

[LEGAL NOTICE No. 170]

HEALTH AND SAFETY AT WORK ACT, 1996
(No. 4 OF 1996)

HEALTH AND SAFETY AT WORK (ADMINISTRATION) REGULATIONS 1997

PURSUANT to Section 62 of the Health and Safety at Work Act, 1996, the Minister for Labour and Industrial Relations, acting on the recommendation of the Permanent Secretary, after consultation with the National Occupational Health and Safety Advisory Board, hereby makes the following regulations.

Short title

1. These regulations may be cited as the Health and Safety at Work (Administration) Regulations, 1997.

Commencement

2. These regulations shall come into force on the 1st day of January, 1998.

Application

3.-(1) These regulations shall apply to all workplaces to which the relevant provisions of the Health and Safety at Work Act 1996 apply with respect to forms and procedures.

(2) Pursuant to Section 61 of the Health and Safety at Work Act 1996, these regulations replace the provisions of the Factories Act 1971 and the regulations and orders made thereunder listed in the seventh schedule to these regulations.

Definitions

4.-(1) In these Regulations:

"Act" means Health and Safety at Work Act 1996

"notice" means the relevant notice prescribed under these regulations;

"other matters" includes incidents and dangerous occurrences

"registered medical practitioner" means a person registered in Part II of the medical register maintained by the Fiji Medical Council under the Medical and Dental Practitioners Act, and, in relation to (the case of a claimant residing Outside Fiji, a person who is so registered or, with the consent of the Board, a person who is not so registered but who is, in the opinion of the Board, qualified to be so registered;

"serious injury" means an injury that causes death or disables a person to the extent that as a consequence of that injury the person is subject to admission to hospital as an in-patient and includes any injury that involves any worker being certified unfit for work for three or more days by a registered medical practitioner.

(2) For all other definitions reference should be made to Part I Section 5 of the Act.

Forms and Notices

5.-(1) In these regulations the forms and notices bearing the following designations shall be used for the purpose for which they are respectively applicable

(a) A notice of an accident or other matter under Section 26 of the Act shall be in form OHSF 1.

(b) A record of accidents or other matters under Section 28 of the Act shall be in form OHSF 2.

- (c) A workplace notice under Section 29 of the Act shall be in form OHSF 3.
- (d) The Inspectors' certificate of appointment under Section 41 of the Act shall be in form OHSF 4.
- (e) The Inspectors' identification card under Section 41 of the Act shall be in form OHSF 5.
- (f) A notice requesting information under Section 43 of the Act shall be in form OHSF 6.
- (g) An improvement notice under Section 46 of the Act shall be in form OHSF 7.
- (h) A prohibition notice under Section 47 of the Act shall be in form OHSF 8.
- (i) A penalty notice under Section 48 of the Act shall be in form OHSF 9.
- (j) A notice of appeal under Section 51 of the Act shall be in form OHSF 10.
- (k) Certificate that Immediate Threat has been removed shall be in form OHSF 11.
- (1) Application for Disqualification of Health and Safety Rep or Committee member under Section 22 shall be in Form OHSF 12.
- (m) A notice of Appeal against Disqualification of Health and Safety Rep or Committee member shall be in Form OHSF 13.
- (n) A notice that workplace or any part be left undisturbed under Section 43 (h) shall be in Form OHSF 14.
- (o) Application for Registration of Plant or Substance under Section 62(2) shall be made in Form OHSF 15.
- (p) A certificate of Registration of Registered Plant shall be made in Form OHSF 16.
- (q) An application, for Renewal of Plant under Section 62 shall be made in Form OHSF 17.
- (r) A notice of change of ownership of Plant shall be made in Form OHSF 18.
- (s) A certificate of compliance of Plant with the Regulations shall be made in Form OHSF 19.
- (t) A notice relating to taking possession of plant or thing under Section 43 of the Act shall be made in form OHSF 20.
- (u) Application for manufacture/ importation/supply of Chemicals not listed in the Fiji Chemical Inventory under Section 53 shall be made in form OHSF 21.
- (2) A form prescribed in these regulations shall be completed in accordance with such directions as are specified in the prescribed form.

Notification of accidents and other matters

6.-(1) Where an accident, incident or disease occurs at a workplace, whether or not it causes the death of, or bodily injury to, any person, or any other matter occurs at or in relation to a workplace which affects the health or safety of any person, the employer shall as soon as possible, and in any event not later than 48 hours after the occurrence, give the Chief Health and Safety Inspector written notice of the occurrence in form OHSF 1 of these regulations.

(2) In case of serious injury immediate notice by the most expedient means shall be given to the Chief Health and Safety Inspector followed by a written notice as required by sub-regulation (1)

of this regulation.

(3) Every notice under sub-regulation (1) of this regulation shall specify:

- (a) The name place of residence and age of every person who was killed or suffered injury or illness as a result of the accident, incident, disease or other matter, and
- (b) The nature and circumstances of the accident, incident, disease or other matter; and
- (c) Such details as are sufficient to enable a Health and Safety Inspector to locate with accuracy the place where the accident, incident, disease or other matter occurred.

(4) If the Chief health and Safety Inspector to whom a notice has been given under sub-regulation (1), of this regulation considers that the accident, incident, disease or other matter should be investigated he/she shall, as soon as practicable after receiving the notice, arrange for such inquiries to be made as are necessary to determine the nature and cause of the accident, incident, disease or other matter and the nature and extent of the injury or illness it caused.

(5) Except for the purpose of caring for any person who suffers or may suffer injury or illness, no person shall do any act likely to prevent the discovery of the cause of the accident, incident, disease or other matter until a Health and Safety Inspector has visited the scene and completed an inquiry.

(6) Notification under this regulation shall be sufficient compliance with any provision of the associated health and safety legislation prescribed in Section 60 of the Health and Safety at Work Act 1996 which requires notice to be given of an accident, incident or disease, and any such provision shall not have any effect.

(7) Any person who contravenes or fails to comply with any provision of this Regulation shall be guilty of an offence and shall be liable to a fine of not more than \$10,000 in the case of a corporation or \$5,000 in any other case.

Record of accidents and other matters

7. Every employer shall maintain a record at the workplace in the Form OHSF 2 as prescribed in these regulations in respect of any accident, disease or incident. Particulars of Form OHSF 2 include:

(1) the following particulars of every accident which occurs at the workplace whether or not it causes the death of or bodily injury to any person:

- (a) date of accident;
- (b) date notified to the Chief Health and Safety Inspector;
- (c) name, sex, age and occupation of any injured person;
- (d) likely cause(s) of accident;
- (e) period of incapacity;
- (f) remedial action taken.

(2) the following particulars of every disease which occurs at the workplace:

- (a) date notified to the Chief Health and Safety Inspector;
- (b) name, sex, age and occupation of the person affected;
- (c) name of disease;
- (d) name of examining medical practitioner;
- (e) period of incapacity;
- (f) remedial action taken.

(3) the following particulars of every incident or other matter which occurs at or in relation to the workplace which affects the health or safety of any person whether or not the incident or other matter results in any injury or illness:

- (a) date of incident or other matter;
- (b) date notified to the Chief Health and Safety Inspector;

- (c) name, sex, age and occupation of any person involved;
- (d) cause of incident or other matter,
- (e) details of incident or other matter;
- (f) remedial action taken.

Notification of certain workplaces

8.-(1) Every employer, or the appointed manager, who occupies, uses or manages any workplace of a type listed in the first schedule of these regulations and in which 20 or more persons are employed shall notify the Chief Health and Safety Inspector the particulars of the workplace on form OHSF 3 as prescribed in these regulations.

(2) The employer or the person in control of the workplace shall continue to give notice no later than 31 March each year with amended particulars as prescribed in Form OHSF 4

(3) The notification required under this regulation shall be accompanied by the fee prescribed in the second schedule of these regulations.

(4) Any person who contravenes or fails to comply with any provision of this regulation shall be guilty of an offence and shall be liable to a fine of not more than \$5,000.

(5) A certificate of registration of each workplace shall be issued by the Chief Health and Safety Inspector.

Inspector may issue Penalty Notice

9. -(1) Prescribed Offence and Penalty For the purposes of Section 48 of the Act

- (a) the prescribed offences are offences specified in Column 2 of the third schedule; and
- (b) the corresponding prescribed penalties are penal Lies specified in Column 3 of the third schedule.

(2) Where it appears to an inspector that a person has committed an offence against any provision specified in Column 2 of the third schedule having regard to:-

- (a) the type of offence concerned in respect of risk and hazard involved; and
- (b) the place where the offence occurs; and
- (c) the circumstances in which the offence occurs, the inspector may give the offender a notice with particulars as specified in Form OHSF 5 which shall indicate a prescribed penalty as specified in Column 3 of the third schedule.

(3) The Inspector shall inform the health and safety representative of his or her intention of issuing a penalty notice and shall issue the notice in the presence of the health and safety representative or a worker elected committee member. In the absence of a health and safety representative or a worker elected committee member the penalty notice shall be issued in the presence of any worker.

(4) Any penalty paid under this notice shall be deposited by the Inspectorate in the Fund established under Section 30 of the Act.

(5) A person who is served with the penalty notice and pays the full penalty specified under the notice shall not be prosecuted for that particular offence.

Registration of plant design

10.-(1) A person must not manufacture or supply an item of plant specified in Part I of the fourth schedule to these Regulations unless the plant has a current design registration number issued by the Chief Health and Safety Inspector.

(2) A person who has the management of an item of plant specified in Part I of the fourth schedule must not use the plant or permit or cause the plant to be used, unless the plant has a current design registration number issued by the Chief Health and Safety Inspector.

(3) An application for the registration of plant design must be made to the Chief Health and Safety Inspector in a manner and form to be prescribed by regulation.

Registration of items of plant

11.-(1) A person who has the management of an item of plant specified in the fourth schedule must not use the plant, or permit or cause the plant to be used, unless the plant is registered with the Chief Health and Safety Inspector.

(2) An application for the registration of an item of plant must be made to the Chief Health and Safety Inspector in Form OHSF 6 with other particulars as may be prescribed by regulation.

Examination and commissioning of Plant

12.-(1) A person who has the management of an item of Plant specified in the fourth schedule must not use the plant, or permit or cause the plant to be used, unless the plant has been commissioned and examined in a manner as may be prescribed by regulations.

(2) The owner of the plant must pay to the Chief Health and Safety Inspector the inspection or examination fees and/or other fees as specified in the Second Schedule of these Regulations

Fees

13. -(1) The fees set forth in the Second Schedule hereto shall be the fees payable in respect of the matters specified therein.

(2) Pursuant to Section 30 of the Act, all the fees prescribed under the second schedule of these Regulations shall be paid in to the FUND. These fees shall be paid by the owner or occupier of the relevant plant or premises or employer or any person representing or agent of the owner, occupier or employer whichever is applicable before or at the time of the respective inspection or occupational health and safety (OHS) consultancy service or training are undertaken by the Inspector(s).

(3) No certificate of registration or other certificate shall be issued before payment in full of the applicable fee.

(4) In any case where a fee is owed to the Ministry after the commencement of these regulations for services previously provided by the Inspectorate either under these regulations or under or under any of the associated health and safety legislation, the person who owes the fee shall pay the fee in full before any further inspection is carried out or any further service is provided.

(5) Occupational health and safety services and fees shall be reviewed annually taking into account relevant economic indicators.

(6) To facilitate the calculation of fees before inspection, persons specified in sub-regulation (2) of this Regulation shall submit to the Inspectorate details of plant(s) to be inspected.

Offences and Penalties

14.-(1) Any person who contravenes a provision of these regulations commits an offence and, unless otherwise provided, shall be liable for a fine not exceeding \$20,000.00

(2) In this regulation, 'person' means an employer, self employed person, person in control of workplace, manager, manufacturer, importer, supplier or installer.

Made this 18th Day of December, 1997

VINCENT W. LOBENDAHN
Minister for Labour and Industrial Relations