

REPRINT

SAFETY AT WORK ACT (CAP. 74)

As in force at: 1 October 2009

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This version is that in force at the date stated above. It does not include amendments made since that date.

For list of amendments see Endnotes

AN ACT TO PROVIDE FOR THE HEALTH, SAFETY AND WELFARE OF PERSONS AT WORK AND TO PROTECT PERSONS AGAINST RISKS TO HEALTH OR SAFETY ARISING OUT OF OR IN CONNECTION WITH THE ACTIVITIES OF PERSONS AT WORK; TO IMPOSE SPECIFIC REQUIREMENTS IN RESPECT OF CERTAIN ARTICLES AND SUBSTANCES THAT ARE A POTENTIAL SOURCE OF DANGER; TO MAKE MINOR AMENDMENTS OF THE LABOUR ACT AND THE WORKMEN'S COMPENSATION ACT; AND FOR CONNECTED PURPOSES

SAFETY AT WORK ACT (CAP. 74)

Table of provisions

PART I	INTRODUCTORY.....	1
1	Short title	1
2	Meaning of “employer” and “employee”	1
3	Meaning of “workplace”	1
PART II	GENERAL DUTIES.....	2
4	General duty of employers to their employees	2
5	General duty of employers and self-employed to persons other than their employees	2
6	General duty of employees at work	2
7	General duty of those who control workplaces, etc., to persons not their employees	2
8	Duty of manufacturers, suppliers, etc., of tools and equipment	3
9	Duty of manufacturers, suppliers, etc., of chemicals and other substances	3
10	Provisions supplementary to sections 8 and 9	4
11	Effect on common law	4
12	Strict liability of employer for defective equipment, etc.	5
13	Extension of duties to those abroad	5
14	Civil liability and criminal penalties for breach of duty, etc.	5
PART III	SPECIFIC DUTIES.....	6
15	Duty to protect persons from harmful dust, fumes, etc.	6
16	Specific limits on exposure to dust, fumes, etc.	7
17	Pressure and vacuum systems	8
18	Lifting equipment	9
19	Dangerous machinery	9
20	Electrical installations	10
21	Fire precautions	11
22	Precautions against explosion	12
23	Duty to use capable sub-contractors	14
24	Interfering with safety equipment, etc.	14
25	Penalties for offences under this Part	15

PART IV GENERAL AND INTERPRETATION.....15

26	Codes of practice	15
27	Use of approved codes of practice	16
28	Regulations	16
29	Powers of Commissioner of Labour	17
30	Remedial notices	19
31	Prohibition notices	19
32	Provisions supplementary to sections 29 to 31	20
33	Offences under sections 29 to 31	21
34	Prosecutions by Commissioner	22
35	Fees	22
36	Meaning of “person in control”	22
37	Onus of proving limits of what is practicable, etc.	23
38	Meaning of “work” and “at work”	23
39	General interpretation	23
40	Subsidiary legislation	24
41	Application to Government	25
42	Extent of Act	25
43	Amendments and repeals	25

SCHEDULE 1	26
-------------------	-----------

SCHEDULE 2	27
-------------------	-----------

SCHEDULE 3	31
-------------------	-----------

SCHEDULE 4	33
-------------------	-----------

SCHEDULE 5	35
-------------------	-----------

SCHEDULE 6	36
-------------------	-----------

SCHEDULE 7*	37
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SAFETY AT WORK ACT (Cap. 74)

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PART I INTRODUCTORY

1 Short title

This Act may be cited as the *Safety at Work Act*.

2 Meaning of “employer” and “employee”

The following cases apply to decide, for the purposes of this Act, whether an individual (call him “A”) is the employee of another person; and the words “**employer**” and “**employee**” are to be interpreted accordingly:

Case 1 A works under a contract of employment with another person (call him “B”) in connection with B’s business: A is B’s employee.

Case 2 A works under a contract of employment with another person (call him “B”) but the work is done for a third person (call him “C”) in connection with C’s business under an arrangement between B and C whereby C may tell A what to do and how to do it: A is C’s employee, not B’s employee.

Case 3 A works for another person (call him “D”) in connection with D’s business under an arrangement between A and D (which does not provide for any pay or other consideration for the work) whereby D may tell A what to do and how to do it: A is D’s employee.

3 Meaning of “workplace”

In this Act, “**workplace**” means any premises or other place made available in the course of business:

- (a) as a place of work, or
- (b) as a place where persons at work may use plant or substances

provided for their use there,
and any place used in connection with such a place and includes any means of entering or leaving such a place.

PART II GENERAL DUTIES

Codification of existing duties of employers and others

4 General duty of employers to their employees

- (1) It is the duty of every employer to ensure, so far as is reasonably practicable, the health and safety at work of all his employees.
- (2) Schedule 1 contains examples of the duty imposed by this section.

5 General duty of employers and self-employed to persons other than their employees

- (1) It is the duty of every employer to conduct his business in such a way as to ensure, so far as is reasonably practicable, that persons who are not his employees but may be affected by the way he conducts his business are not exposed by the way he conducts it to risks to their health or safety.
- (2) It is the duty of every self-employed person to conduct his business in such a way as to ensure, so far as is reasonably practicable, that he and other persons who are not his employees but may be affected by the way he conducts his business are not exposed by the way he conducts it to risks to their health or safety.

6 General duty of employees at work

It is the duty of every employee while at work to take reasonable care for the health and safety of himself and of other persons who may be affected by his acts or omissions at work.

7 General duty of those who control workplaces, etc., to persons not their employees

- (1) It is the duty of every person in control:
 - (a) of any workplace, or

(b) of any plant or substance in a workplace,

to ensure, so far as is reasonably practicable, that the workplace or the plant or substance in it (as the case may be) is safe and without risks to health for persons other than his employees.

(2) The duty imposed by this section is in addition to any duty imposed on a person as occupier of premises.

8 Duty of manufacturers, suppliers, etc., of tools and equipment

(1) It is the duty of any person who designs, manufactures, imports or supplies any article for use at work:

(a) to ensure, so far as is reasonably practicable, that the article is so designed and constructed as to be safe and without risks to health when properly used;

(b) to carry out or arrange for the carrying out of such testing and examination as may be necessary for the performance of the duty imposed on him by the previous paragraph;

(c) to take such steps as are necessary to secure that there will be available in connection with the use of the article at work adequate information about the use for which it is designed and has been tested, and about any conditions necessary to ensure that, when put to that use, it will be safe and without risks to health.

(2) It is the duty of any person who erects or installs any article for use at work in any premises where that article is to be used by persons at work to ensure, so far as is reasonably practicable, that nothing about the way in which it is erected or installed makes it unsafe or a risk to health when properly used.

9 Duty of manufacturers, suppliers, etc., of chemicals and other substances

It is the duty of any person who manufactures, imports or supplies any substance for use at work:

(a) to ensure, so far as is reasonably practicable, that the

substance is safe and without risks to health when properly used;

- (b) to carry out or arrange for the carrying out of such testing and examination as may be necessary for the performance of the duty imposed on him by the preceding paragraph;
- (c) to take such steps as are necessary to secure that there will be available in connection with the use of the substance at work adequate information about the results of any relevant tests which have been carried out on or in connection with the substance and about any conditions necessary to ensure that it will be safe and without risks to health when properly used.

10 Provisions supplementary to sections 8 and 9

- (1) Any duty imposed on any person by sections 8 and 9 extends only to things done in the course of his business and to matters within his control.
- (2) Nothing in those sections requires any person to repeat any testing or examination which has been carried out otherwise than by him or at his instance, in so far as it is reasonable for him to rely on the results of that testing or examination for the purposes of those sections.
- (3) For the purposes of those sections, an article or substance is not to be regarded as properly used where it is used without regard to any relevant information or advice relating to its use which has been made available by a person by whom it was designed, manufactured, imported or supplied.

11 Effect on common law

The duties imposed by the preceding sections have effect in place of the corresponding duties at common law; but do not affect any other liability at common law (such as the liability of an employer for the acts of his employees).

Extension of existing duties

12 Strict liability of employer for defective equipment, etc.

- (1) If an individual suffers personal injury at work in consequence of a breach by a person other than his employer of a duty imposed by sections 8 and 9 then, even though the employer is not personally at fault, those sections and subsection (1) of section 14 (but not subsection (2) of that section) shall apply as if the employer also were in breach of that duty.
- (2) Subsection (1) does not prevent an employer who incurs liability by virtue of that subsection from obtaining relief by way of contribution, or in contract or otherwise.

13 Extension of duties to those abroad

The duties imposed by sections 8 and 9 on those who design, manufacture or supply articles or substances extend, in respect of an article or substance which is used at work in Solomon Islands, to those who design, manufacture or supply it at any place outside Solomon Islands.

Consequences of breach of duty

14 Civil liability and criminal penalties for breach of duty, etc.

- (1) If an individual suffers personal injury in consequence of a failure to discharge a duty imposed by sections 4 to 9, the failure is actionable.
- (2) A person who fails to discharge a duty imposed by sections 4 to 9 is guilty of an offence and liable on conviction to a fine of 10,000 penalty units, or imprisonment for one year, or both.
- (3) Any term of an agreement which purports to exclude or restrict the operation of subsection (1), or any liability arising by virtue of that subsection, is void.
- (4) Where a person has been convicted of an offence of failure to discharge a duty imposed by sections 4 to 9 then, in any civil proceedings in which the question arises as to whether or not he failed to discharge the duty, the conviction is to be conclusive evidence that he failed to do so and is to be admissible in evidence accordingly.

PART III **SPECIFIC DUTIES**

Dust, fumes, etc.

15 Duty to protect persons from harmful dust, fumes, etc.

- (1) Where an employee is at work and either:
 - (a) he is engaged in work which involves the use of a harmful substance; or
 - (b) a harmful substance is present where the work is being carried on;then the duties in subsections (2) and (3) arise.
- (2) It is the duty of the employer to ensure that neither the employee nor any other person is exposed to that substance to any degree that is likely to cause personal injury.
- (3) It is the duty of any person in control of that substance to ensure, so far as is practicable, that neither the employee nor any other person is exposed to that substance to any degree that is likely to cause personal injury.
- (4) For the purposes of this section and section 16, a person is exposed to a harmful substance if:
 - (a) it comes into contact with his body; or
 - (b) it enters his body (by inhalation, ingestion, absorption through the skin or any other means).
- (5) In this section and section 16, "**harmful substance**" means any substance that is capable of causing personal injury by:
 - (a) contact with the body; or
 - (b) entry into the body (by inhalation, ingestion, absorption through the skin or any other means);and includes a substance that is capable of causing personal injury only under particular conditions (for example, if it is heated, vaporises

or ignites).

(6) A person who fails to discharge a duty imposed by this section is guilty of an offence.

16 Specific limits on exposure to dust, fumes, etc.

(1) The Minister may approve any document (including a revision of a document) specifying, in any form, the limit beyond which a person should not be exposed to any harmful substance; and may at any time withdraw any approval given under this subsection.

(2) Where the Minister gives or withdraws any approval under subsection (1), he must by notice in the Gazette identify the document concerned and state the date (not being earlier than the date of the notice) on which the approval is to have effect or cease to have effect.

(3) If a person is exposed to any harmful substance beyond the limit specified in a document for the time being approved under subsection (1), he is to be treated for the purposes of section 15(2) and (3) as having been exposed to that substance to a degree that is likely to cause personal injury.

(4) Where:

(a) a document specifying a limit is for the time being approved by the Minister under this section; and

(b) the limit specified is expressed as an average concentration of the substance to or above which a person should not be exposed over a particular period or particular periods of time,

then, for the purposes of any proceedings for an offence under section 15, evidence that that concentration was exceeded at any time is evidence, but not conclusive evidence, that the limit was exceeded.

(5) The power conferred by this section to approve or withdraw approval of a document includes power to approve or withdraw approval of part of it; and references in this section to a document approved under this section are references to a document to the extent that it

is approved under this section.

(6) A document approved under this section is not subsidiary legislation for the purposes of the *Interpretation and General Provisions Act*.

Pressure and vacuum systems

17 Pressure and vacuum systems

(1) Where a pressure system is used in the course of a business carried on by any person, the requirements imposed by or under Schedule 2 must be complied with in respect of that system.

(2) If any of those requirements is not complied with in respect of that system, the person referred to in subsection (1) and any person in control of the system is guilty of an offence.

(3) In this section and Schedule 2, “**pressure system**” means anything used for the generation, storage or conveyance of any relevant substance at a pressure above or below atmospheric pressure, but does not include:

- (a) anything (not being part of a pressure system) with an internal volume of less than 250 litres where the pressure does not exceed either 0.5 bar or 7.5 psig;
- (b) an internal combustion engine; and
- (c) a system of a prescribed type.

(4) In subsection (3), “**relevant substance**” means:

- (a) air or any substance in the form of a gas or vapour;
- (b) any gas in liquefied form; and
- (c) such other substances as may be prescribed.

(5) Where a person conducting a test or examination of a pressure system under paragraph 7 of Schedule 2 is not satisfied that the system is safe when properly used, he must forthwith inform the Commissioner of Labour of that fact by notice in writing.

(6) A person who fails to comply with subsection (5) is guilty of an offence.

Machinery

18 Lifting equipment

(1) Where a lifting machine or lifting tackle is used in the course of a business carried on by any person, the requirements imposed by or under Schedule 3 must be complied with in respect of the machine or tackle.

(2) If any of those requirements is not complied with in respect of the machine or tackle, the person referred to in subsection (1) and any person in control of the machine or tackle is guilty of an offence.

(3) In this section and Schedule 3, “**lifting machine**” means any crane, winch, pulley block, derrick, truck or similar device (whether mobile or not) used for the purpose of raising or lowering goods, persons or materials or moving them while suspended or partly suspended; and includes a lift, whether for passengers or goods.

(4) In this section and Schedule 3, “**lifting tackle**” means any chain, rope, chain sling, rope sling, clamp, ring, hook, shackle, swivel or similar device used for the purpose of raising or lowering goods, persons or materials or moving them while suspended or partly suspended.

(5) Where a person conducting a test or examination of a lifting machine or lifting tackle under paragraph 6 of Schedule 3 is not satisfied that the machine or tackle is safe when properly used, he must forthwith inform the Commissioner of Labour of that fact by notice in writing.

(6) A person who fails to comply with subsection (5) is guilty of an offence.

19 Dangerous machinery

(1) Where machinery is used in the course of a business carried on by any person, the requirements of subsections (3) and (4) must be complied with in respect of any moving part of the machinery which is a potential source of danger.

- (2) If any of those requirements is not complied with, the person referred to in subsection (1) and any person in control of the machinery is guilty of an offence.
- (3) While the moving part is in motion:
 - (a) there must be:
 - (i) a fixed or automatic guard or similar device; or
 - (ii) a device for stopping the machine automatically in case of danger,which ensures that the moving part is not a potential source of danger in any reasonably foreseeable circumstances; or
 - (b) the machinery must be in such a position or of such construction that the moving part is not a potential source of danger in any reasonably foreseeable circumstances.
- (4) Efficient means must be provided for immediately cutting off the power to the moving part.
- (5) The requirements of subsection (3) do not apply in respect of any moving part of the machinery necessarily exposed in the course of maintenance if there is in force an effective system for ensuring the safety during that maintenance of those who might otherwise be exposed to danger.
- (6) In deciding for the purposes of this section whether a moving part is a potential source of danger, regard may be had to the effect of the moving part on anything coming into contact with it.

Electrical Installations

20 Electrical installations

- (1) Where any electrical installation is used in the course of a business carried on by any person the requirements imposed by or under Schedule 4 must be complied with in respect of the installation.
- (2) If any of those requirements is not complied with in respect of the installation, the person referred to in subsection (1) and any person

in control of the installation is guilty of an offence.

(3) In this section and Schedule 4:

“**apparatus**” has the same meaning as in the *Electricity Act*; and

“**electrical installation**” means any installation for the generation, transformation, conversion or distribution of electrical energy, and includes an apparatus.

(4) For the purpose of any proceedings for an offence under any provision made by or under this Act, it is to be assumed that a person will suffer personal injury if he comes into contact with part of an electrical installation conducting electrical energy at a potential exceeding 32 AC or 115 DC.

Fire and explosion

21 Fire precautions

(1) Every workplace must be provided with such means of escape as are required to enable persons employed there to leave the workplace safely in case of danger from fire or explosion.

(2) In the case of an enclosed workplace, the requirements of subsection (1) include a requirement that, in respect of each person employed there, there must be available within 20 metres of any position where he works not less than two separate means of escape.

(3) Subsection (2) does not apply to an enclosed workplace if there is in force in respect of that workplace a certificate of exemption issued by the Commissioner of Labour; but no certificate may be issued under this subsection unless the Commissioner is satisfied that the requirements of subsection (1) are complied with in respect of that workplace.

(4) While any person is within an enclosed workplace in the course of his employment, any door or other exit leading to or which is part of a means of escape for him must not be locked or fastened in such a way that it cannot be easily and immediately opened from the inside.

(5) Any door leading to or which is part of a means of escape from an

enclosed workplace must either be a sliding door or be constructed to open outwards.

- (6) Any door or other exit leading to or which is part of a means of escape from an enclosed workplace (other than an exit in ordinary use) must be marked as a means of escape by a notice of such size and so placed that it is clearly visible to those needing to use the exit.
- (7) Every workplace must be provided with effective and adequate means for extinguishing fire; and those means:
 - (a) must be properly maintained; and
 - (b) so far as is reasonably practicable, must be designed to operate without exposing any person to danger.
- (8) If any requirement of this section is not complied with in respect of a workplace:
 - (a) the person in the course of whose business the workplace is used; and
 - (b) any person in control of the workplace,is guilty of an offence.
- (9) In this section and (subject to section 22(9)) section 22:

“enclosed workplace” means a workplace within a building or other structure; and

“workplace” does not include a vehicle, vessel or aircraft.

22 Precautions against explosion

- (1) A flammable substance must not be stored in any enclosed workplace unless one of the following requirements is satisfied:
 - (a) in the case of petroleum, it is stored in a tank or magazine in respect of which there is in force a licence issued under the *Petroleum Act* before the date on which this section comes into force;

- (b) in the case of vehicle fuel, it is stored in the fuel tank of a vehicle;
- (c) it is stored in premises used for the sale by retail of that substance so long as:
 - (i) not more than 20 litres of the substance is so stored; and
 - (ii) the substance is kept in containers of a capacity of not more than one litre.

(2) Flammable gas must not be stored in any enclosed workplace.

(3) A flammable substance (unless in a container of a capacity not exceeding 250 ml.) must not be used in any workplace for cleaning any article unless a written authority of the Commissioner of Labour to do so is for the time being in force in respect of the workplace and the substance is used in accordance with the authority.

(4) Where there is any flammable substance or flammable gas in any workplace, arrangements must be made that are adequate to ensure, so far as is practicable, that the substance or gas is not likely to be ignited so as to cause personal injury.

(5) A workplace must not be used for the filling of cylinders or other containers with flammable gas unless a written authority of the Commissioner of Labour to do so is for the time being in force in respect of the workplace and the containers are filled in accordance with the authority.

(6) No authority may be issued under subsections (3) or (5) in respect of any workplace unless the Commissioner of Labour is satisfied that adequate arrangements are in force for the purpose of securing the safety of persons.

(7) If any of the requirements of this section is not complied with:

- (a) the person in the course of whose business the workplace concerned is used; and
- (b) any person in control of the substance or gas concerned,

is guilty of an offence.

(8) In this section:

“**flammable substance**” means:

- (a) any liquid with a flash point below 35° C; and
- (b) any prescribed substance; and

“**gas**” includes gas in liquefied form;

and, for the purposes of this section, gas that is flammable only under particular conditions is a flammable gas.

(9) For the purposes of subsections (1) and (2), a place is not a workplace by virtue only of the fact that it is used for the storage of a flammable substance or flammable gas.

Miscellaneous

23 Duty to use capable sub-contractors

- (1) If a person (call him “A”) who carries on a business wishes to arrange for another person (call him “B”), not being his employee, to perform part of the work involved in carrying on the business, then, A must not make such an arrangement unless he has taken all such steps as are reasonable in the circumstances to satisfy himself that B will, in performing that work, discharge any duties imposed on him by sections 4 and 5 and this section.
- (2) A person who fails to comply with the requirements of subsection (1) is guilty of an offence.

24 Interfering with safety equipment, etc.

- (1) A person who intentionally or recklessly interferes with or misuses anything provided in the interests of health or safety in pursuance of any provision made by or under this Act, is guilty of an offence.
- (2) Every employee while at work must co-operate with his employer or any other person on whom requirements are imposed by or under this Act so far as is necessary to enable the requirements to be complied with.

(3) A person who fails to comply with subsection (2) is guilty of an offence.

Penalties

25 Penalties for offences under this Part

- (1) A person guilty of an offence under sections 15(6), 17(2), 18(2), 19(2), 20(2), 21(8), 22(7) or 24(1) is liable on conviction to a fine of 10,000 penalty units, or to imprisonment for one year, or both.
- (2) A person guilty of an offence under sections 17(6), 18(6), 23(2) or 24(3) is liable on conviction to a fine of 5,000 penalty units.

PART IV GENERAL AND INTERPRETATION

Codes of practice and regulations

26 Codes of practice

- (1) If the Minister is of the opinion that any standard, specification or similar document (in this Part referred to as a “code of practice”) is suitable to be used for the practical guidance of those on whom requirements are imposed by or under this Act, he may approve the code of practice, and may subsequently approve any revision of the code.
- (2) The Minister may at any time withdraw any approval given under subsection (1).
- (3) Where the Minister gives approval under subsection (1) or withdraws any approval given under that subsection, he shall by notice in the Gazette identify the code of practice or revision concerned and state the date (not being earlier than the date of the notice) on which the approval is to have effect or cease to have effect.
- (4) The power conferred by this section to approve or withdraw approval of a code of practice or revision includes power to approve or withdraw approval of part of it.
- (5) References in section 27 to an approved code of practice are references to a code of practice (including any revision of it) to the

extent that it is approved under this section.

(6) Any approved code of practice is not subsidiary legislation for the purposes of the *Interpretation and General Provisions Act*.

27 Use of approved codes of practice

(1) Where in any proceedings before a court any question arises as to whether or not a person has failed to comply with a requirement imposed by or under this Act:

- (a) any approved code of practice shall be admissible in evidence; and
- (b) if it is shown that he failed to observe any provision of an approved code of practice giving guidance as to compliance with the requirement concerned, it shall be taken as proved that he failed to comply with the requirement unless he proves that he complied with it in some other manner.

(2) Subject to that, a failure by any person to observe a provision of an approved code of practice shall not render him liable to any civil or criminal proceedings.

28 Regulations

(1) Regulations may make provision for the purposes:

- (a) of securing the health, safety or welfare of persons at work;
- (b) of protecting persons against risks to health or safety arising out of or in connection with the activities of persons at work.

(2) Schedule 5 contains some examples of matters that may be provided for by regulations under this section.

(3) Regulations under this section may provide that, in order to comply with a requirement imposed by or under this Act ("the primary duty") a person must observe a requirement imposed by or under the regulations; and if, in any proceedings before a court, it is shown that he failed to observe that requirement it shall be taken as proved that he failed to comply with the primary duty.

- (4) Regulations under this section may be made so as to apply to particular circumstances or particular cases only.
- (5) Regulations under this section may prohibit the importation, sale or supply of any pesticide unless:
 - (a) the pesticide is for the time being registered in accordance with the regulations; and
 - (b) the importation, sale or supply complies with any requirements that may be imposed by or under the regulations (which may, for example, include requirements as to the labelling of anything in which the pesticide is kept).
- (6) Subsection (5) is not to be interpreted as limiting the extent of the power conferred by subsection (1).
- (7) A person who fails to comply with any requirement imposed by or under regulations under this section or intentionally obstructs any other person in the exercise of his functions under such regulations is guilty of an offence and liable on conviction to a fine of 8,000 penalty units, or imprisonment for nine months, or both.

Administration

29 Powers of Commissioner of Labour

- (1) The powers mentioned in the following subsections are exercisable by the Commissioner of Labour (“the Commissioner”), but only to the extent that it is necessary or expedient to exercise them for the purpose of giving effect to any provision made by or under this Act.
- (2) Those powers include:
 - (a) the power to enter a workplace at any reasonable time or, in a situation which in the opinion of the Commissioner is or may be dangerous, at any time;
 - (b) the power to take with him other persons, equipment and materials;
 - (c) the power to take measurements and photographs and to make recordings;

- (d) the power to take samples of articles, substances or the atmosphere; and
- (e) the power to dismantle or test any article or substance which appears to the Commissioner to have caused or to be likely to cause danger, and take possession of it for the purpose of examining it and for the purpose of making it available as evidence in any proceedings.

(3) Those powers include:

- (a) the power to require any person whom the Commissioner has reasonable cause to believe to be able to give any information relevant to an investigation or examination being made by him for the purpose referred to in subsection (1) to answer such questions as the Commissioner thinks fit to ask and to sign a declaration of the truth of his answers;
- (b) the power to require the production of any books or documents and to inspect them and take copies of any entry in them;
- (c) the power to make any examination or investigation and to require anything to be left undisturbed to enable the examination or investigation to take place;
- (d) the power to require any person to give the Commissioner facilities and assistance (including the taking of samples of any substance or the atmosphere, when required to do so or at specified intervals) with respect to any matters or things within that person's control or in relation to which that person has responsibilities; and
- (e) any other power which is necessary for the purpose referred to in subsection (1).

(4) Where the Commissioner takes possession of any substance under subsection (2)(e), he must, if it is practicable for him to do so, take a sample of it and give to a responsible person at the workplace concerned a portion of the sample marked in a manner sufficient to identify it.

(5) An answer given by a person in pursuance of a requirement under

subsection (3)(a) is not admissible in evidence against that person or the husband or wife of that person in any proceedings.

(6) Nothing in this section requires any person to disclose any document that he could not be required to disclose in civil proceedings before the High Court.

30 Remedial notices

(1) If the Commissioner is of the opinion that any requirement imposed by or under this Act:

- (a) is not being complied with, or
- (b) has not been complied with in circumstances that make it likely that the failure to comply will continue or be repeated,

he may serve a notice under this section (in this Part referred to as a “**remedial notice**”) on any person on whom the requirement is imposed.

(2) The notice must:

- (a) state the opinion referred to in subsection (1), specifying the requirement concerned and giving particulars of the reasons for the opinion, and
- (b) require the person on whom the notice is served to comply or ensure compliance with the requirement within such period as may be specified in the notice.

(3) For the purposes of this section, any person who commits an offence if a requirement is not complied with is a person on whom the requirement is imposed.

31 Prohibition notices

(1) If the Commissioner is of the opinion that any activity of persons at work which is being carried on or is about to be carried on involves a risk of serious personal injury to any person, he may serve a notice under this section (in this Part referred to as a “**prohibition notice**”) on any person in control of the activity.

(2) The notice must:

- (a) state the opinion referred to in subsection (1), giving particulars of the matters which in the opinion of the Commissioner give or, as the case may be, will give rise to the risk;
- (b) if he is of the opinion that the activity involves or, as the case may be, will involve a failure to comply with any requirement imposed by or under this Act, state that opinion specifying the requirement concerned and giving particulars of the reasons for the opinion; and
- (c) direct that the activity must not be carried on unless the matters specified under paragraph (a) have been remedied and any requirement specified under paragraph (b) is complied with.

(3) If the Commissioner is of the opinion that the risk of serious personal injury is imminent, he may state in the notice that the direction is to have immediate effect, and the direction is to have effect accordingly; and in any other case the direction is to have effect at the end of such period as may be specified in the notice.

32 Provisions supplementary to sections 29 to 31

- (1) A remedial notice or prohibition notice may include directions as to the measures to be taken to ensure compliance with the notice; but the person on whom the notice is served may take instead any other measures that are equally effective for the purpose.
- (2) A remedial notice, or a prohibition notice that does not take immediate effect, may be withdrawn at any time before the end of the period specified in it; and that period may be extended or further extended by the Commissioner at any time (unless an appeal against the notice is pending).
- (3) A person on whom a remedial notice or a prohibition notice is served may, within the period of 21 days from the date of service, appeal to a Principal Magistrate's Court.
- (4) On such an appeal, the court may either cancel or affirm the notice and, if it affirms it, may do so either in its original form or with such modifications as the court may in the circumstances think fit.

- (5) Where an appeal under this section is brought against a remedial notice, the bringing of the appeal has the effect of suspending the operation of the notice until the appeal is finally disposed of or abandoned.
- (6) Where an appeal under this section is brought against a prohibition notice, the court may direct that the operation of the notice is to be suspended until the appeal is finally disposed of or abandoned; and the operation of the notice is to be suspended accordingly.

33 Offences under sections 29 to 31

- (1) It is an offence for a person:
 - (a) to fail to comply with a requirement imposed by the Commissioner under section 29;
 - (b) to prevent or attempt to prevent any other person from appearing before the Commissioner for the purpose of answering questions under section 24(3)(a) or from answering any question which he may be required to answer under that subsection;
 - (c) to fail to comply with any requirement or direction imposed by a remedial notice or an improvement notice (including any such notice as modified on appeal);
 - (d) intentionally to obstruct the Commissioner in the exercise of his functions under section 29 to 31; or
 - (e) in answer to a question under section 29(3)(a), to make a statement which he knows to be false or recklessly to make a statement which is false.
- (2) A person guilty of an offence under subsection (1)(a), (b) or (d) is liable on conviction to a fine of 5,000 penalty units.
- (3) A person guilty of an offence under any other paragraph of subsection (1) is liable on conviction to a fine of 8,000 penalty units, or to imprisonment for nine months, or to both.
- (4) An offence under subsection (1)(c):

- (a) of failing to comply with a requirement of a remedial notice within the period fixed by the notice; or
- (b) of failing to comply with a direction in a prohibition notice at the end of the period fixed by the notice,

is to be treated as continuing until the failure is remedied.

(5) Where:

- (a) a person is convicted of an offence under subsection (1)(c); and
- (b) the failure in respect of which he was convicted is continued after the conviction,

he is guilty of a further offence and liable on conviction of that further offence to a fine not exceeding 500 penalty units for each day on which the failure is so continued.

34 Prosecutions by Commissioner

The Commissioner may prosecute before a magistrate's court proceedings for an offence under any provision made by or under this Act.

Fees

35 Fees

Regulations under this Act may provide for such fees as may be fixed by or determined under the regulations to be payable for or in connection with the performance by or on behalf of the Commissioner or any other person of any functions conferred on him by or under this Act.

Interpretation

36 Meaning of “person in control”

- (1) References in this Act to the person in control of any workplace, plant, substance, activity or other thing, are references to any person who has, to any extent, control of that thing in connection with the carrying on by him of a business.

- (2) But where a requirement is imposed on the “**person in control**” by or under this Act, it does not impose a requirement on him in respect of any matter that is beyond his control.
- (3) Where a person has, by virtue of any contract, lease or fixed-term estate, an obligation of any extent in relation to:
 - (a) the maintenance or repair of any workplace, plant, substance or other thing; or
 - (b) the safety or absence of risks to health arising from any such thing,

he shall be treated for the purposes of this section as being a person who has control of the matters to which his obligation extends.

- (4) In this section, “**fixed-term estate**” and “**lease**” have the same meanings as in the *Land and Titles Act*.

37 Onus of proving limits of what is practicable, etc.

Where any question arises in any proceedings as to whether or not a person has failed to comply with a requirement imposed by or under this Act to do something so far as is practicable or reasonably practicable, it is for him to prove that it was not practicable or, as the case may be, reasonably practicable to do more than was in fact done to comply with the requirement.

38 Meaning of “work” and “at work”

In this Act, “**work**” means work as an employee or as a self-employed person; and for the purposes of this Act:

- (a) an employee is at work when, and only when, he is in the course of his employment; and
- (b) a self-employed person is at work when, and only when, he devotes himself to work as a self-employed person.

39 General interpretation

Schedule 6 contains a glossary of terms; and in this Act, unless the context otherwise requires, any expression for which there is an entry

in the first column of the Schedule:

- (a) has the meaning given against it in the second column; or
- (b) is to be interpreted in accordance with directions given against it in the second column.

Miscellaneous

40 Subsidiary legislation

- (1) Regulations under any provision of this Act may be varied or revoked by subsequent regulations under that provision.
- (2) The power to make such regulations includes power to make different provision for different circumstances or cases and to include in the regulations such incidental, supplemental and transitional provisions as the Minister considers proper.
- (3) A copy of such regulations is to be laid before Parliament before the regulations come into effect unless, in the opinion of the Minister, it is essential that the regulations come into effect before they can be laid.
- (4) If, within the period of twenty days beginning with the day on which the copy is laid, Parliament resolves that the regulations be annulled, they are to cease to have effect as from the date of the resolution, but without prejudice to the validity of anything previously done under them or to the making of new regulations.
- (5) In reckoning any period of twenty days for the purposes of subsection (4), no account is to be taken of any time during which Parliament is prorogued or dissolved or is adjourned for more than four days.
- (6) Such regulations must be published in the Gazette and are not to come into effect until the date of publication.
- (7) Sections 61(1), 62 and 65(2) of the *Interpretation and General Provisions Act* do not apply to any subsidiary legislation under this Act.

41 Application to Government

- (1) With the exception of the provisions mentioned in subsection (4), this Act binds the State.
- (2) Accordingly, for the purposes of this Act persons in the service of the State are to be treated as employees and the word “employer” is to be interpreted accordingly.
- (3) Although the provisions mentioned in subsection (4) do not bind the State, those provisions apply to other persons in the public service of the State as they apply to other persons.
- (4) The provisions referred to in subsections (1) and (3) are sections 14(2), 15(6), 17(6), 18(6), 19(2), 20(2), 21(8), 22(7), 23(2), 24, 28(7) and 33.

42 Extent of Act

It is hereby declared that this Act extends throughout the area over which the sovereignty of Solomon Islands extends (which includes territorial waters and the air space above them).

43 Amendments and repeals

Schedule 7 (minor and consequential amendments and repeals) is to have effect.

SCHEDULE 1

EXAMPLES OF THE DUTY IMPOSED BY SECTION 4

Safe machinery, systems of work, etc.

1. It is the employer's duty to provide plant and systems of work that are, so far as is reasonably practicable, safe and without risks to health and to maintain them in that state.

Tools, substances, etc. that are safe to use

2. It is the employer's duty to make arrangements for ensuring, so far as is reasonably practicable; safety and absence of risks to health in connection with the use, handling, storage and transport of articles and substances.

Training, supervision, etc.

3. It is the employer's duty to provide such information, instruction, training and supervision as is necessary to ensure, so far as is reasonably practicable, the health and safety at work of his employees.

Maintenance of workplace in safe condition

4. It is the employer's duty, so far as is reasonably practicable:
 - (a) to provide means of entering and leaving any workplace under his control that are safe and without risks to health; and
 - (b) to maintain any workplace under his control in a condition that is safe and without risks to health.

Safe working environment

5. It is the employer's duty to provide and maintain a working environment for his employees that is, so far as is reasonably practicable, safe and without risks to health.

SCHEDULE 2

PRESSURE AND VACUUM SYSTEMS

Sound construction

1. Every part of a pressure system must be of sound construction; in particular, it must be so designed, and must be constructed of such material that it is safe when properly used.

Application of standards

2.
 - (1) The Minister may approve any standard (including a revision of a standard) applicable to any type of pressure system; and may at any time withdraw approval given under this sub-paragraph.
 - (2) Where the Minister gives or withdraws approval under sub-paragraph (1), he must by notice in the Gazette identify the standard concerned and state the date (not being earlier than the date of the notice) on which the approval is to have effect or cease to have effect.
 - (3) On the installation of a pressure system and at any time when it is in use, it must comply with the requirements of any standard for the time being approved under sub-paragraph (1) that is applicable to the system.
 - (4) The power conferred by sub-paragraph (1) to approve or withdraw approval of a standard includes power to approve or withdraw approval of part of it; and references in this paragraph to a standard approved under that sub-paragraph are references to a standard to the extent that is approved under that sub-paragraph.
 - (5) A standard approved under sub-paragraph (1) is not subsidiary legislation for the purposes of the *Interpretation and General Provisions Act*.

Maintenance

3. A pressure system must be maintained in an efficient state, in efficient working order and in good repair.

Safe working pressure

4.

- (1) A pressure system must have marked on it so as to be plainly visible the SWP, that is, the safe working pressure or designed operating pressure, and the TP, that is, the test pressure.
- (2) Where different SWPs or TPs are applicable to different parts of the system, sub-paragraph (1) applies separately to each of those parts.
- (3) For the purposes of this Schedule (except paragraph 7(1)), the SWP or TP of a pressure system, or part of it, is that determined in accordance with that paragraph.

SWP, etc., not to be exceeded

5.

- (1) A pressure system must not be subjected to a pressure exceeding the SWP except for the purpose of testing it.
- (2) Where different SWPs are applicable to different parts of the system, sub-paragraph (1) applies separately to each of those parts.

Access to system

6.

- (1) If any deterioration within a pressure system is foreseeable, the system must be provided with such means of access to it as enable it to be thoroughly examined internally.
- (2) sub-paragraph (1) does not apply:
 - (a) to portable gas cylinders; or
 - (b) to any system if there is in force in respect of the system

a certificate of exemption issued by the Commissioner of Labour;

but no certificate may be issued under paragraph (b) unless the Commissioner is satisfied that the system concerned may be adequately examined otherwise than by a thorough internal examination.

Testing and inspection

7.

- (1) A pressure system must not be brought into use, either on installation or after any repair capable of affecting the SWP, unless it has been tested to determine that pressure by a person competent to do so; and, where practicable, a test under this sub-paragraph must be a hydraulic test.
- (2) A pressure system must be thoroughly examined by a person competent to do so:
 - (a) at least once in every relevant period; and
 - (b) whenever the Commissioner of Labour requires it.
- (3) In the case of a system to which paragraph 6(1) applies, an examination under sub-paragraph (2) above must include an internal examination.
- (4) There must be maintained and kept available for inspection, in respect of each pressure system, a record of any test or examination under this paragraph, including:
 - (a) the date of the test or examination;
 - (b) in the case of a test, the maximum pressure to which the system is tested;
 - (c) the SWP; and
 - (d) such other information as may be prescribed.
- (5) If a person is for the time being designated by the Minister by

notice in the Gazette for the purposes of this paragraph, he shall be regarded as competent to examine or test any pressure system.

(6) In sub-paragraph (2) (a), “**relevant period**” means:

- (a) in respect of any type of pressure system for which the Minister has prescribed a period for the purposes of that sub-paragraph, that period; and
- (b) in any other case, twelve months.

Systems connected to pressure or vacuum plants

8.

- (1) This paragraph applies where a pressure system includes any plant for the generation of pressure.
- (2) The system must either:
 - (a) be so constructed as to withstand with safety the maximum pressure that can be obtained by means of the plant, or
 - (b) be fitted with a reducing valve or appliance adequate to prevent the SWP being exceeded and a relief valve which operates as soon as the SWP is exceeded.
- (3) The system must be fitted with a correct pressure gauge (indicating the pressure in the system in the same units as the units in which the SWP is indicated).
- (4) Where different SWPs are applicable to different parts of the system, sub-paragraphs (2) and (3) apply separately to each of those parts.
- (5) The system must be provided with a suitable appliance for draining it.
- (6) Where a valve or appliance is fitted to relieve pressure in, or drain, any part of the system, it must be fitted so as to discharge without risk of causing injury.

(7) Where the system is reasonably capable of being isolated into parts, the system must be provided with suitable means for isolating any of those parts that becomes defective, but without isolating any other part from any valve or appliance fitted to prevent the SWP of that other part being exceeded.

Additional requirements

9. For the purpose of securing the safety of persons, requirements may be prescribed in respect of pressure systems.

SCHEDULE 3

LIFTING EQUIPMENT

Sound construction

1. A lifting machine or lifting tackle must be of sound construction; in particular, it must be so designed, and must be constructed of such material, that it is safe when properly used.

Application of standards

2.

(1) The Minister may approve any standard (including a revision of a standard) applicable to any type of lifting machine or lifting tackle; and may at any time withdraw approval given under this sub-paragraph.

(2) When a lifting machine or lifting tackle is in use, it must comply with the requirements of any standard for the time being approved under sub-paragraph (1) that is applicable to the machine or tackle.

(3) Sub-paragraphs (2), (4) and (5) of paragraph 2 of Schedule 2 apply for the purposes of this paragraph as they apply for the purposes of that.

Maintenance

3. A lifting machine or lifting tackle must be maintained in an efficient state, in efficient working order and in good repair.

Safe working load

4.

- (1) Unless sub-paragraph (2) applies to it, a lifting machine must have marked on it so as to be plainly visible the safe working load ("SWL").
- (2) In the case of a jib crane so constructed that the SWL may be varied by the raising, lowering or extension of the jib, there must be attached to the crane an automatic indicator of safe working loads.
- (3) A lifting machine must be fitted with an effective automatic overload alarm system, if the Commissioner of Labour so requires by notice in writing to the person carrying on the undertaking in the course of which the machine is used; and the system must be maintained in efficient working order.
- (4) In the case of lifting tackle, the SWL must be marked on the tackle or on a label permanently attached to the tackle.
- (5) A load must not be suspended from two or more ropes or chains if the included angle between any of them exceeds 120°.
- (6) For the purposes of this Schedule (except paragraph 6(1) and (2)), the safe working load of a lifting machine or lifting tackle is that determined in accordance with that paragraph.

SWL not to be exceeded

- 5. A lifting machine or lifting tackle must not be subjected to a force in excess of its SWL, except for the purpose of testing it.

Testing and inspection

6.

- (1) A lifting machine or (unless sub-paragraph (2) applies) lifting tackle must not be brought into use, either on installation or after any repair capable of affecting the SWL, unless it has been tested to determine the SWL by a person competent to do so.

- (2) In the case of ropes and slings made from ropes, the SWL is to be taken to be one-sixth of the breaking strain specified by the manufacturer.
- (3) A lifting machine or lifting tackle must be examined by a person competent to do so at least once in every period of six months.
- (4) There must be maintained and kept available for inspection, in respect of all lifting machines and lifting tackle, a record of any test or examination under this paragraph, including:
 - (a) the date of the test or examination;
 - (b) in the case of a test, the proof load applied and the SWL; and
 - (c) such other information as may be prescribed.
- (5) If a person is for the time being designated by the Minister by notice in the Gazette for the purposes of this paragraph, he shall be regarded as competent to examine or test any lifting machine or lifting tackle.

Knots

- 7. A chain or wire rope must not be knotted.

Secure loads

- 8. A load suspended from or supported by a lifting machine must be properly secured.

Additional requirements

- 9. For the purpose of securing the safety of persons, requirements may be prescribed in respect of lifting machines and lifting tackle.

SCHEDULE 4

ELECTRICAL INSTALLATIONS

Sound construction

1. An electrical installation must be of sound construction; in particular, it must be so designed, constructed, installed and protected that it is safe.

Application of standards

2.

- (1) The Minister may approve any standard (including a revision of a standard applicable to any type of electrical installation; and may at any time withdraw the approval given under this sub-paragraph
- (2) When an electrical installation is energised, it must comply with the requirements of any standard for the time being approved under sub-paragraph (1) that is applicable to the installation.
- (3) Sub-paragraphs (2), (4) and (5) of paragraph 2 of Schedule 2 apply for the purposes of this paragraph as they apply for the purposes of that.

Maintenance

3. An electrical installation must be maintained in an efficient state, in efficient working order and in good repair so that it is safe.

Isolation

4.

- (1) Suitable means must be provided for isolating any apparatus from the supply of electrical energy and the means must be so placed as to be easily worked by any person operating the apparatus.
- (2) Any installation for the distribution of electrical energy must be adequately provided with suitable means for isolating the parts of the installation from the supply of electrical energy.

Testing

5. An electrical installation, or part of it, which is electrically charged must not be tested except:

- (a) by a person competent to do so and authorised to do so by or on behalf of a person referred to in section 20(1) and (2); and
- (b) in accordance with the prescribed requirements.

Additional requirements

- 6. For the purpose of securing the safety of persons, requirements may be prescribed in respect of electrical installations.

SCHEDULE 5

EXAMPLES OF MATTERS THAT MAY BE DEALT WITH BY REGULATIONS UNDER SECTION 28

- 1. Labelling of articles and substances for use at work.
- 2. Prohibitions or restrictions on the importation of articles and substances for use at work.
- 3. Transport of articles and substances for use at work.
- 4. Restrictions or prohibitions on the employment of persons or classes of persons for particular work.
- 5. The condition of workplaces (including cleanliness, temperature, lighting, ventilation, overcrowding, noise, vibrations, ionising and other radiations, dust and fumes).
- 6. Welfare facilities, including sanitary arrangements and first aid.
- 7. Protective clothing and equipment.
- 8. Records and returns.
- 9. Procedures in the case of accident or emergency.
- 10. Fire precautions.
- 11. The appointment of persons to supervise safety in any kind or class of workplace and the appointment of representatives of employees for similar purposes (safety representatives).

SCHEDULE 6

GLOSSARY

Expression	Meaning
Article for use at work	means: (a) any plant designed for use or operation (whether exclusively or not) by persons at work, and (b) any article designed for use as a component in any such plant;
At work	see section 38;
Business	means a trade, business or other undertaking (whether profit-making or not);
Commissioner of Labour	see section 6 of the <i>Labour Act</i> ;
Contract of employment	means a contract of service or apprenticeship, whether express or implied and (if it is express) whether it is oral or in writing;
Employee	see sections 2 and 41;
Employer	see sections 2 and 41;
Personal injury	includes loss of life, any disease and any impairment of a person's physical or mental condition;
Person in control	see section 36;
Plant	includes machinery, equipment and appliance;
Premises	includes:

	(a) any vehicle, vessel or aircraft;
	(b) any installation, whether onshore or offshore;
	(c) any tent or moveable structure;
Prescribed	means prescribed by regulations;
Requirement	includes prohibition;
Regulations	means regulations made by the Minister;
Self-employed person	means an individual who works for gain or reward otherwise than as an employee whether or not he himself employs others;
Substance	means any natural or artificial substance, whether in solid or liquid form or in the form of a gas or vapour
Substance for use at work	means any substance intended for use (whether exclusively or not) by persons at work;
Supply	in relation to articles or substances, means supply by way of sale, hire or otherwise, and whether direct or indirect;
Work	see section 38;
Workplace	see section 3.

SCHEDULE 7*

AMENDMENTS AND REPEALS

Labour Act

1.

- (1) The Labour Act is amended as follows.
- (2) In section 6(3), after “Commissioner” insert “under this Act”.
- (3) In section 7:
 - (a) at the beginning of subsection (1) insert “For the purposes of this Act”; and
 - (b) omit subsections (4) and (5).
- (4) In section 16(4), omit “or section 63”.
- (5) Sections 66, 67, 68, 72, 75 and 76 are repealed.

Workmen’s Compensation Act

2.

- (1) In section 3 of the *Workmen’s Compensation Act*, omit the definition of “Commissioner of Labour”.
- (2) Section 28 of that Act is repealed.

Diving Act

- (3) The *Diving Act* is repealed.

*The amendments and repeals set out in the Schedule have been given effect to in the relevant enactments except for the repeal of ss. 66, 67, 68 and 72 of the Labour Act referred to in para. 1(5).

ENDNOTES

1 KEY

amd = amended	Pt = Part
Ch = Chapter	rem = remainder
Div = Division	renum = renumbered
exp = expires/expired	rep = repealed
GN = Gazette Notice	Sch = Schedule
hdg = heading	Sdiv = Subdivision
ins = inserted	SIG = Solomon Islands Gazette
It = long title	st = short title
LN = Legal Notice	sub = substituted
nc = not commenced	

NOTE

This Reprint comprises the Act and amendments as in force on 1 March 1996 and published as Chapter 74 of the Revised Edition of the Laws of Solomon Islands, together with amendments made to the Act from that date to 1 October 2009.

2 LIST OF LEGISLATION

Safety at Work Act (Cap. 74)

Constituent legislation: 3 of 1982 (Commenced: Sch 2, para 7 & Sch 3, para 6: 1 November 1982; Sch 7, para (1)(5); nc; Rem: 1 May 1982)

Penalties Miscellaneous Amendments Act 2009 (No. 14 of 2009)

Assent date	29 July 2009
Gazetted	1 October 2009
Commenced	1 October 2009

3 LIST OF AMENDMENTS

s 14	amd by Act No. 14 of 2009
s 25	amd by Act No. 14 of 2009
s 28	amd by Act No. 14 of 2009
s 33	amd by Act No. 14 of 2009