

4. Occupational H / S Legislation - Dr. Samuel Afubwa

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What is Law?

- Many meanings have been given to the term law, but no universal definition has been acceptable by all schools of thought but whatever law may or may not be, it can be described as

"A collection of rules of human conduct prescribed by human beings for the obedience of human beings"

- The layman's ideas of what law is will be expressed in many ways
- He has an idea where law comes from - state or governments - or politicians (which may refer to parliament) and judges
- He knows that if he steals, and is caught, he will be punished.

Classification of Law

- Public Law - consists of fields of law in which
 - Constitutional law
 - Administrative law
 - Criminal law
- Private law - rights and duties of persons towards persons. Embraces law of tort, law of contract law of property
- International law - body of laws which regulates the relations of states. Based on customs, treaties and conventions (agreements). Disputes between states can be settled by the International court of Justice at the Hague in Holland but the litigant state must accept or consent to its jurisdiction. There are no means of enforcing its judgments. There is no such thing as International police force or legislature for enacting international law. The UN does not perform these functions either

HISTORY - Labour Legislation

- *You can read at your own time - not important for you*
- *Get from the presentation*
- The Kenyan Constitution - 2010
 - Article 41
 - Article 42
 - Article 43
 - Article 70
- Other acts in Kenya relevant to occupational health
 - Public health act
 - Employment Act
 - Labour relations Act
 - Radiation Act Cap 243
 - Pharmacy and Poison Act
 - Medical and Dentist Act
 - Occupational Safety and Health Act of 2007
 - Applies to all workplaces

Occupational Safety and Health Act of 2007

- Ensure safety, health, and welfare at work of all his employees
- Registration of workplaces - register their premises as workplaces
- Renewal of registration certificate - every year
- Prepare a written safety and health policy document
- ???
- Safety and health audits - carried out at least once every year by an approved safety and health adviser
- Take all necessary precautions to ensure his own safety and that of any other person who may be affected by his activities (Neighbour in Law - any person who would be affected by your activities)

and actions)

Duty of Employees

- Take care of your own and others that may be affected by his acts or omissions
- Cooperate with employer in discharge of any requirement imposed by the Act
- Use at all times protective equipment or clothing provided by employer for purpose of preventing risks to safety and health
- Report to the immediate supervisor any situation which he believe presents imminent or serious danger to his safety or health
- No person shall wilfully interfere with or misuse anything provided for safety, health and welfare.

Safety and health committee

- An employer with 20 or more employees shall establish a workplace safety and health committee

Accidents, Disease and Dangerous Occurrences Notification

- Notice of accidents and dangerous occurrences
- Notification of occupational diseases

Enforcement

- Inspections - penalty
- Improvement notices and prohibition notices - when contraventions recur and no action for improvement is taken
- Prosecution - for repetitive

Health considerations

- Cleanliness
- Overcrowding
- Ventilation
- Lighting
- Drainage of floors
- Sanitary accommodation

Machinery Safety

- Safe use of plant machinery and equipment - designed for and operated by a competent person
- Fencing - securely fenced
- Cranes, Hoists, and other lifting equipment, pressure vessels and refrigeration plants - thoroughly examined periodically according to the law by a person approved by DOSHS

Safety - General Provisions

- Safe means of access - floors, passages, gangways, steps, stairs, ladders, soundly constructed
- Removal of dust or fumes - protection against inhalation, and where practicable, localised exhaust ventilation must be provided and maintained
- Meals in certain dangerous trades - must not partake of food or drink in workrooms where there are hazardous dusts / fumes.

OSHA

Duties of employer

- Ensure no employee is discriminated against by virtue of
 - Lodging a complaint about an unsafe condition at the workplace
 - Being an active member of a health safety committee
- Establish a health and safety committee if the workplace employs 20 or more workers
- Not to deduct remuneration of things done or provided for health and safety
- To carry out workplace health and safety audit annually

Duties of Self Employed persons

- Take precautions when working
- Use safe work systems and procedures at the workplace
- Comply with any relevant safety and health rules under the act

- Report to DOSHS any hazards, accidents, dangerous occurrences and occupational diseases
- To safeguard the safety of non-employees

Administration of the ACT

Table -

- Corrosive gases
 - Ammonia
 - Chlorine
 - Fluorine
- Flammable Gases
 - Butane
 - Propane
 - Methane
- Asphyxiants
 - Hydrogen cyanide
 - Carbon Monoxide
 - Carbon Dioxide
 - Hydrogen Sulfide