

# **OCCUPATIONAL HEALTH AND SAFETY**

## **COUNTRY OVERVIEW – KENYA**

### **INTRODUCTION**

Occupational Safety and Health in Kenya dates back to 1950, with the introduction of the Factories Act. In 1990 the Factories Act was amended to the Factories and Other Places of Work Act, so as to enlarge its scope.

In Kenya, OSH is managed by the Directorate of Occupational Safety and Health Services (DOSHS). DOSHS is the designated national authority for collection and maintenance of a database, and for the analysis and investigation of occupational accidents and diseases, and dangerous occurrences.

Kenya has a population of 36.8 million people; of these, 2 million are employed in the formal sector and 8.8 million are employed or self-employed in the informal sector across the country. The DOSHS, with 71 professional OSH officers, is not capable of inspecting the estimated 140,000 workplaces effectively, and this leaves most workers exposed to OSH hazards without intervention. DOSHS representation in 29 counties leaves the remaining 18 counties with no officers.

In Kenya, 75 institutions offer OSH training for safety and health committee members, and also for awareness creation. This, together with the master's degree and postgraduate diploma courses offered by one local university, is likely to increase awareness levels, and thus impact positively on the national OSH profile. The country has 49 active registered safety advisers, 30 fire safety auditors,

38 designated health practitioners, and many other professionals such as plant examiners involved in the OSH field.

There is only one poison control centre in the country, the National Poison Information and Management Centre at Kenyatta National Hospital (KN. It provides an information and resource centre for all the hospitals in the country, and for anyone who requires information about poisons and their antidotes.

**OCCURRENCE STATUS OF INDUSTRIAL/OCCUPATIONAL ACCIDENTS AND OCCUPATIONAL DISEASES (INCLUDING STATISTICS)**

<b>TYPE OF HAZARD</b>	<b>NO. OF WORKERS EXAMINED</b>	<b>NO.OF WORKERS WITH OCCUPATIONAL DISEASE</b>
Adverse temperatures	241	2
Asbestos fibres	5	1
Cotton dust	446	11
Organic dust	808	16
Fossil fuels	90	29
Noise	3 229	118
Organophosphate and other pesticides	1 243	39
Repetitive manual work	13	1
Respiratory: solvents	29	1
Silica dust	52	3

Welding alloys	67	1
<b>Economic sector</b>	<b>Fatal</b>	<b>Non-fatal</b>
Agriculture and related activities	14	1 350
Mining and quarrying	15	40
Manufacture of plastics	1	146
Manufacture of food products and beverages	8	664
Manufacture of tobacco products	–	–
Manufacture of textiles, tailoring, dry-cleaning and laundry	–	441
Manufacture, tanning and dressing of leather	–	1
Manufacture of wood products, furniture	3	93
Manufacture of paper and paper products	2	81

Publishing, printing, and reproduction of recorded media	2	38
Manufacture of chemicals and chemical products	–	22
Manufacture of rubber products	–	17
Manufacture of machinery and fabricated metal products	1	176
Manufacture of electrical equipment and electronics	3	14
Other manufacturing	1	763
Electricity, gas and hot water supply	2	41
Drilling, collection, purification and distribution of water	1	7
Construction	40	383
Wholesale, retail and commission trade	3	126
Retail of automotive fuel	–	3

Repair of motor vehicles	–	56
Hotels and restaurants	–	83
Transport, post and telecommunications	77	453
Warehousing	–	84
Banking, insurance and real estate activities	3	12
Research, development and education	3	34
Public administration and defence	10	25
Health and social work	1	29
Sewage and refuse disposal, sanitation	–	22
Recreational, cultural and sporting activities	–	176
Other service activities	59	394
<b>Total</b>	<b>249</b>	<b>5 774</b>

## DATA COLLECTION METHODS FOR STATISTICS

An OSH database management (OSHDBM) system was developed in 2010 for collecting, classifying and analyzing accident data, in accordance with the ILO

code of practice on notification and recording of occupational accidents, but it has not been used, because of technical and financial constraints.

At present there is no system in place for the comparative analysis and production of annual statistics. The accident statistics compiled by DOSHS are obtained from quarterly and annual field office reports. When a DOSHS regional office receives notification of an accident or disease, it is required to enter the information in the accident register. However, staff shortages mean that data entry is not carried out uniformly throughout the country, thus the data collected cannot be used for compiling and analysing the statistics using the international classification systems. The compiled statistics are usually summary information notes for the departmental report, and do not conform with the guidance provided by the ILO code of practice. Consequently they are never comprehensive, and cannot be used for computing frequency, incidence or severity rates.

The statistics for occupational accidents are not analysed according to the characteristics of workers, such as their sex, or employment status, but according to fatality, i.e. fatal or non-fatal.

## **SAFETY AND HEALTH RELATED LAWS AND REGULATIONS**

1. the Occupational Safety and Health Act, 2007 (OSHA 2007)

The purpose of OSHA 2007, is to secure the safety, health and welfare of people at work, and to protect those not at work from risks to their safety and health arising from, or in connection with, the activities of people at work

2. Work Injury Benefits Act, 2007 (WIBA, 2007).

The purpose of WIBA 2007, is to provide compensation to employees for work-related injuries and diseases contracted in the course of their employment, and for connected purposes.

Other regulations and subsidiary laws that deal with OSH issues.

- The Biosafety Act, No. 2, 2009
- The Environmental Management and Coordination Act, No. 8, 1999
- The Public Health Act, Cap. 242
- The Employment Act, No. 11, 2007
- The Energy Act, No. 12, 2006
- The Food, Drugs and Chemical Substances Act, Cap. 254
- The Mining Act, Cap. 306
- The Pest Control and Product Act, Cap. 346
- The Petroleum (Exploration and Production) Act, Cap. 308
- The Radiation and Protection Act, Cap. 243
- The Standards Act, Cap. 496

## **LABOR INSPECTION SYSTEM**

There exists an inspection system backed by national legislation (OSHA 2007 and WIBA 2007) that has a significant role in application of the national system for recording, notification and investigation of occupational accidents, occupational diseases and dangerous occurrences.

The inspection covers all sectors in Kenya.

## **WORKERS' ACCIDENT COMPENSATION INSURANCE**

WIBA 2007 requires employers to pay compensation to employees for occupational injuries and occupational diseases incurred while at work. When an accident occurs, both OSHA and WIBA 2007 require the employee to report it to his or her supervisor, whereas for an occupational disease the medical practitioner who diagnoses the disease is required to report it both to the employer and to the competent authority. The employer must then report the accident or disease on a prescribed form to the Director of DOSHS within the prescribed timeframe. The legislation requiring the establishment of a notification system comprises the Occupational Safety and Health Act, 2007, and the Work Injury Benefits Act, 2007.

OSHA 2007, and WIBA 2007, both require the employer to notify the Director of DOSHS of the occurrence of any occupational accident, disease or dangerous occurrence. The prescribed standard form for notification purposes is DOSH 1, which is completed in triplicate. The original serves as a notification and is sent,



within seven days of occurrence of the accident, directly to DOSHS by the employer. The other two copies are forwarded to the OSH Officer immediately the doctor completes part II of the form.

OSHA 2007 also requires medical practitioners who diagnose occupational diseases to notify the Director of DOSHS using form DOSH 12. DOSH 1 is available from the department's website, and DOSH 12 is available at all DOSHS offices round the country.

The subsidiary legislation on safety and health committees, LN 31/2004, requires the occupier to appoint a member of the management staff as the competent person responsible for safety, health and welfare in the enterprise. This competent person is also the secretary of the organization's safety and health committee, and is responsible for notification of occupational accidents and diseases.

The legal requirements for recording and notification of occupational accidents and diseases are in accordance with ILO instruments, but there is a gap in the enforcement of the laws. DOSHS is currently operating at only 29 per cent technical capacity, owing to understaffing. This means that only limited action is taken on reported accidents, and only those that are very serious or within easy reach by the officers are acted upon. There are also no guidelines for enterprise owners on recording occupational accidents where the cause, agency, type etc. of the accident are usually indistinguishable.

The implementation of WIBA 2007 is hindered by the nullification by the court of some sections of the Act.

WIBA 2007 requires the employer to subject the injured employee to a medical examination to determine the percentage incapacity, from which the OSH officer calculates the compensable amount.

In this system, the recording, notification and investigation of accidents and diseases, together with benefits processing and payments, are all elements of the procedure for work injury compensation.

Under OSHA 2007, the employee is required to cooperate fully with the employer in fulfilling the duties placed upon the employer.

Insurance companies provide workplace accident insurance schemes, but these are not mandated by law. The section in WIBA 2007, that required employers to obtain and maintain an insurance policy for employees was nullified by the court, and is due for review. Accident statistics for individual insurance companies are not used for analysing or reporting statistics for occupational accidents and diseases.

### **SAFETY OF EQUIPMENT AND FACILITIES**

Plant examiners are charged with ensuring safety of equipment and facilities. Plant examiners are approved under Sections 63, 64 65, 67, 68, 69, 70 and 71 of OSHA 2007. A plant examiner must have a minimum of a diploma in mechanical or electrical engineering (or equivalent) from a recognized institution, with at least eight years' experience in maintaining and running plant or equipment covered by the relevant section of OSHA 2007, or a science degree from a recognized institution and at least five years' experience in maintaining and running such

plant or equipment, or have been enforcing the sections of OSHA 2007, relating to plant or equipment for a similar period of time. He or she should demonstrate an understanding of the theory and legal provisions governing the safety of the equipment or plant of interest, and have a minimum of 12 months' proven attachment to and working with a person approved in the section of interest, together with proven basic computer skills.

**TRAINING/ EDUCATION PROGRAMS**

COURSE	TRAINING INSTITUTION
masters and postgraduate diploma courses in OSH	Jomo Kenyatta University of Agriculture and Technology (JKUAT)
post-basic diploma in OSH	-Kenya Medical Training College (KMTC)
unit in OSH	- The Institute of Human Resource Management (IHRM) - Kenyatta University and Moi University
Training by employers' and workers' organizations	FKE
Skills training	Specific skills training for plant inspectors, hoist and lift examiners and boilers, steam receiver and

	steam container examiners is provided in engineering training institutions
National safety association	The Kenya Occupational Safety and Health Association (KOSHA) is a registered body of OSH practitioners in Kenya. One of its primary functions is to provide training in all areas of OSH

**ACTIVITIES OF INDUSTRIAL/OCCUPATIONAL SAFETY AND HEALTH ORGANIZATIONS OTHER THAN GOVERNMENT**

Currently there are no known active NGOs involved in OSH.

**OSHMS AND RISK ASSESSMENT**

Implementation of OSH management systems at enterprise level

The law is not specific on the establishment of OSH management systems at the enterprise level, but all the elements of ILO-OSH 2001 have been adequately covered in OSHA 2007. However, individual organizations have established management systems based on diverse standards.

Technical standards used or applied under existing regulations

All standards in the country, including technical standards, are developed by the Kenya Bureau of Standards (KEBS). At KEBS there are various technical committees comprising experts who are involved in developing standards in their specialized areas. All the standards developed by KEBS are voluntary, and become mandatory only when they are cited in legislation or legal notices. The

developed standards that are related to OSH are divided into three categories: management systems (procedures, risk assessment and incident investigation); facilities (equipment and environment); and human factors.

### **CONVENTIONS RATIFIED BY KENYA**

- Kenya has ratified and adopted 49 ILO Conventions; 43 are active and ten of them are OSH related namely:
- Convention No. 17: Workmen's Compensation (Accidents) Convention, 1925, ratified on 13 January 1960
- Convention No. 19: Equality of Treatment (Accident Compensation) Convention, 1925, ratified on 13 January 1964
- Convention No.12: Workmen's Compensation (Agriculture) Convention, 1921, ratified on 13 January 1964
- Convention No. 32: Protection against Accidents (Dockers) Convention (Revised), 1932, ratified on 13 January 1964
- Convention No. 16: Medical Examination of Young Persons (Sea) Convention, 1921, ratified on 9 February 1971
- Convention No. 27: Marking of Weight (Packages Transported by Vessels) Convention, 1929, ratified on 9 February 1971
- Convention No. 81: Labour Inspection Convention, 1947, ratified on 13 January 1964
- Convention No. 129: Labour Inspection (Agriculture) Convention, 1969, ratified on 9 April 1979

- Convention No. 134: Prevention of Accidents (Sea Ferries) Convention, 1970, ratified on 6 June 1990
- Convention No. 182: Worst Forms of Child Labour Convention, 1999, ratified on 7 May 2001.
- Conventions 155 and 187 have been identified and prioritized for ratification, but are awaiting an Act of Parliament in line with the new Constitution.

### **MAJOR INITIATIVES (STRATEGIES) BY THE GOVERNMENT ON ANY OF THE ABOVE**

- Regular activities

Regular activities designed to improve the levels of prevention and protection includes inspections by OSH officers, annual OSH and fire audits, training of workers, and surveillance of workers exposed to hazards.

- National initiatives: safety days, awareness-raising campaigns

On the World Day for Safety and Health at Work, and during the preceding week, DOSHS publishes, through its information centre, a newspaper supplement containing articles and information on OSH. Other periodicals, e.g. The Commerce & Industry Business magazine, produce themed issues during April where awareness-raising articles on OSH by different OSH players in the country are published. Workplaces are encouraged to play a role in celebrating the day by conducting an activity that might improve OSH in their organizations. Awards are also given to the best performers in various areas during an annual national celebration on 28 April.

## **Major issues on occupational safety and health in your country.**

Lack of knowledge on OSH among employees

Lack of clear guidelines on implementation of OSH

### **Counter measures for the above problems**

#### **Lack of knowledge on OSH among employees**

There is need to introduce a unit of OSH in all colleges since the OSH basic concepts will be applied across all professions. And capacity build those who are already employed on matters OSH.

#### **Lack of clear guidelines on implementation of OSH**

Guidelines should be developed and tailor made to different work places especially for those working in the health department. The Act mainly addresses those working in factories. The act also needs to be reviewed to cover all kinds of employments

### **Good practices that are now being used during COVID 19 pandemic at work place are:**

#### **-Use of PPE**

Organization have ensured that all employees wear masks at work and only serve people who visit their premises with masks.

#### **-Engineering controls**

Offices have been restructured to ensure that people seat 1,5 metes apart and work stations dismantled so that people don't face each other while working.

-More hand washing stations have been installed at work places.

-More windows have been created to ensure natural air circulation in offices

### **-Administrative controls**

-People with underlying conditions are allowed to work from home.

-People are coming to work in sifts

### **REFERENCE**

Occupational Safety and Health ACT, 2007

Occupational Safety and Health profile, 2012

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