such cases the notice to be given under this Act by the employer shall be given by such person as the head of the department of the Government. |
| Administration of Act | 12. The Labour Commissioner shall be responsible for the administration of this Act. |
| Repeal Ord. No. 43 of 1948 | 13. [Repeals the Workers Compensation Ordinance] |
| Omitted | 14-15. [Omitted]. |

SCHEDULE

(Made under section 2)

OCCUPATIONAL DISEASES

| Description of Disease | Description of Work |
|---|---|
| Anthrax | Work in connection with animals or the handling of animal carcasses or parts of such carcasses or of wool, hair, bristles, hides, skins, hooves or horns. |
| Arsenic poisoning or its sequelae | Any process involving the production, liberation or utilization of arsenic or its preparation or compounds. |
| Chrome ulceration or its sequelae | Any process involving the use of chromic acid or bi-chromate of ammonium, potassium or sodium, or their preparations. |
| Compressed air illness or its sequelae | Any process carried on in compressed air. |
| Cyanide poisoning including cyanide rash | The handling of cyanide or its compounds or any work involving the use of cyanide or its compounds. |
| Inflammation or ulceration of the skin or of mucous membrane of the upper respiratory passages or mouth produced by dust, liquid or vapour. | Exposure to dust, liquid or vapour. |
| Lead poisoning or its sequelae | Any process involving the production, liberation or handling of lead or its compounds, or any work involving the use of lead or its preparations or compound. |
| Primary epitheliomatous cancer, or ulceration of the skin | Any work or process involving the handling or use of tar, bitumen, mineral oil, paraffin or the compounds, products or residues of these substances. |

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| Pathological manifestations due to- | Any process involving exposure to the action of radium, radio-active substances, or X-rays. |
| (a) radium or other radioactive substances; | |
| (b) X-rays. | |
| Poisoning by- | |
| 1. (a) benzene and its homologues, or the sequelae | Any process involving the production, liberation; or utilisation of benzene or its homologues or the nitro- or amino-derivatives |
| (b) nitro- or amino-derivatives of benzene and its homologues or the sequelae. | |
| 2. (a) Dinitrophenols or their salts; | The use or handling of, or exposure to the fumes of, or vapour containing, any dinitrophenol or its salt or any dinitro-substituted phenol or its salt. |
| (b) dinitro-substituted phenols or their salts. | |
| 3. The halogen derivatives of hydrocarbons of the aliphatic series | The use or handling of, or exposure to the fumes of, or vapour containing any halogen derivative of series any hydrocarbon of the aliphatic series. |
| 4. Chemicals of the phosphorus group | The use of handling of, or exposure to the fumes of, or vapour containing, any chemical of the organophosphorus group. |
| 5. Subcutaneous cellulite of the hand (Beat hand) | Manual labour causing severe or prolonged friction or pressure on the hand. |
| 6. Subcutaneous cellulite or acute bursitis arising at or about the knee. (Beat knee). | Manual labour causing severe or prolonged friction pressure at or about the knee |
| 7. Telegraphist's cramp. | The use of Morse-key telegraphic instruments for prolonged periods. |