



Jamaica Occupational Safety and Health Act (JOSHA)

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FOUNDATION OF THE OCCUPATIONAL SAFETY AND HEALTH ACT

PROTECTION OF THE WORKFORCE Unions/ Workers

Employers
PRODUCTIVITY AND EFFICIENCY



Government
ACCIDENT PREVENTION



APPLICATION OF THE ACT

THIS ACT APPLIES TO ALL BRANCHES OF ECONOMIC ACTIVITY AND TO ALL OWNERS, EMPLOYERS AND WORKERS IN ALL SUCH BRANCHES





SAFETY AND HEALTH LEGISLATION

MAIN FEATURES OF THE OSH BILL

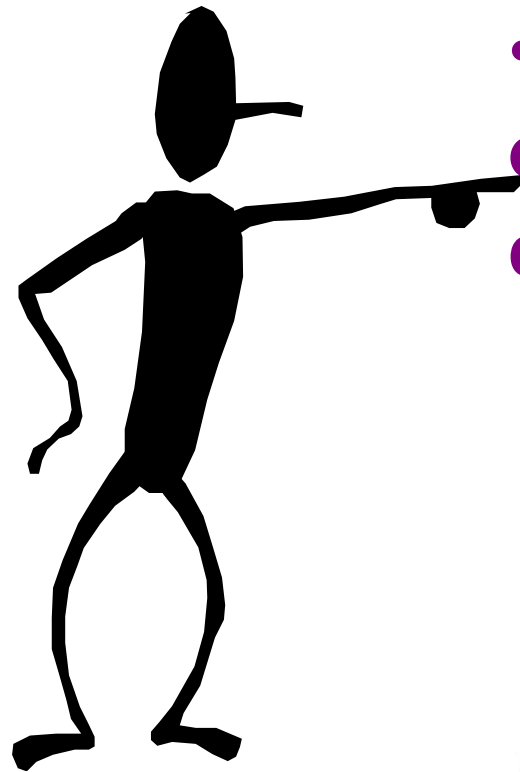
- **JOINT RESPONSIBILITY SYSTEM**
- **DUTIES OF EMPLOYERS**
- **DUTIES OF EMPLOYEES**
- **RIGHTS OF WORKERS**
- **MINISTERIAL ORDER**
- **ENFORCEMENT**
- **SAFETY AND HEALTH COMMITTEE**





JOSHA

Also makes general provisions for :-



- **Notification of accidents, dangerous occurrences and occupational diseases**
- **Power of Safety inspector to issue stop orders and improvement notices**
- **Penalties for breaches of sections of the Act and regulations**



JOINT SAFETY AND HEALTH COMMITTEE

The joint safety and health committee is the vehicle for the implementation, development, and maintenance of the joint responsibility system at the work place





JOINT WORKPLACE RESPONSIBILITY SYSTEM

Management and Workers are jointly responsible for safety with each party playing a vital role in OSH





JOINT WORKPLACE RESPONSIBILITY SYSTEM



must involve everyone from the **chief executive officer** of the company to the **shop floor sweeper**



DUTIES OF OWNERS AND MANAGERS





DUTIES OF OWNERS AND MANAGERS

To preserve the rights of workers to seek redress for injuries they receive while in employment, the OSH legislation imposes specific duties on owners/managers





DUTIES OF EMPLOYERS

- Take every reasonable precaution to protect the worker by providing such equipment or device that may be necessary for the protection of the worker at work





DUTIES OF EMPLOYERS

- to Inform the worker of the requirements for OSH by preparing a **written occupational Safety and Health Policy** and display it in a conspicuous location in the workplace





DUTIES OF EMPLOYERS

- to provide special protection for pregnant women in the workplace





DUTIES OF EMPLOYERS

- Ensure that **work** in the workplace is carried out in an environmentally safe manner
- Ensure that the **physical structure of the workplace is sound** with respect to the work performed there.



DUTIES OF EMPLOYERS

- Assist and cooperate with **joint safety and health committees** and representatives.
- **Not employ underage workers** or knowingly permit underage persons in or near the workplace
 - (ILO Conventions 138 and 182)



DUTIES OF EMPLOYERS

Provide:

- information, instruction,
- supervision, assistance, and
- training



to the workers in support of the occupational safety and health programme



DUTIES OF EMPLOYERS

Keep such records relating to

- The handling and storage of chemicals or other substances in use at the workplace**
- The exposure of workers to chemicals and other substances at the workplace**



DUTIES OF EMPLOYEES

- Although **the Act also prescribes duties for workers** the overriding emphasis is on the duties of employers this is so because employers have control over the work environment and the duty and empowerment to manager and control the safety and health risk in the work environment



DUTIES OF EMPLOYEES

- Conform with the requirements of the Act and its Regulations
- Operate in a safe and healthy manner so as not to prejudice the safety and health of others or him self or cause damage to tools and materials
- To act in due regard to safety health policy of the organization



CERTIFIED OSH PRACTITIONER

- Under the ACT supervisors, OSH representatives and OSH professionals are **required to be certified** by the Director of OSH to be competent persons to supervise or direct safety and health programmes in the workplace





THE RIGHTS OF MANAGEMENT

- under the new OSH Legislation specific rights are not prescribed for owners however it is implicit that owners/managers can make safety and health rules and prescribe penalties for breaches at the workplace





THE RIGHTS OF WORKERS

- under the new OSH Legislation workers have been assigned rights to assist with protecting their safety and health at the work place

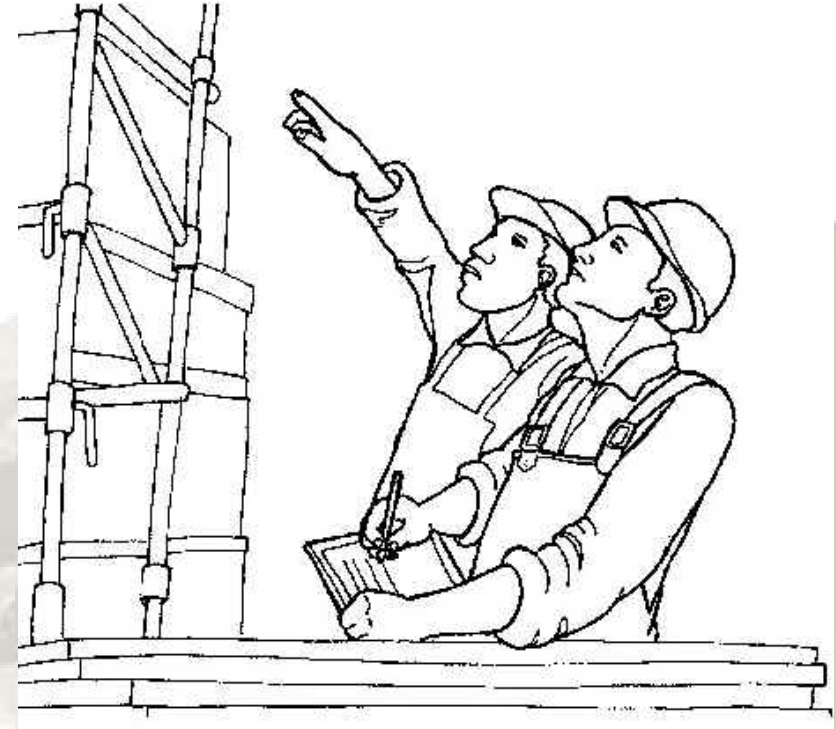




THE RIGHTS OF WORKERS

•THE RIGHT TO PARTICIPATE

Workers have **the right to be part of the process of identifying and resolving workplace safety and health concerns.**





THE RIGHTS OF WORKERS

- THE RIGHT TO KNOW

Workers have **the right to know about potential hazards** to which they may be exposed. This means the right to be trained and to have information on machinery, equipment, working conditions, processes and hazardous chemicals.





THE RIGHTS OF WORKERS

THE RIGHT TO REFUSE UNSAFE WORK

Workers have **the right to refuse work that they believe is dangerous to either their own safety and health or that of another worker.**





THE RIGHTS OF WORKERS

THE RIGHT TO REFUSE UNSAFE WORK

However The Act. describes the exact process for refusing dangerous work and the responsibilities of the employer in responding to such a refusal.





THE RIGHTS OF WORKERS

THE RIGHT TO BE FREE OF REPRISALS

Workers have **the right to be free of reprisals, real or threatened, when acting in compliance with this Act** or the regulations or seeking the enforcement of this Act or the regulations, for example by contacting an inspector or giving evidence in a proceeding relative to this Act or the regulation.





Inspection of Establishments

- This will be dealt with in a schedule to the legislation
- all workplaces to be classified at one of 4 levels
- Level 4 Hazardous Installations
- Level 3 Industrial establishments, ships, docks, quarries, mines, buildings and engineering sites, works of engineering construction



Inspection of Establishments

- Level 2-high rise buildings, offices, hotels, service industry (where >20 persons are employed)
- Level 1-shops and stores
- Inspection at level 4 will be carried out exclusively by Inspectors from the OSH department in the MLSS.



OSH INSPECTORS

The ACT prescribes the appointment of inspectors under the act to carry out inspections and ensure compliance with the law.





Occupational Safety & Health (OSH) Officers

- An Inspectorate is to be established and appointments made by the Minister (MLSS).
- Names of Inspectors to be Gazetted.
- Inspectors to be trained and certified as competent.





OSH INSPECTORS

The Ministry of Labour may appoint Safety and Health Officers, From the OSHD, Ministry of Health, Ministry of Mines and Energy, and other ministries for the purpose of inspection and monitoring under the Act.





OSH INSPECTORS

The Ministry of Labour may also certify competent persons for the purpose of managing safety and carrying out inspections





OSH INSPECTORS

All government Inspectors may enter unannounced however Certified Competent Persons may do so only at the owners or managers request.





DUTIES OF INSPECTORS

The inspector (SHO) is authorized to enter, at any ***reasonable times**, any site, location, or facility where work is taking place for the purpose of investigation or inspection



* Reasonable time being – as long as the establishment is in operations



DUTIES OF INSPECTORS

- ✦ To ensure compliance
- ✦ To ensure the joint workplace system is working
- ✦ To respond to specific complaints
- ✦ To provide advice and guidance





DUTIES OF INSPECTORS

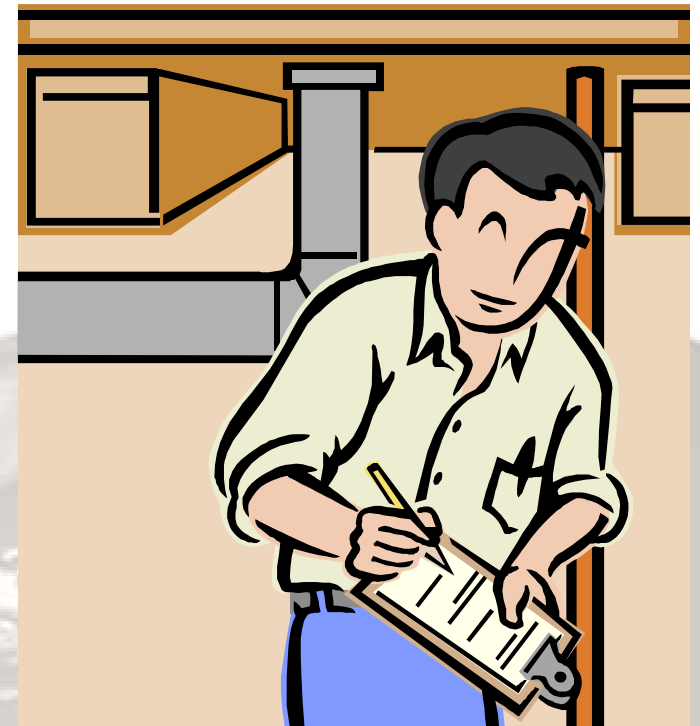
✦ where there are violations of the Act or the regulations, the inspector will issue **written orders** to the employer to comply with the law within a certain **period of time**, or if the hazard is imminent, to comply immediately.





INSPECTORS ORDER

The order will be to either prohibit or restrict the presence, use or intended use of a hazardous chemical, physical agent or biological agent in the workplace





INSPECTORS ORDER

- A copy of the order or report must be posted in the workplace where it is most likely to be seen by the workers





AUTHORITY OF THE OSH DIRECTOR

the Director of OSH may direct that where special test and examination of the workplace is required that it may be done at the owner/manager expenses





AUTHORITY OF THE OSH DIRECTOR

Require that a workplace or parts of it not be used pending investigation, enquiry or or inspection





AUTHORITY OF THE OSH DIRECTOR

Require any equipment, machinery or device be put out of use pending the carrying out of test and examination by technical examiners.





APPEALS PROCESS

Any worker, manager, or owner who is aggrieved by the actions of the Director or an order by the inspector may appeal this grievance to the tribunal setup under the ACT.





OFFENCES AND PENALTIES

The Minister may prosecute any person and or organization for a violation of the Act or the Regulations or for failing to comply with an order of an inspector





OFFENCES AND PENALTIES

Any person who interferes with or obstruct an inspector, joint committee, or safety and health representative in the execution of his/her duties is guilty of an offence

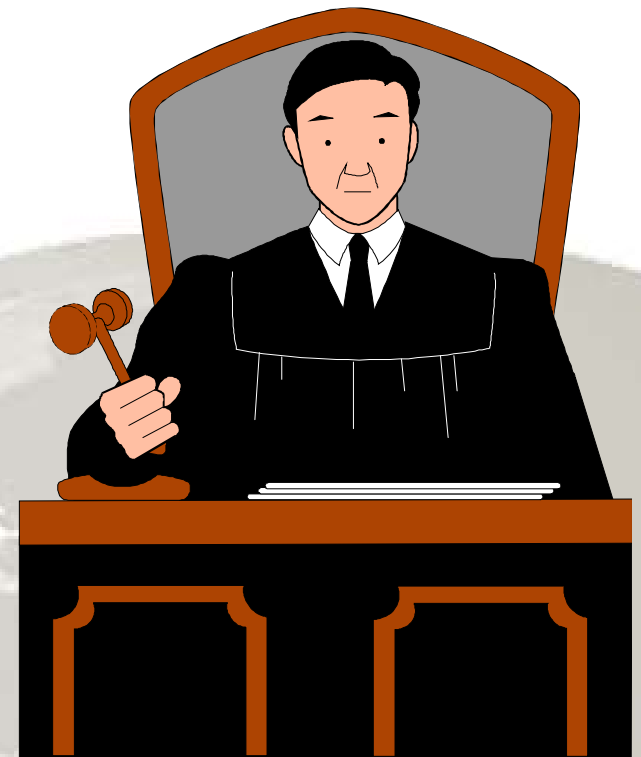




OFFENCES AND PENALTIES

An individual can be fined up to **J\$500,000** and/or imprisonment for up to 12 months

The maximum fine for a corporation convicted of an offence is **J\$1,000,000**





OFFENCES AND PENALTIES

Any person who interferes with any monitoring equipment used to measure hazardous chemical, biological or physical agent commits an offence

- **\$500,000.00 or 12 months imprisonment**
- **\$250,000.00 or 3 months imprisonment for breaches of the Act with respect to which no penalty is expressly provided**



OFFENCES AND PENALTIES

Any person who:-

- Knowingly misleads or deceives a person carrying out duties under the Act,
- Refuses or neglects to provide information required,
- In **any manner impedes**, interferes with or obstructs The Director, an inspector, joint committee, safety representative, etc; commits an offence



OFFENCES AND PENALTIES

- **\$500 000 or 12 months imprisonment (individual)**
- **\$1,000 000 (corporations, limited liability companies)**



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OFFENCES AND FIXED PENALTIES

- For any breach of the act the Director may through notice offer the owner/manager an opportunity to pay a fixed penalty with the approval of the director of public prosecution
- The minister may by order set the fixed penalty





FIXED PENALTIES

Contravention of any order by an Inspector that any equipment, article, chemical or process should not be used until breach has been remedied.

\$50, 000.00)



FIXED PENALTIES

Failure of an employer or supervisor of a workplace to provide copies of any notice or report issued by an Inspector in relation to an inspection to any worker, joint committee or worker representative.

\$100,000.00



FIXED PENALTIES

Contravention of an order by an Inspector that a workplace be vacated and isolated by barricades, fencing or other appropriate means to prevent access there to by a worker until the breach is remedied.

\$100, 000.00



FIXED PENALTIES

Removal of a copy of a notice affixed by an OSH Officer and which indicates that a breach constitutes a hazard to safety and health

\$100,000.00



FIXED PENALTIES

Contravention of an order that a hazardous chemical or article that causes, emits or produces a hazardous physical agent not be used.

\$100, 000.00

Contravention of any order by an Inspector that work at a workplace ceases.

\$200, 000.00



THE OSH TRIBUNAL

Any employer aggrieved by an **order of the Director** in relation to the use of hazardous substances etc. May appeal to the Tribunal which may suspend the operation of the notice pending determination of the matter



THE OSH TRIBUNAL

Established to hear appeals from any owner, employer, worker or trade union aggrieved by a decision of the Minister or the Director under the Act.





Thank You For Listening

