

**NITIJELA OF THE REPUBLIC OF THE MARSHALL ISLANDS
44TH CONSTITUTIONAL REGULAR SESSION, 2023**



Republic of the Marshall Islands
Jepilpilin Ke Ejukaan

OCCUPATIONAL HEALTH AND SAFETY ACT, 2023

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OCCUPATIONAL HEALTH AND SAFETY ACT, 2023

AN ACT to create a new Chapter, Chapter 8, of Title 15 of the MIRC, to secure the health, safety and welfare of employees and other persons at work in order to eliminate risks to the health, safety or welfare of employees and other persons at work, and to prevent intentional injuries result from work related.

BE IT ENACTED BY THE NITIJELA OF THE REPUBLIC OF THE MARSHALL ISLANDS

PART I - PRELIMINARY

§101. Short title.

This Act may be cited as the Occupational Health and Safety Act, 2023.

§102. Definition.

Unless the context otherwise requires:

- (a) “employer” has the same meaning as defined in the Workers Compensation Act;
- (b) “immediate family” has the same meaning as defined in the Workers Compensation Act;
- (c) “worker” has the same meaning as defined in the Workers Compensation Act and or the Social Security Act;

§103. Objectives.

The objects of this Act are:

- (a) to secure the health, safety and welfare of employees and other persons at work; and
- (b) to eliminate, at the source, risks to the health, safety or welfare of employees and other persons at work; and
- (c) to ensure that the health and safety of members of the public is not placed at risk by the conduct of undertakings by employers and self-employed persons; and
- (d) to provide for the involvement of employees, employers, and organisations representing those persons, in the formulation and implementation of health, safety and welfare standards.

§104. Application.

This Chapter applies to all workplaces, except:

- (1) where a person is employed by his/her own immediate family, in:
 - (a) constructing, repairing or modifying the family's house, chattels or vehicles; or
 - (b) growing, harvesting, catching, fishing or otherwise providing food for the family's consumption;

Provided that no other person is engaged or employed to carry out such tasks; whether or not for pecuniary gain or exchange of any kind.

- (2) where a person is employed by the United States Government under the Status of Forces Agreement or the Federal Programs and Services Agreement pursuant to the Compact, as amended.

PART II – ADMINISTRATION

§105. Labor Division.

- (1) The Labor Division within the Ministry of Justice, Immigration and Labor shall be responsible for this Chapter.
- (2) The Labor Division may pursuant to this Chapter, appoint an officer or officers under the Division to be inspector or inspectors for the purposes of this Chapter.

§106. Functions of Labor Division.

The Labor Division shall:

- (a) inquire into and report to the Attorney-General on any matters referred to the Division;
- (b) Inspect, for the purpose of the execution of this Chapter, and may:
 - (i) enter any place at all reasonable hours by day and night, with a reasonable cause to believe that any person is employed in that place;
 - (ii) make such inspections, examinations, tests and inquiries, and take such samples and photographs as are necessary to ascertain whether the provisions of this Chapter have been or are being complied with; and where any such sample is taken the inspector concerned shall, if so requested, deliver part of it to the employer concerned;
 - (iii) require the production of any wage record of any book, notice, record, list or other document required by this Chapter, to be kept or exhibited by the employer and inspect, examine and copy or take notes from it;
 - (iv) question alone or in the presence of any other person, the employer or any person who is or has been employed by said employer;
 - (v) require any process or method of work to be stopped immediately if the process or method of work poses an immediate danger to the safety or health of any person;
- (b) make recommendations to the Minister with respect to:
 - (i) the operation and administration of this Chapter and the regulations; and
 - (ii) regulations or compliance codes that the Labor Division proposes that should be made or approved under this Chapter; and
 - (iii) the establishment of public inquiries (if appropriate) into any matter relating to occupational health, safety and welfare;

- (c) to monitor and enforce compliance with this Chapter and the regulations;
- (d) to administer, examine, review and make recommendations concerning existing or proposed registration or any licensing schemes relating to occupational health, safety and welfare;
- (e) to cooperate with, and give advice and information to the following persons in relation to occupational health, safety and welfare:
 - (i) corresponding authorities or government agencies such as the Marshall Islands Social Security Administration;
 - (ii) registered employee organisations and other organisations representing employers or employees;
 - (iii) other interested persons;
- (f) to disseminate information about the duties, obligations and rights of persons under this Chapter or the regulations and to formulate standards, specifications or other forms of guidance for the purpose of assisting persons to comply with their duties and obligations;
- (g) to promote education and training by:
 - (i) devising, in co-operation with educational and other bodies, courses in occupational health, safety and welfare; and
 - (ii) approving courses in occupational health, safety and welfare (whether or not devised in co-operation with another body); and
 - (iii) facilitating access to those courses; and
 - (iv) initiating or promoting events such as conferences and forums, and the publication of information, relating to occupational health, safety and welfare;
- (h) to foster a co-operative, consultative relationship between employers and their employees in relation to the health, safety and welfare of those employees;
- (i) to engage in, promote and co ordinate the sharing of information to achieve the objects of this Chapter;

- (j) to promote public awareness and discussion of occupational health, safety and welfare issues and an understanding and acceptance of the principles of health and safety protection;
- (k) to develop and implement programs to provide incentives for employers:
 - (i) to implement measures to eliminate or reduce risks to health or safety; and
 - (ii) to otherwise improve occupational health, safety and welfare;
- (l) to monitor the operation of measures taken and arrangements put in place to ensure occupational health, safety and welfare;

§107. Employer to Allow Entry and Inspection.

- (1) An employer and/or an employer's agent or representative shall at all times provide the means required by an inspector for entry, inspection, examination inquiry, or the exercise of any other power under this Chapter in relation to the employer's place of business.
- (2) Any person who obstructs an inspector or prevents an inspector from carrying out his or her duties under this Chapter, or in any way fails to comply with this Section commits an offence.

§108. Immunity from Liability of inspectors and the Republic

- (1) An inspector or a health and safety representative, while acting in that position, shall not be liable for any act done or omitted by that person:
 - (a) in good faith; and
 - (b) in pursuance or intended pursuance of the provisions of this Chapter.
- (2) The Republic shall not be liable for any act or omission on the part of an inspector or any officer in relation to the performance of his/her duties or functions under this Chapter.

PART III - GENERAL HEALTH AND SAFETY PROVISIONS

§109. Duties of Employers

- (1) An employer shall provide and maintain, so far as practicable, a working environment for employees and site visitors that is safe and without risks to health.
- (2) Without in any way limiting the generality of Subsection (1), an employer contravenes that Subsection if the employer fails to:
 - (a) identify existing and new hazards at work and assess each identified hazard to determine whether or not it is a significant hazard to any employee and site visitor at work; and
 - (b) do the following to reduce the hazards and risks of each significant hazard found at the workplace –
 - (i) take steps as far as is practicable to eliminate each significant hazard from the workplace;
 - (ii) if the hazard remains significant, takes steps as far as is practicable to minimise the hazard;
 - (iii) if the hazard remains significant, take steps as far as is practicable to isolate that hazard from employees at the workplace; and
 - (iv) if, a hazard remains significant, introduce a system to control each employee's exposure to the hazard and provide relevant protective clothing and equipment to protect employees from any harm that might arise from that hazard;
 - (c) provide such information, instruction, training and supervision as is necessary, and to which the employee is entitled to, to enable employees to perform their work in a manner that is safe and without risks to health; and
 - (d) as far as is practicable:
 - (i) monitor the health and safety conditions at the workplace;
 - (ii) monitor the health of the employees at the workplace;
 - (iii) keep information and records relating to the health and safety of employees at the workplace; and

- (iv) provide the results of any health monitoring of an employee to that employee.
- (3) For the purposes of subsection (1) and (2):
 - (a) "employee" includes an independent contractor engaged by an employer and any employees of the independent contractor;
 - (b) "site visitors" means persons who are not employees of the employer and have a legitimate purpose to be at the workplaces; and
 - (c) the duties of an employer under those sub-sections extend to such an independent contractor and the independent contractor's employees in relation to matters over which the employer:
 - (i) has control; or
 - (ii) would have had control but for any agreement between the employer and the independent contractor to the contrary
- (4) An employer shall not require an employee to pay, whether in cash or kind, for any plant, systems, arrangements, facilities, equipment, information, instruction, training or supervision provided and maintained at a workplace under this Chapter.
- (5) An employer who fails to comply with this section commits an offence.

§110. Duties of designers, manufacturers and suppliers of plant or substances

- (1) A person who designs, manufactures or supplies any plant or substance for use at a workplace shall –
 - (a) ensure so far as is practicable that the plant or substance is so designed and manufactured to be safe and without risks to the health or safety of employees when used properly and in accordance with relevant information and instructions provided by the designer, manufacturer or supplier; and
 - (b) take such steps as are practicable to provide adequate information and instructions to purchasers and users about the use for which each plant or substance has been designed, its

correct installation and any requirements necessary to ensure that it will be safe and without risks to health when properly used.

- (2) A person who fails to comply with this section commits an offence.

§111. Duties of employees

- (1) While at work, an employee shall:
- (a) take reasonable care for his or her own health and safety and for the health and safety of any other employee who may be affected by his or her acts or omissions at the workplace; and
 - (b) co-operate with his or her employer with respect to any action taken by the employer to comply with any requirement imposed by or under this Chapter.
- (2) An employee shall not:
- (a) wilfully or recklessly interfere with or misuse anything provided in the interests of health and safety or welfare at the workplace; or
 - (b) wilfully place at risk the health or safety of any person at the workplace.
- (3) An employee who fails to comply with this section commits an offence.

§112. Duties of site visitors

- (1) While at a workplace, a site visitor shall:
- (a) take reasonable care for his or her own health and safety and for the health and safety of any other person who may be affected by his or her acts or omissions at the workplace; and
 - (b) co-operate with the employer at the workplace with respect to any action taken by the employer to comply with any requirement imposed by or under this Chapter.
- (2) A site visitor shall not:
- (a) wilfully or recklessly interfere with or misuse anything provided in the interests of health and safety or welfare at the workplace; or

- (b) wilfully place at risk the health or safety of any person at the workplace.
- (3) A site visitor who fails to comply with this section commits an offence.

PART III – MISCELLANEOUS

§113. Regulation

The Minister shall with the approval of the Cabinet, promulgate regulation for this Chapter pursuant to the *Marshall Islands Administrative Procedure Act 1979*.

§114. Sanctions for Violations

Anyone who contravenes any provisions of this Chapter shall be liable to a fine of \$5,000 for each violation.

§115. Effective Date

This Chapter shall take effect on the date of its certification in accordance with the Constitution and the Rules of Procedures for the Nitijela.

CERTIFICATE

I hereby certify:

1. That Nitijela Bill No: **104ND1** was passed by the Nitijela of the Republic of the Marshall Islands on the **28th** day of **September** 2023; and
2. That I am satisfied that Nitijela Bill No: **104ND1** was passed in accordance with the relevant provisions of the Constitution of the Republic of the Marshall Islands and the Rules of Procedures of the Nitijela.

I hereby place my signature before the Clerk this 25th day of October 2023.

Hon. Kenneth A. Kedi
Speaker
Nitijela of the Marshall Islands

Attest:

Carl Alik
Assistant Clerk
Nitijela of the Marshall Islands