



Occupational Safety and Health Legislation: What Employers Need to Know





The Role of Safety and Health Measures

The role of safety and health measures in organizations is to help maintain a productive and satisfied workforce.

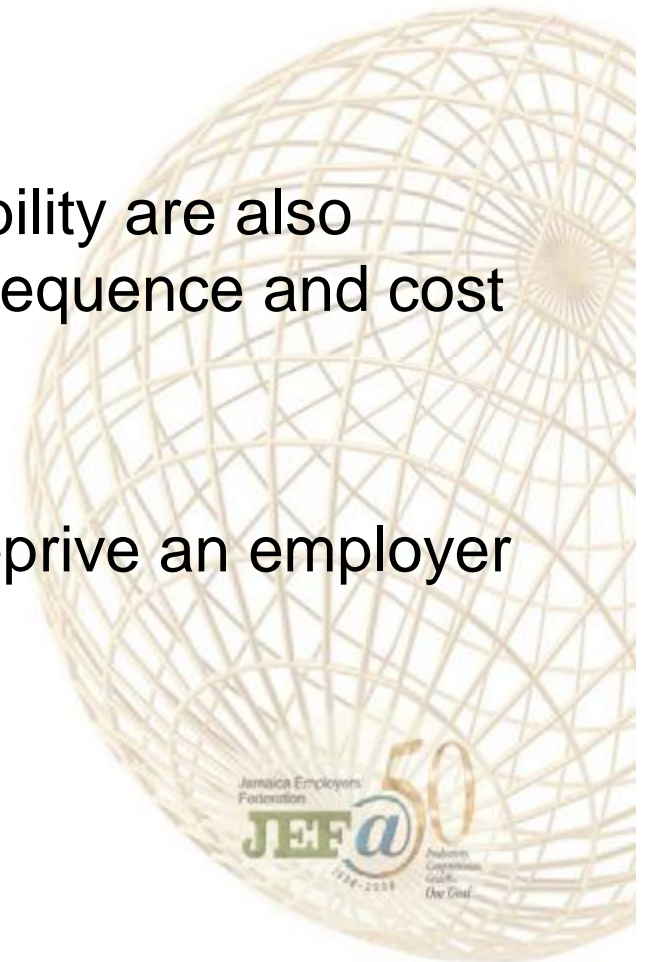
Costs & Benefits

- An unsafe and unhealthy workplace can make it impossible for employees to give satisfactory job performance.
- An unsafe and unhealthy workplace can also lead to dissatisfaction among workers, resulting in poor job performance and reduced productivity.



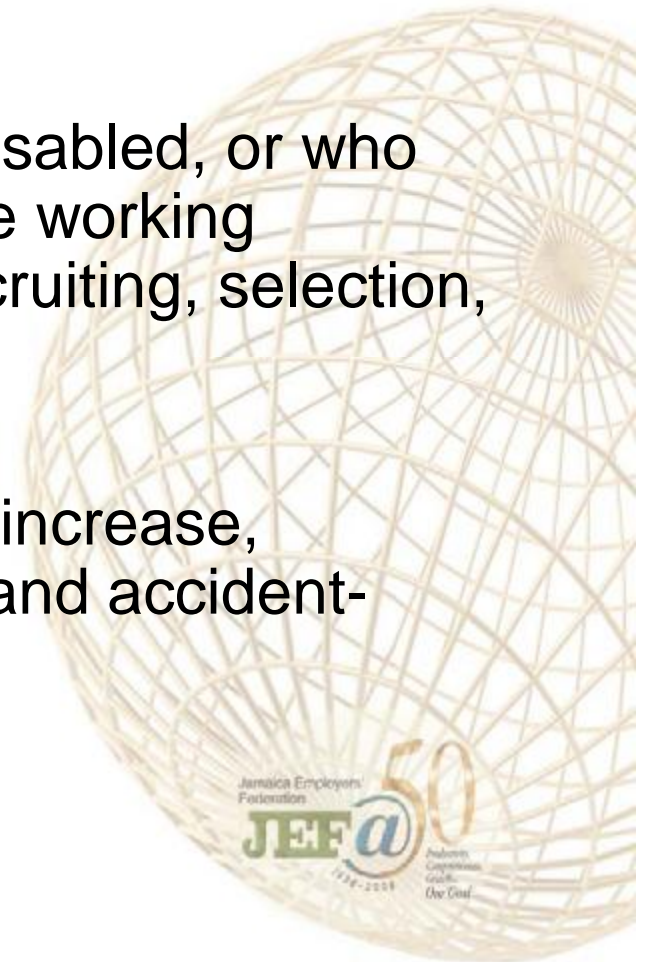


- Issues such as first aid facilities, personal safety, and pollutant levels can lead to labour disputes resulting in many lost days of worker production.
- Organizational productivity and profitability are also affected by absenteeism, a major consequence and cost of work-related injuries and illnesses.
- Disabling injuries and illnesses also deprive an employer of the full working life of an employee.





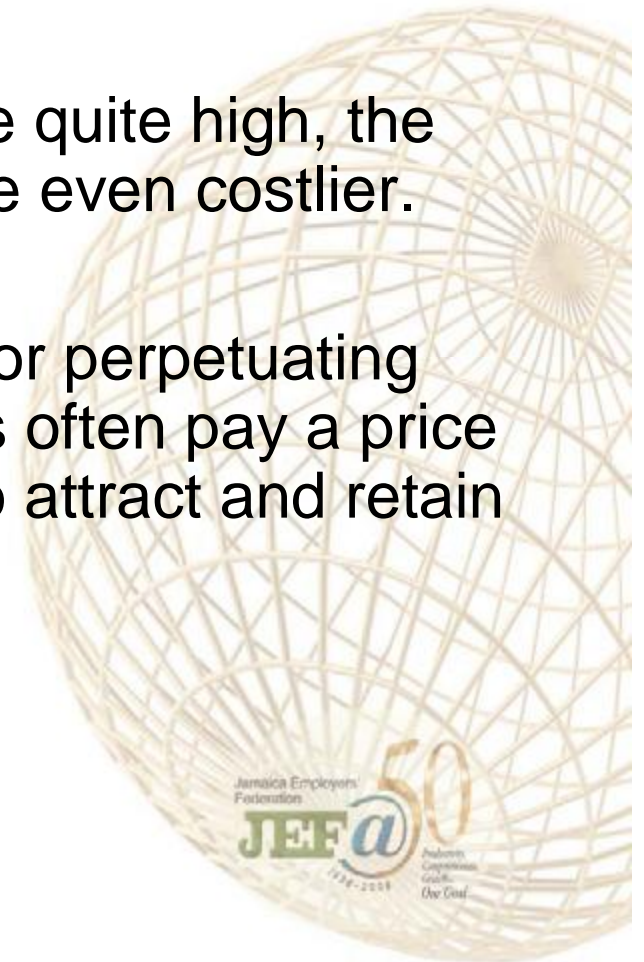
- Unsafe working conditions often lead to voluntary turnover when employees become anxious about work-related hazards.
- Replacing workers who die, become disabled, or who voluntarily terminate because of unsafe working conditions increases an employer's recruiting, selection, and training costs.
- As the number of work-related injuries increase, employers experience a rise in health and accident-related insurance costs.





Accidents lead to (i) injury and death of employees; (ii) damage to the enterprise's material, equipment, and property, and (iii) sometimes injury and death to third parties.

- While the costs of such damage can be quite high, the damage to an employer's image can be even costlier.
- Organization found guilty of practicing or perpetuating unsafe or unhealthy working conditions often pay a price in business losses and in their ability to attract and retain qualified employees.

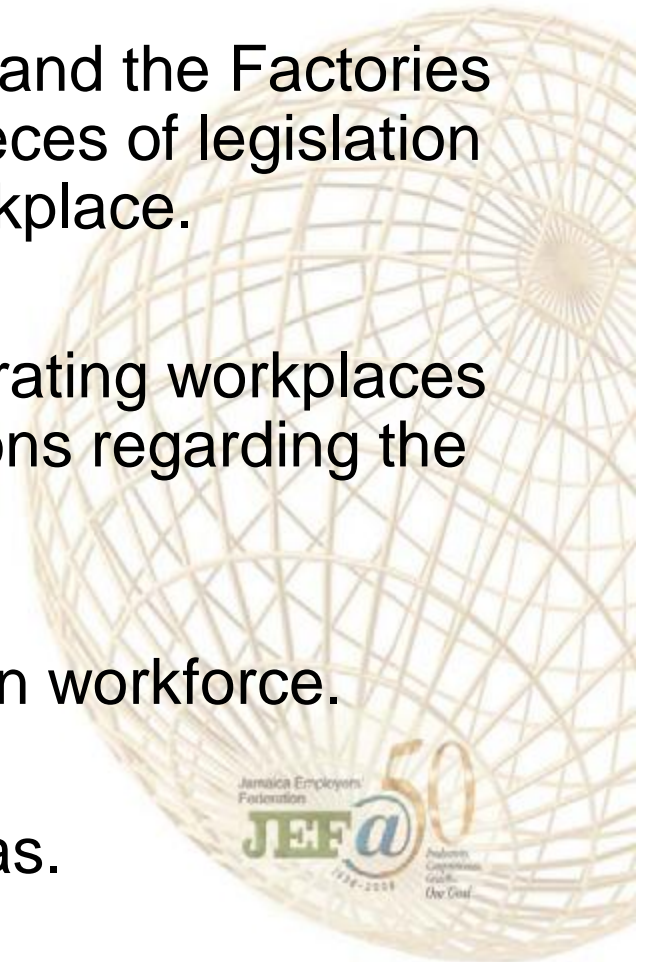




Jamaica's Occupational Safety and Health Legislation

The Factories Act, 1943

- The Factories Act, 1943 (as amended) and the Factories Regulations of 1963 are the primary pieces of legislation that currently govern the Jamaican workplace.
- The legislation requires employers operating workplaces (“factories”) to observe certain regulations regarding the safety and health of their workers.
- It covers only a minority of the Jamaican workforce.
- It is considered deficient in several areas.





When examined against the CARICOM Model Law on OSH, the following shortcomings of the Act were noted:

- (i) It does not apply to ‘all branches of economic activity’;
- (ii) It does not require an employer to state whether a factory is a major hazard installation;
- (iii) There is no requirement for a tri-partite National Council on OSH to advise the Minister;
- (iv) There is no requirement for a written OSH policy in workplaces;





- (v) Workers have no duty to report the absence or defect of any equipment, protective devices, or clothing of which he/she is aware;
- (vi) Workers have no right to refuse work in perceived dangerous situations; and
- (vii) There is no requirement for the establishment of Joint Occupational Safety and Health Committees in workplaces.





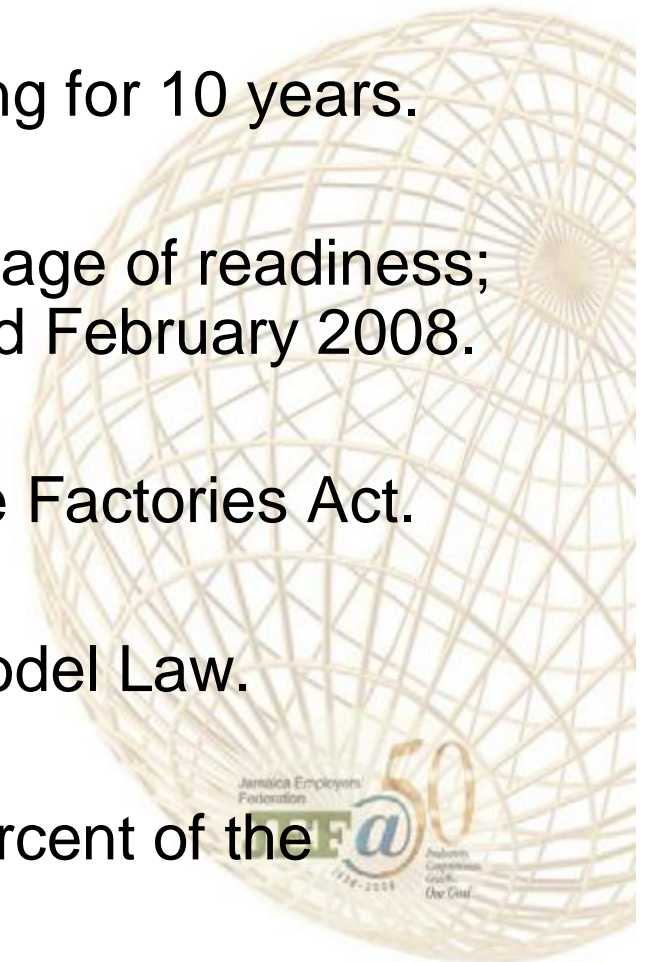
- It should be noted, however, that while the CARICOM Model Law on OSH is compatible with core ILO Conventions and Recommendations, incorporating the ILO stipulations is not one of the Act's objectives.
- The CARICOM Model Law is first and foremost an Act to provide for the safety and health of workers in their working environments.
- Member states are expected to implement the Model Law as an important requirement for the Caribbean Single Market and Economy (CSME).





The Occupational Safety and Health Act, 2008

- Government has signalled its commitment to establish and maintain suitable OSH standards.
- A comprehensive OSH Act in the making for 10 years.
- Act now seems to be in an advanced stage of readiness; the latest version being a draft Bill dated February 2008.
- Act seeks to address deficiencies in the Factories Act.
- Act is consistent with the CARICOM Model Law.
- It is expected to cover more than 85 percent of the Jamaican workforce.



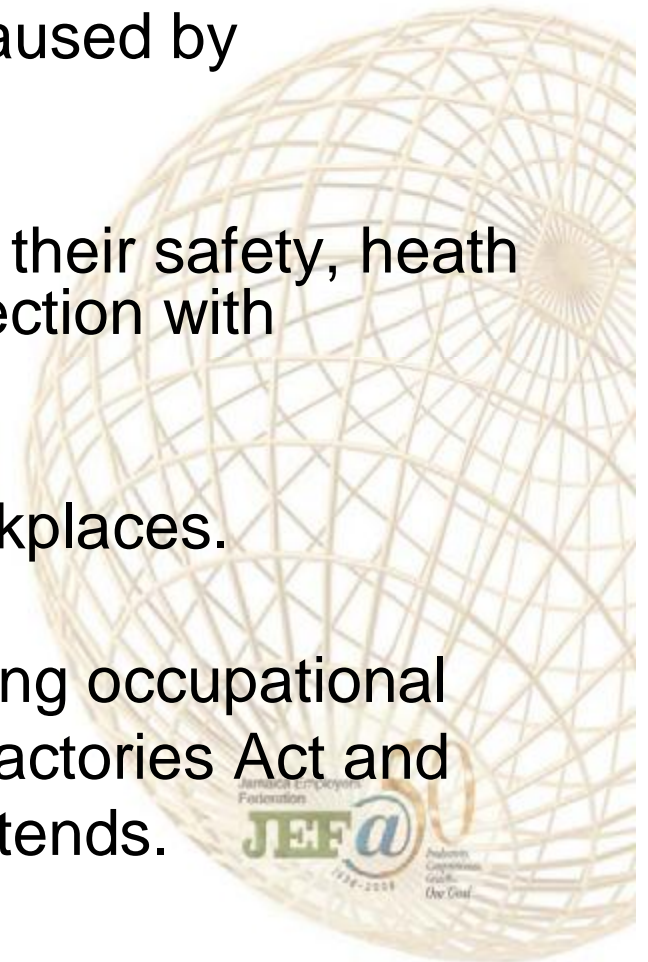


Provisions of the OSH Act

The proposed OSHA has as its objectives:

- (a) the prevention of injury and illness caused by conditions at the workplace;
- (b) the protection of workers from risks to their safety, health and welfare arising out of or in connection with activities in their workplaces; and
- (c) the promotion of safe and healthy workplaces.

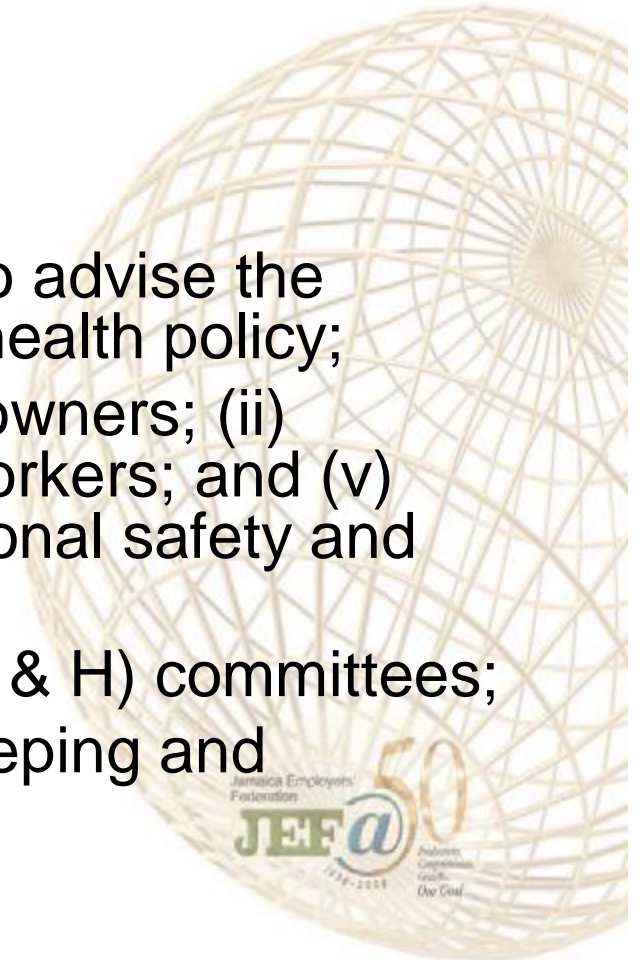
OSHA is not intended to repeal any existing occupational safety and health legislation except the Factories Act and its regulations, which it subsumes and extends.





The Act applies to “***all branches of economic activity*** (i.e., all areas in which workers are employed, including the public sector) ***and to all owners, employers and workers in all such branches***”.

- Among other things, the Act:
 1. Establishes an Advisory Council to advise the Minister on a national safety and health policy;
 2. Sets out the responsibilities of (i) owners; (ii) employers; (iii) supervisors; (iv) workers; and (v) suppliers for maintaining occupational safety and health;
 3. Mandates the formation of joint (S & H) committees;
 4. Sets out procedures for record-keeping and inspection.

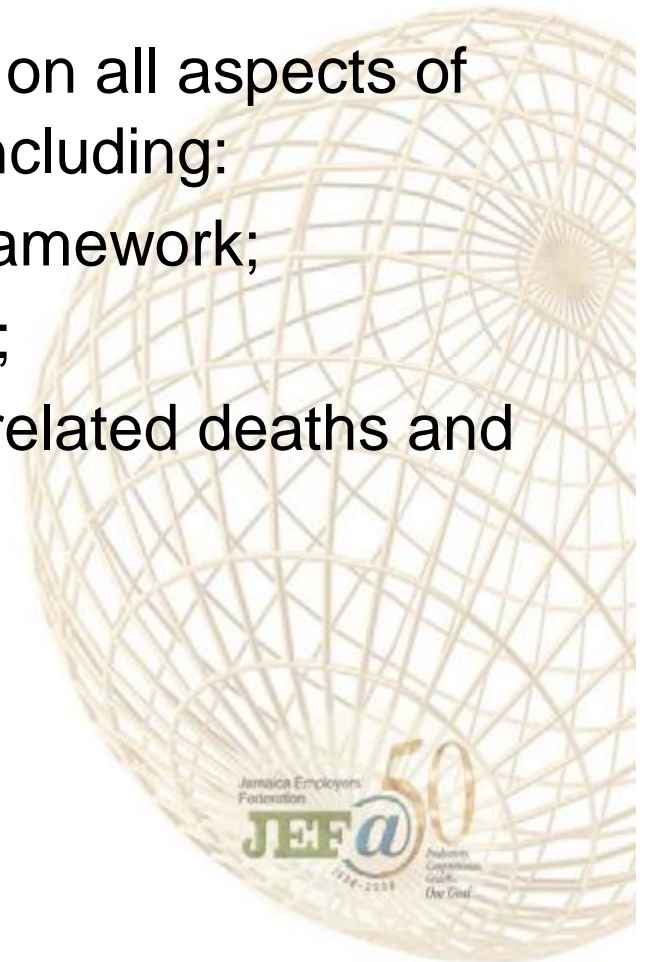




The Advisory Council

The Council is to advise the Minister on all aspects of a national safety and health policy, including:

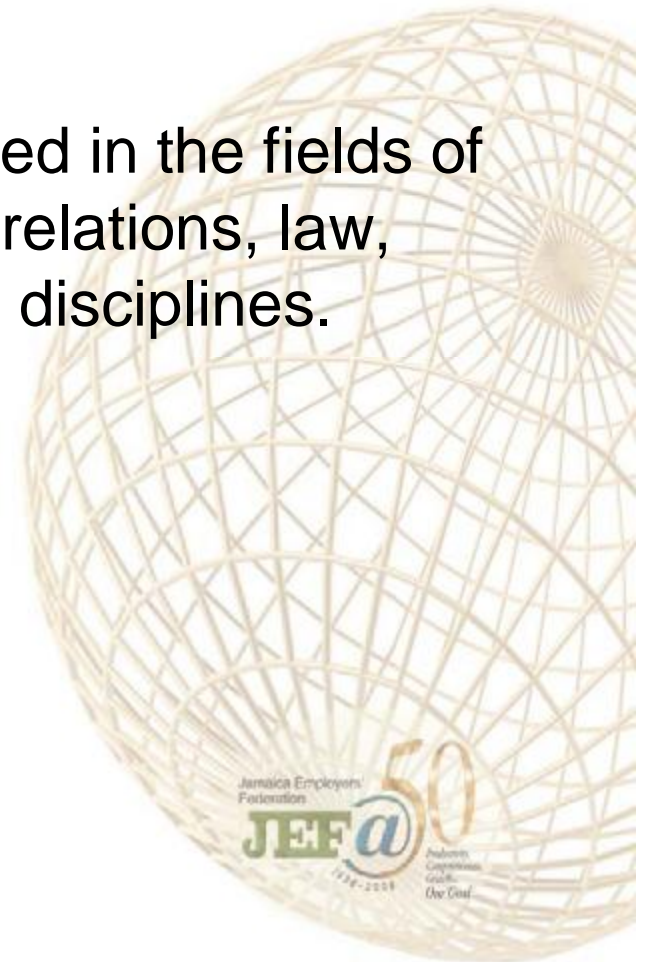
1. the establishment of a policy framework;
2. the promotion of best practices;
3. the statistical analysis of work-related deaths and injuries; and
4. reviewing provisions of the Act.





The Council:

- will be appointed by the Minister, and
- will consist of 12 to 20 members qualified in the fields of occupational safety and health, labour relations, law, medicine, engineering, or other related disciplines.





Owners' Responsibilities

- It is the owner's duty to ensure that the prescribed facilities are provided and maintained.
- The owner must also ensure that the workplace complies with regulations, and that
- No workplace is constructed or modified in any way except in compliance with the Act and its regulations.

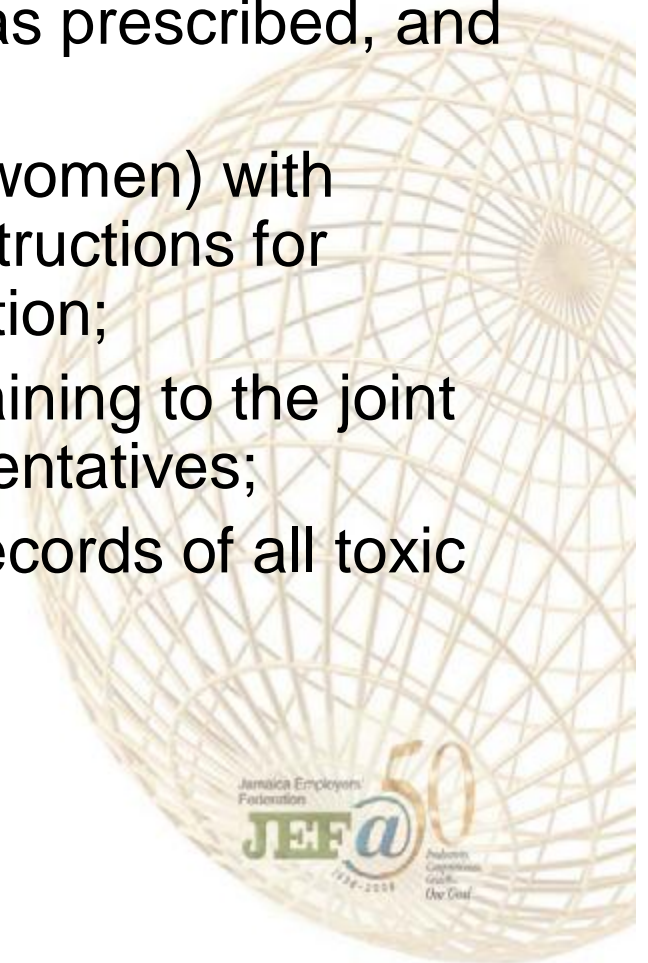




Employers' Responsibilities

Employers have a duty to:

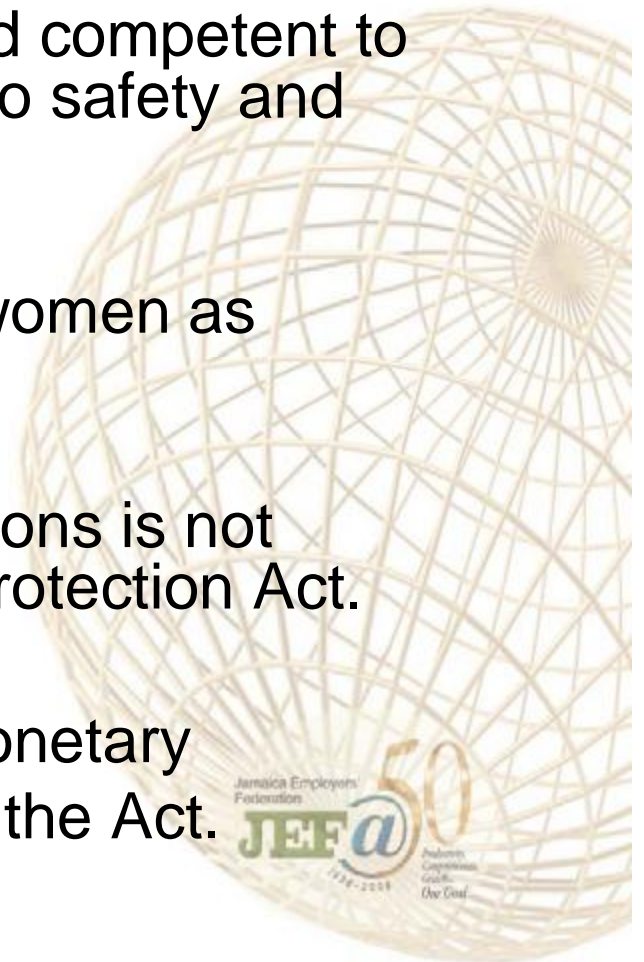
1. ensure that PPE are provided, used as prescribed, and maintained;
2. provide workers (including pregnant women) with information or training and written instructions for measures to be taken for their protection;
3. give assistance, co-operation, and training to the joint committees or workers' S & H representatives;
4. maintain an OSH service and keep records of all toxic substances and exposure thereto;





5. keep a floor plan and post notice of the names and locations of all hazardous chemicals and maintain a structurally sound workplace;
6. ensure that supervisors are trained and competent to handle any potential or actual danger to safety and health in the workplace;
7. provide alternative work for pregnant women as necessary; and
8. ensure that employment of young persons is not inconsistent with the Child Care and Protection Act.

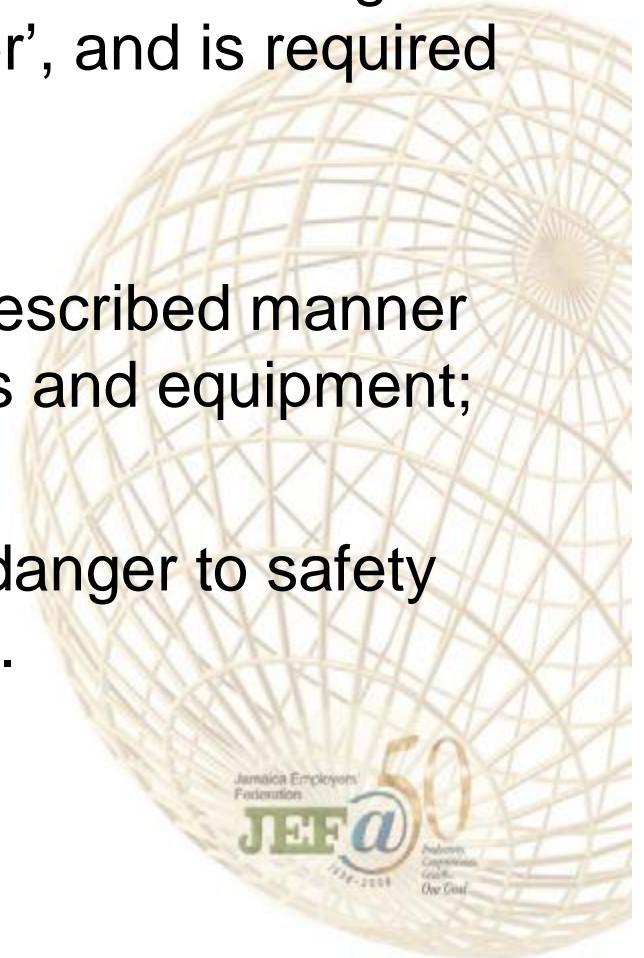
The Minister may establish a scheme of monetary contributions from employers to administer the Act.





Supervisors' Responsibilities

- A supervisor is defined as ‘a person who has charge of a workplace or authority over a worker’, and is required to:
 1. ensure that employees work in the prescribed manner and use prescribed protective devices and equipment;
 2. advise workers of potential or actual danger to safety and health “of which he/she is aware”.

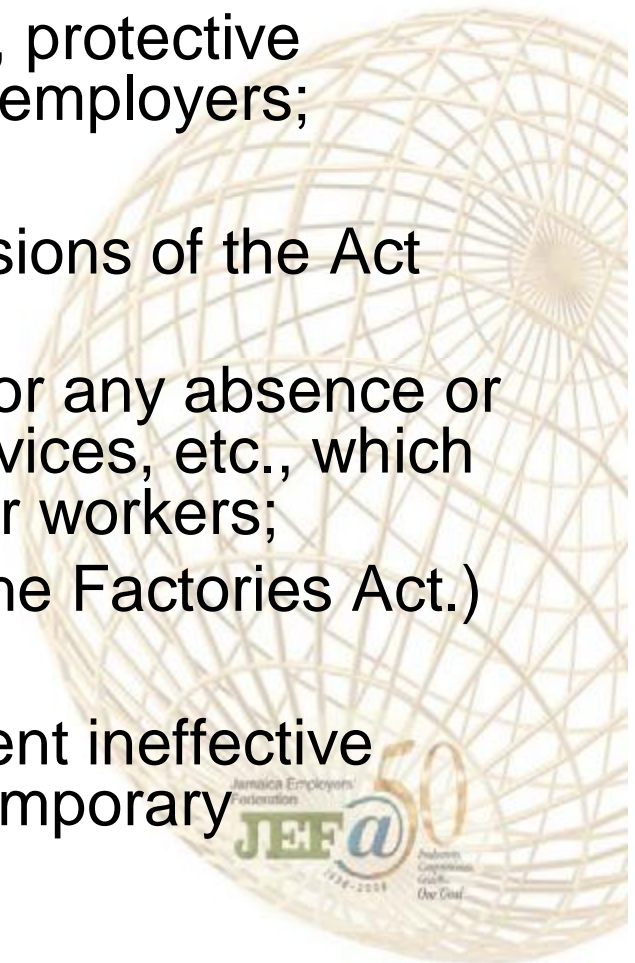




Workers' Responsibilities & Rights

Responsibilities: Workers are required:

1. To use or wear the safety equipment, protective devices, or clothing required by their employers;
2. To work in compliance with the provisions of the Act and its regulations, and to:
 - report to the employer or supervisor any absence or defect in equipment, protective devices, etc., which may endanger themselves or other workers;
 - (New provision that improves on the Factories Act.)
3. To not render any protective equipment ineffective without first providing an adequate temporary protective device;

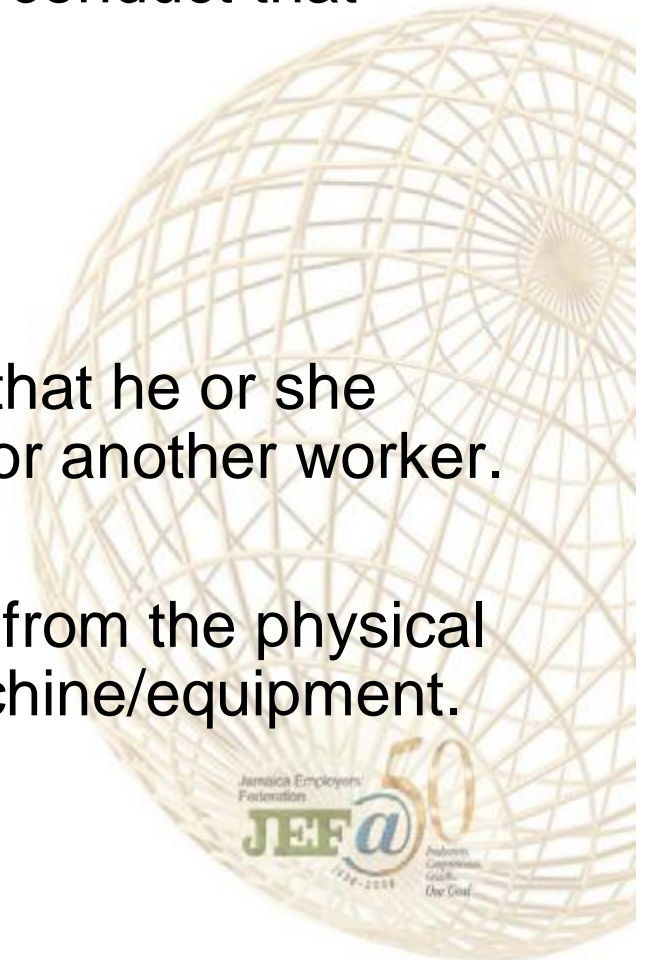




- Workers must not operate equipment in a manner that could endanger themselves or others; this prohibition includes pranks or other unnecessary conduct that could pose a danger.

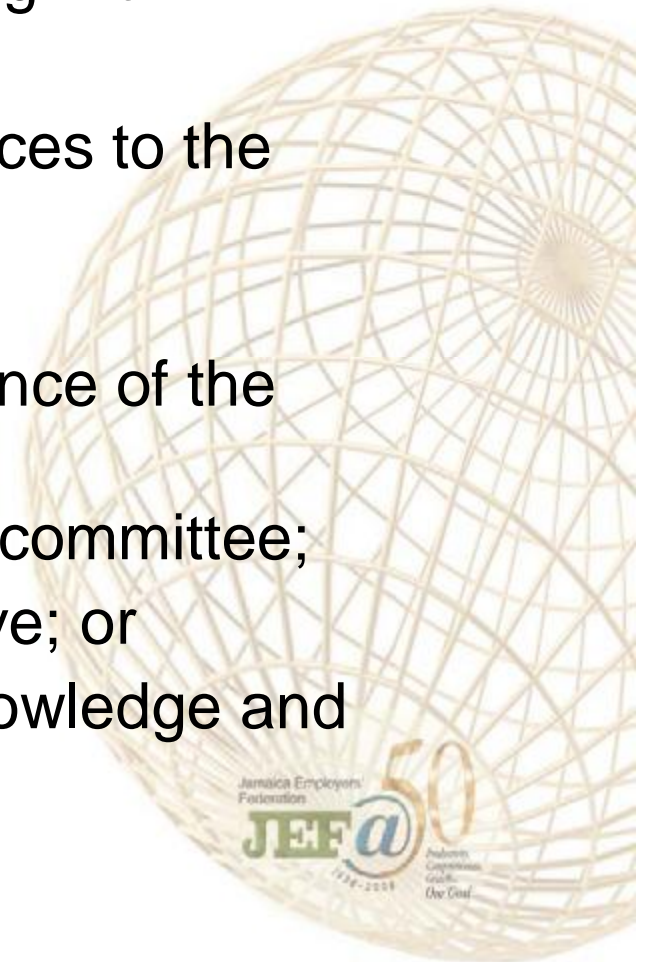
Rights:

- A worker has the right to refuse work that he or she believes would endanger him/herself or another worker.
- The right applies to danger perceived from the physical condition of the workplace and/or machine/equipment.



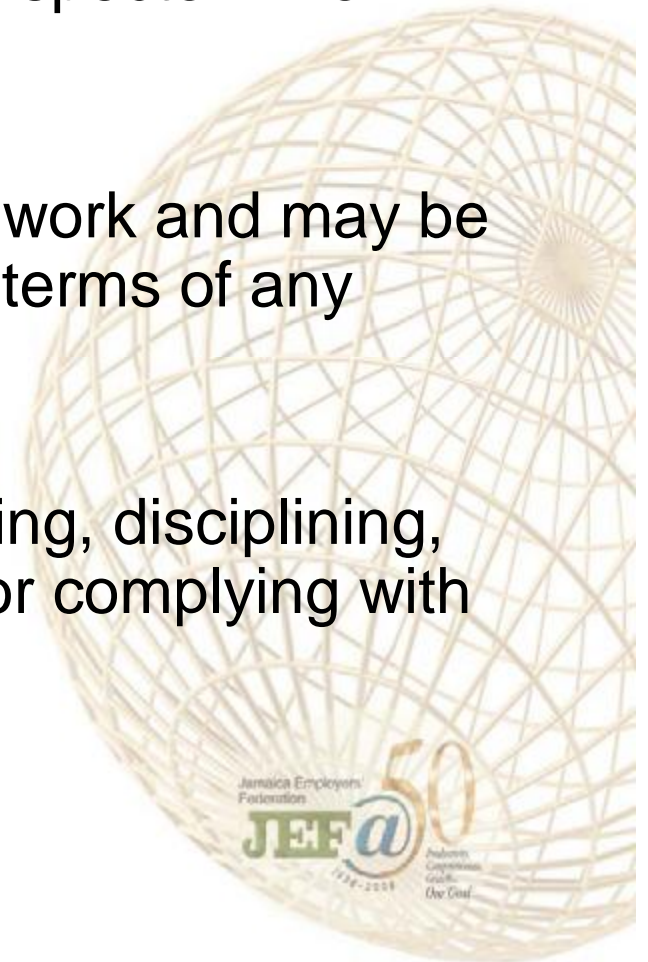


- When a worker invokes this right, an established procedure is set in motion, beginning with:
 1. the worker reporting the circumstances to the supervisor;
 2. supervisor investigates in the presence of the worker and either:
 - (i) a member of the joint (or trades) committee;
 - (ii) a safety and health representative; or
 - (iii) a worker selected for his/her knowledge and experience.





2. If the matter is not resolved, it is reported (by employer or worker/representative) to a MOL inspector who investigates as soon as possible.
- Meanwhile, the worker is deemed at work and may be assigned other duties, subject to the terms of any existing CLA.
 - Employers are prohibited from coercing, disciplining, or intimidating a worker in any way for complying with the provisions of the Act.





Exceptions to Right

The right of refusal does **not** apply:

1. where such refusal would directly endanger another person's life, safety or health;
2. to workers employed in the essential services (per LRIDA, First Schedule); or
3. in other specially prescribed circumstances.





Suppliers' Responsibilities

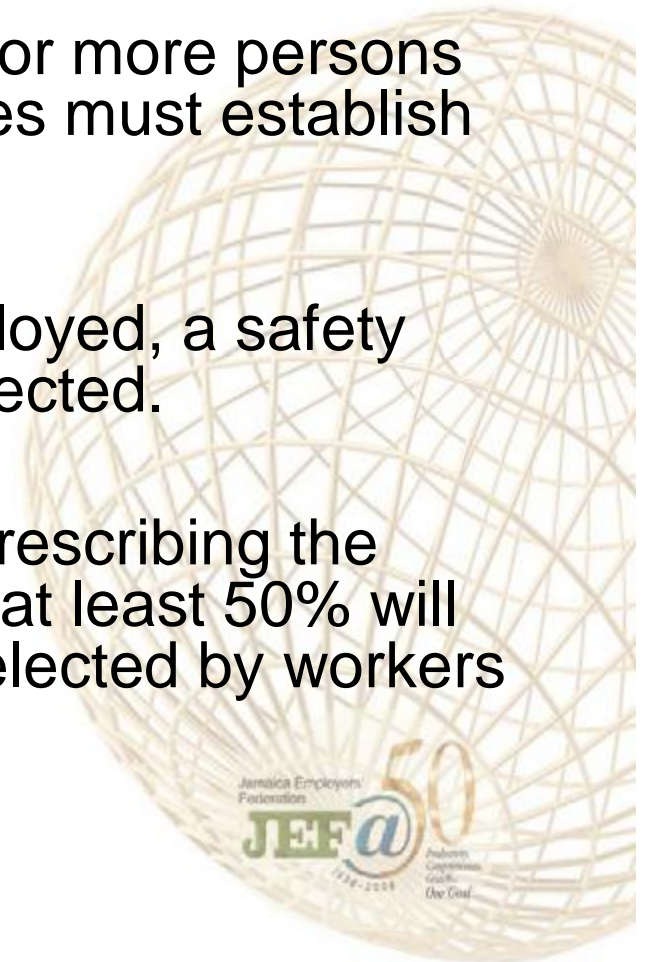
Every supplier of equipment for use in or about the workplace must ensure that the equipment is in good condition and otherwise complies with the relevant provisions of the Act and its regulations.





Joint Safety and Health Committees

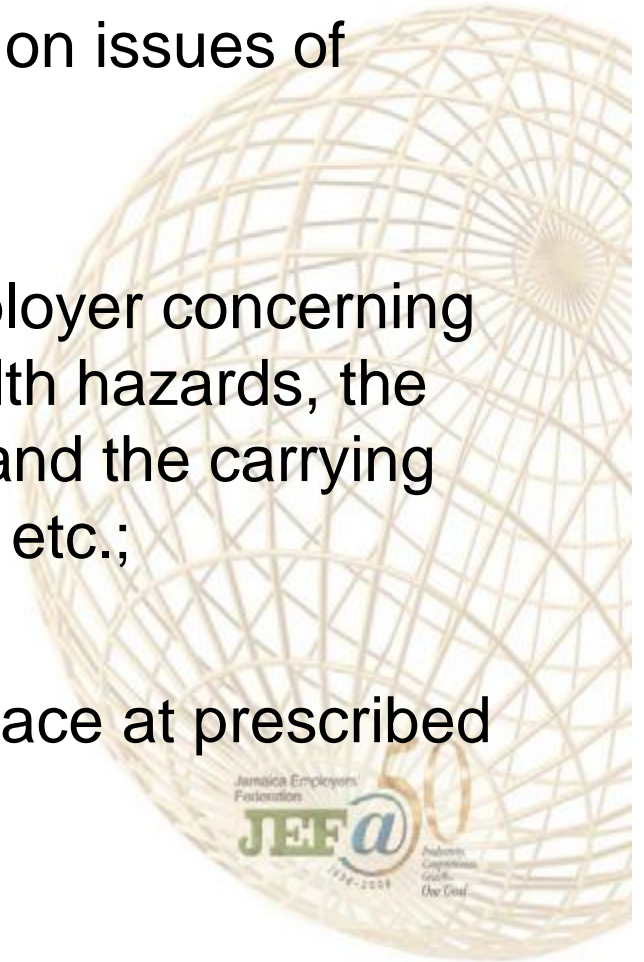
- Workplaces that regularly employ 20 or more persons or where workers use toxic substances must establish a joint safety and health committee.
- Where less than 20 persons are employed, a safety and health representative is to be selected.
- The Minister may make regulations prescribing the composition of joint committees, (but at least 50% will likely be non-managerial members selected by workers or union, where applicable).





Committee members:

1. Will identify hazardous situations and make recommendations to the employer on issues of safety and health;
2. Are to obtain information from employer concerning the identification of safety and health hazards, the experience of similar enterprises, and the carrying out of tests on equipment, articles, etc.;
3. Carry out inspections of the workplace at prescribed times.





Information and Record-keeping

The Act requires employers to:

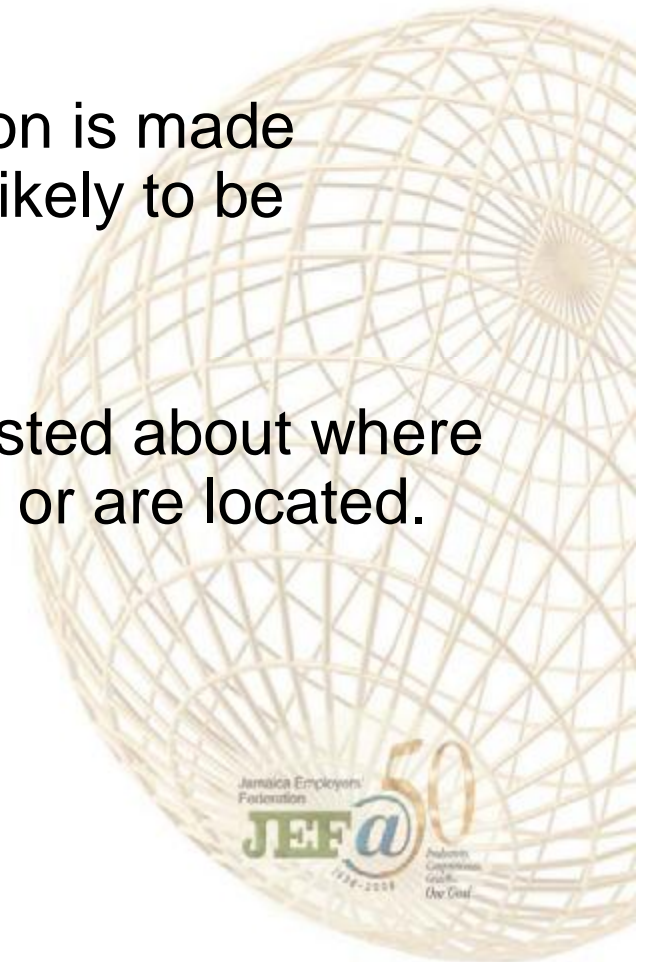
1. Keep an inventory of all hazardous chemicals, physical agents, etc., present in the workplace;
2. Ensure that all hazardous agents are properly labelled and identified;
3. Make the information available and accessible to workers and furnish it to the joint committee or safety and health representative.





In addition, an employer in possession of hazardous articles or substances must:

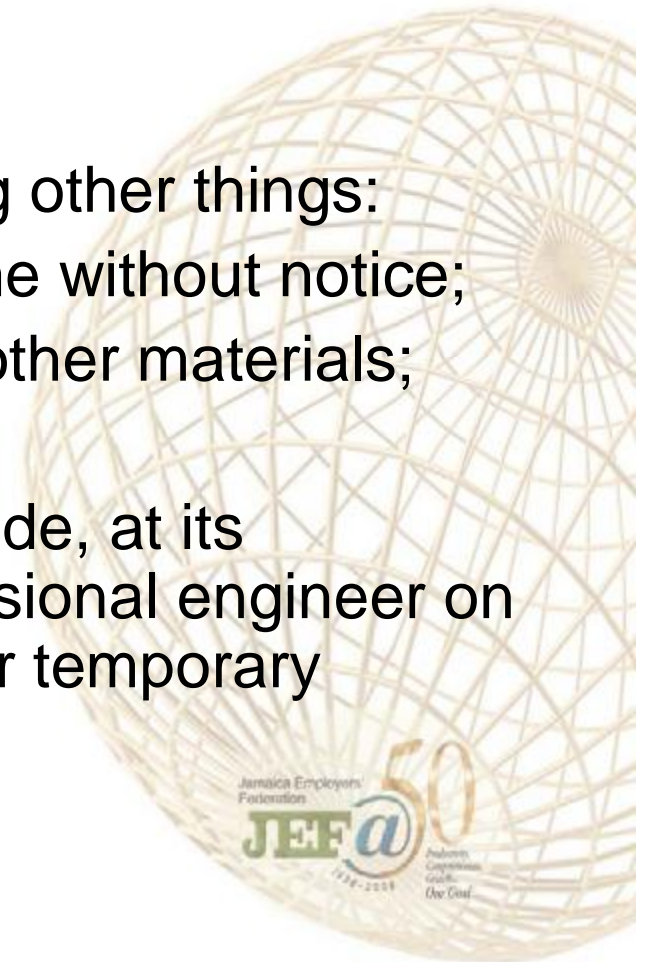
4. ensure that the prescribed information is made available to those who use it or are likely to be exposed to it; and
5. that warning notices are properly posted about where the articles or substances are in use or are located.





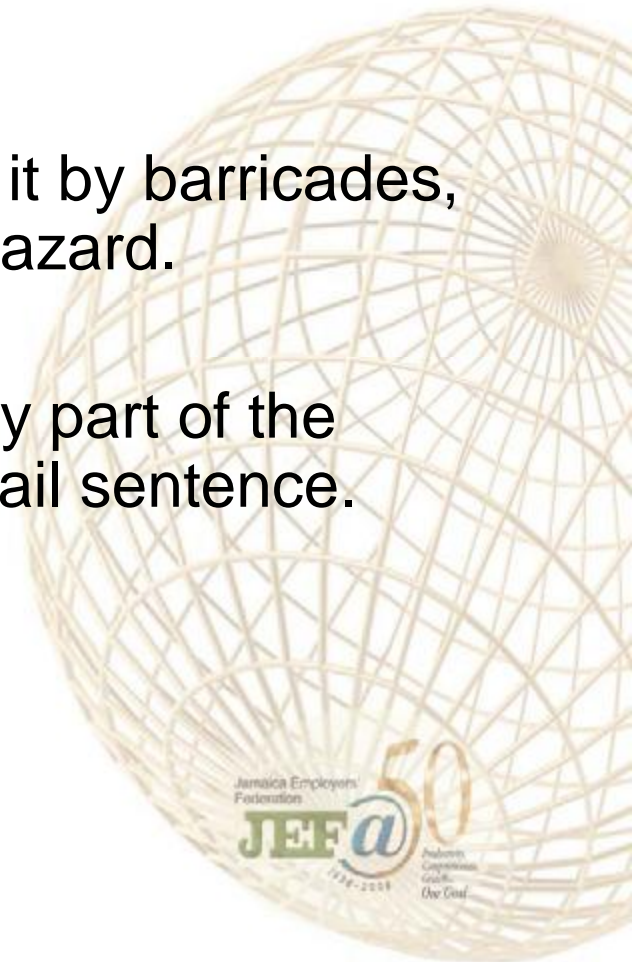
Inspection and Enforcement

- The Minister of Labour appoints inspectors to enforce OSHA regulations.
- Inspectors have the power to, among other things:
 1. enter any workplace at any time without notice;
 2. inspect and copy records and other materials;
 3. conduct tests; and
 4. require an organization to provide, at its expense, reports from a professional engineer on the load limits of a floor, roof, or temporary structure.





- If an inspector finds that a provision of the Act has been contravened, he/she can:
 1. direct compliance;
 2. limit or stop work; or
 3. clear a workplace and isolate it by barricades, depending on the degree of hazard.
- Anyone who fails to comply with any part of the legislation is liable to a fine and/or jail sentence.

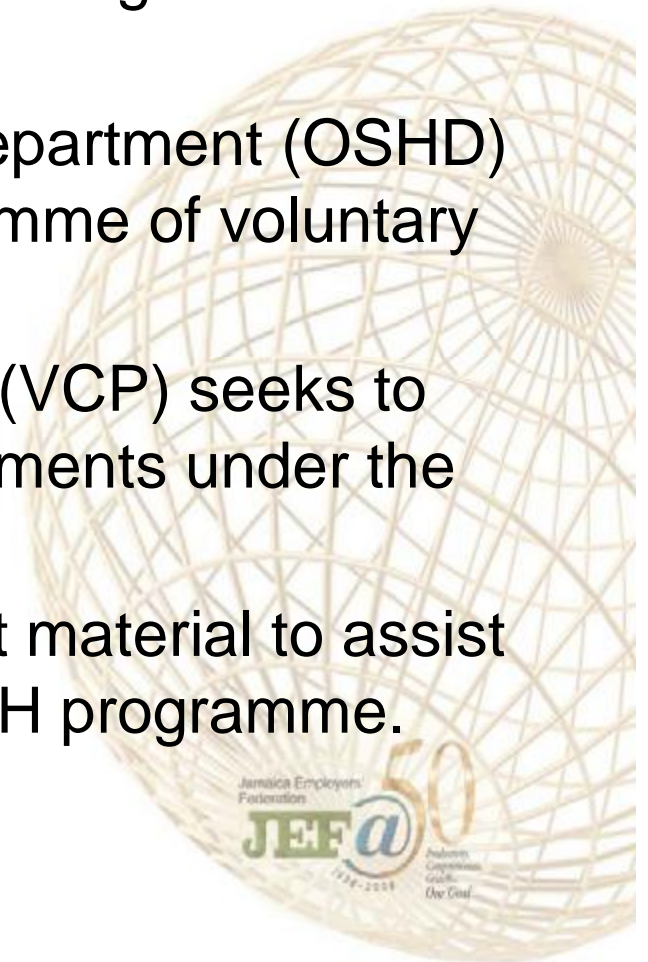




Voluntary Compliance Programme

Recognising that the OSH Act has been taking some time to pass,

- the Occupational Safety and Health Department (OSHD) of the MOL has embarked on a programme of voluntary compliance.
- The voluntary compliance programme (VCP) seeks to prepare enterprises for the key requirements under the Act;
- enrolees receive guidance and support material to assist them to develop and implement an OSH programme.





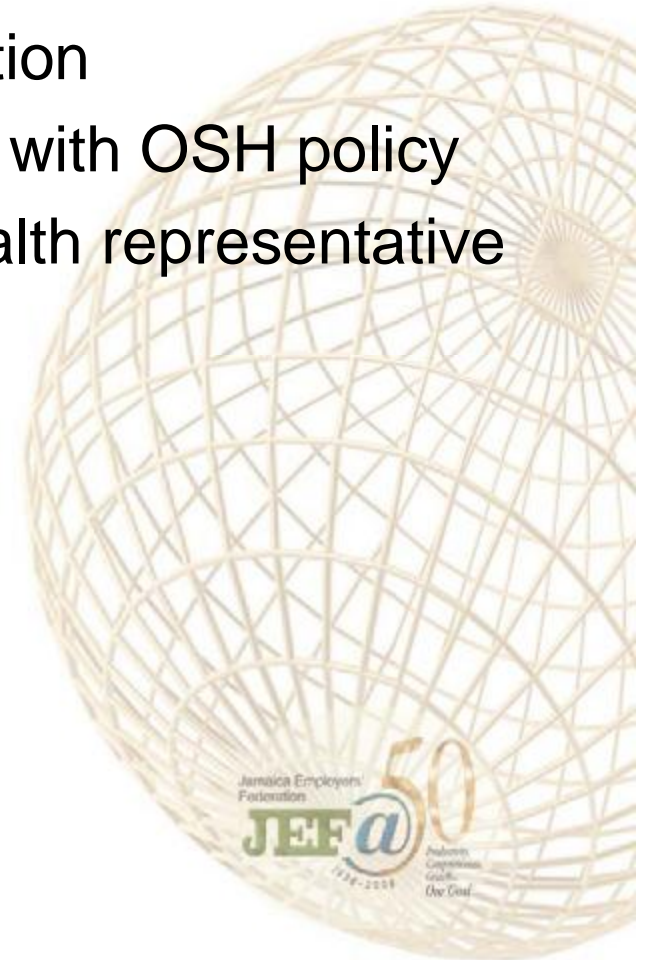
An enrolee is required to implement an OSH programme that demonstrates:

1. Leadership & Employee Participation

- Written safety & health manual with OSH policy
- Joint committee or safety & health representative

2. Workplace Analysis

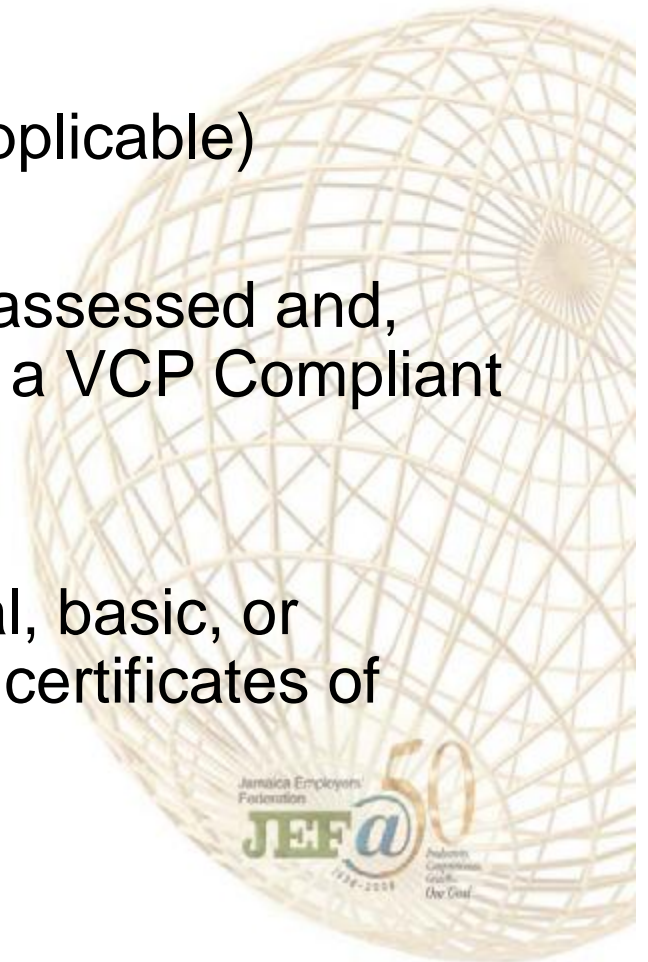
- Safety audits
- Routine inspection procedure





3. Hazard Control Procedure
4. Emergency Response
5. Reporting & Investigation of Accidents
6. Training
7. Registration as a factory (where applicable)

- The enterprise's OSH programme is assessed and, based on the outcome, is issued with a VCP Compliant Certificate that is valid for two years.
- The OSH VCP is rated developmental, basic, or superior, and is associated with VCP certificates of bronze, silver and gold, respectively.





THE END

