

CHAPTER 646**HEALTH AND SAFETY AT WORK ACT**

AN ACT to provide for the regulation of matters relating to health and safety at work and particularly the promotion and safeguard of the health and safety of workers at work, and to provide for matters emanating from, connected with or ancillary thereto.

26th November, 2024

[ACT XXXIII of 2024.](#)

**PART I
Preliminary**

1. (1) The short title of this Act is the Health and Safety at Work Act. Short title and commencement.

(2) The scope of this Act is the promotion and safeguard of the health and safety of workers at work.

2. In this Act, unless the context otherwise requires: Interpretation.

"Authority" means the Occupational Health and Safety Authority as established by article 4;

"administrative instrument" means such instruments in accordance with article 17 which are required to discharge the Authority's functions and shall include any order, directive, protocol, guideline, explanatory memorandum, information circular, including notices, or other publication issued by the Authority;

"Board" means the Governing Board regulated in accordance with articles 4, 7 and 8;

"Chief Executive" means the Chief Executive Officer appointed under article 9;

"client" means any natural or legal person for whom a project is carried out;

"Code of Practice" means a standard, specification or any other written or illustrated form of practical guidance, instruction or control;

"competent person" means a person possessing adequate qualifications and minimum accreditations in terms of law or where required, as established by the Authority through administrative instruments, suitable training and sufficient

knowledge, experience and skill for the safe performance of the specific task or work required, and who provides advice with regard to the health and safety at work preventive and protective measures required to be taken, and whose name appears in the competent person register administered or otherwise delegated by the Authority in relation to such matters which are regulated by the Authority;

Cap. 431.

"constituted bodies" means any body which is established to represent the interests of its members such as workers or employers and shall include any body recognised under the [Malta Council for Economic and Social Development Act](#) and other bodies of a similar nature which are recognised under any other law;

Cap. 411.

"disciplined force" shall have the same meaning as assigned to it in article 47 of the Constitution and shall include the Civil Protection Department established by the [Civil Protection Act](#);

"duty holder" means any person who has a duty or obligation to fulfill and, or the responsibility to ensure that a duty or an obligation is fulfilled by virtue of any requirement of this Act or of subsidiary legislation, and shall include as the case may be, an employer, a self-employed person, a worker, a client, a project supervisor for health and safety matters, a manager who is responsible for workers, a supervisor who is responsible for workers, an HSRO and any other person to whom this Act or any subsidiary legislation made thereunder assigns a duty or responsibility;

"employer" means any person for whom work or a service is performed by a worker or other person who has an employment relationship with a worker, and includes a contractor or subcontractor who performs work or provides a service or undertakes to perform any work or to supply services, and

(a) in relation to work performed under a contract for services means the contractor or subcontractor, but shall not include the directors, managers, partners or owners, occupiers or possessors on behalf of whom work is being carried out, except as regards any of the tools, materials or equipment provided by them with regard to any defects thereof or therein which are known and not declared or which could have been known;

(b) in respect of all other organisations including voluntary ones or in respect of any other form of employment under a contract of service, includes any

of the persons in overall direction or having day-to-day management;

"Executive" means the Health and Safety Executive regulated in accordance with articles 4 and 9;

"financial year" means any period of twelve (12) months ending on the 31st December as determined from time to time by virtue of administrative instruments:

Provided that the financial year which commences on a date after the 1st January shall be extended for such period so as to terminate on the subsequent 31st December;

"HSRO" means the Health and Safety Reporting Officer appointed in accordance with article 12(8) and who is a high-ranking employee at management level, or such other person which an employer may appoint, as may be established by regulations issued in terms of this Act;

"Minister" means the Minister responsible for health and safety at work;

"officer" means a health and safety at work officer appointed in accordance with article 18 and who is in possession of a certificate of appointment issued according to the provisions of the said article;

"person" includes a body of persons and any body corporate established by or under any law;

"public officer" in relation to article 21 shall have the same meaning assigned to it by article 124 of the Constitution but does not include the Chief Justice, a judge of the Superior Courts or a magistrate of the Inferior Courts;

"self-employed person" means a person who works for profit or gain other than under a contract of employment;

"Tribunal" means the Health and Safety Tribunal as established by article 23;

"work" means any duty, activity, task or service producing a product or result, carried out by a worker or self-employed person and being performed for payment or for free or in exchange for goods, for services, for profit or for benefit;

"worker" means any person employed by an employer to perform work, or who provides a service to another person under a contract of service or for service, whether such contract is in writing or otherwise, and includes a trainee, an apprentice,

a volunteer, who were it not for the lack of remuneration, would essentially be undertaking responsibilities akin to those of a paid employee and a self-employed person, but shall not include the crew of a ship or an aircraft registered in Malta or any other person employed thereon as part of the ship or aircraft's complement;

"workers' health and safety representative" means a person elected, chosen or designated, as prescribed in regulations, to represent workers on all matters relating to the promotion and protection of their health or safety at work;

"workplace" means any premises, place, facility, vehicle, vessel or seacraft or any other movable or immovable or location, whether public or private, where work is carried out or to which the worker has access in the course of his employment, and without prejudice to the generality of the foregoing, shall include a vehicle or vessel or any other seacraft where such vessel or seacraft is within a port in Malta or the internal or territorial waters thereof, or at any dockyard, harbour or other similar installation in Malta, other than a warship belonging to a foreign state.

Applicability of
this Act.

3. This Act shall apply to all workplaces and to all sectors of work activity, both public and private, and to all work activities, including those carried out by self-employed persons but shall not apply to those specific activities carried out by members of a disciplined force or a civil protection service, having characteristics particular to an activity by the disciplined force inevitably conflicting with this Act, including activities relating to civil emergencies, public order, national security or operations by the military:

Provided that with regard to the exclusions mentioned in the previous paragraph, the health and safety of the workers concerned shall be protected for the purposes of the scope of this Act:

Provided further that the phrase "operations by the military" shall exclude any action antecedent to the operation.

PART II

Establishment, Functions and Conduct of the Authority

Establishment and
composition of the
Authority.

4. (1) There shall be established an Authority which shall consist of a Board and the Executive.

(2) The Authority shall be responsible for promoting health and safety at work as defined in the Act and to ensure, within the limits of its responsibilities as prescribed in this Act, that duty holders fulfil their obligations at law.

(3) The Authority shall be a body corporate having a distinct

legal personality and subject to the provisions of this Act, shall be capable of entering into contracts, of acquiring, holding and disposing of any kind of property for the purposes of its functions, of suing and being sued, and shall be empowered to do all such things and enter into all such transactions as are incidental or conducive to the exercise or performance of its functions under this Act.

(4) The legal and judicial representation of the Authority shall be vested in the Chief Executive:

Provided that the Chief Executive may appoint any one (1) or more of the employees of the Authority to appear in the name and on behalf of the Authority in any proceedings and in any act, contract, instrument, or other document whatsoever.

(5) The Board shall be composed of the following nine (9) members:

- (a) a Chairperson appointed by the Minister;
- (b) the Director of Industrial and Employment Relations;
- (c) a person appointed by the Minister with competence in health and, or safety at work or who has been listed in the register of competent persons;
- (d) a person appointed by the Minister responsible for health;
- (e) a person appointed by the Minister responsible for economic affairs;
- (f) two (2) members appointed by the Minister to represent the interests of workers, following consultation with the said body or bodies as the Minister may, from time to time, consider to be the principal representatives of workers;
- (g) two (2) members appointed by the Minister to represent the interests of employers, following consultation with the said body or bodies as the Minister may, from time to time, consider to be the principal representatives of employers.

(6) The Minister shall appoint a person to be the secretary of the Board as well as any one (1) of its members as a Deputy Chairperson who shall exercise the duties of the Chairperson in the case that the Chairperson is unable to attend to his duties for whatever reason.

(7) The Chairperson and the other members of the Board shall hold office for a period of two (2) years, but the members so appointed may be reappointed on the expiration of any of their term of office:

Provided that if a member is appointed at any time after the other members have already been appointed, the term of appointment of the said member shall end on the same date as that of the other members.

(8) A person shall not be qualified to hold office as a member of the Board, if that person:

- (a) is a Minister or a Parliamentary Secretary;
- (b) is legally incapacitated;
- (c) has been declared bankrupt or has made a composition or arrangement with his creditors;
- (d) has been convicted of a crime affecting public trust, theft or fraud, or knowingly receiving property obtained by theft or fraud, or of any offence under this Act; or
- (e) has a financial or other interest in any enterprise or activity which is likely to affect the discharge of the functions as a member of the Board:

Provided that the disqualification of a person under this paragraph may be waived by the Minister if the interest is declared and the declaration is published in the Gazette.

(9) Subject to the provisions of this article, the office of a member of the Board shall become vacant at the expiration of the term of office.

(10) A member of the Board may be removed from office by the Minister if, in the opinion of the Minister, the said member is unfit to continue in office or has become incapable of properly performing the duties as a member.

(11) If a member resigns or if the office of a member of the Board is otherwise vacant or if a member is for any reason unable to perform the functions of the office, the Minister may appoint a person who is qualified to be appointed as a temporary member of the Authority and any person so appointed shall, subject to the provisions of sub-articles (5) and (6), cease to be a member when a person has been appointed to occupy the vacancy or, as the case may be, when the member who was unable to perform the functions of the office resumes such functions.

(12) Any member of the Board who has any direct or indirect interest in any contract made or proposed to be made by the Authority, not being an interest which disqualifies such member from remaining a member, shall disclose the nature of the interest at the first meeting of the Board after the relevant facts have come to such member's knowledge. The said disclosure shall then be recorded in the minutes

of the meeting and the member having an interest as aforesaid shall withdraw from any meetings at which such contract is discussed. Any such disclosure shall be communicated to the Minister without delay:

Provided that where the interest of the member is such as to disqualify that member from remaining a member, he shall report the fact immediately to the Minister and tender his resignation.

(13) The appointment of any person as a member of the Board and the termination of office or resignation of any such person, as well as any additional functions assigned to the Board by the Minister shall be notified in the Gazette and it shall have immediate effect:

Provided that failure to publish the appointment or termination of office, as the case may be, shall have no effect on the validity of the said appointment or termination.

(14) The Chairperson and the members of the Board shall be remunerated as the Minister may determine, from time to time.

5. (1) The protection of health and safety at work shall be considered of public interest. Declaration of principles.

(2) The Authority shall be responsible for ensuring that the physical, psychological and social wellbeing of all workers in all workplaces is promoted and to ensure that it is safeguarded by whoever is so obliged to do.

6. It shall be the duty of the Authority to ensure that the levels of protection with regard to health and safety at work established by this Act and by regulations made thereunder are maintained. General duties.

7. (1) The Board shall be responsible for ensuring that the Executive carries out its duties to a high level and shall oversee that the Executive implements health and safety at work initiatives as prescribed in the Act and in regulations made thereunder. Provisions related to the Board.

(2) The Board shall review and oversee that the Executive reaches the targets set out for the Authority by the Minister or which the Executive itself proposes in relation to the various duties of the Authority under this Act.

(3) The Board shall review the Authority's budgets, management accounts, internal procedures, human resource plans and the financial audits.

(4) The Board shall approve and adopt the Authority's estimates of its income and expenditure for the subsequent year.

(5) The Board shall also have the following functions:

(a) recommend strategies by which the general

national policy relating to health and safety at work, indicated to the Authority by the Minister, may be implemented;

(b) advise the Minister regarding the drafting of policies and regulations to promote, maintain and protect a high level of health and safety at work, and on any matter concerning the Authority;

(c) recommend and if required prepare draft regulations for the Minister's consideration, guidance documents, and Codes of Practice required to promote, maintain and protect a high level of health and safety at work:

Provided that the Board may appoint for this purpose, committees or sub-committees and it may co-opt on the said committees or sub-committees competent persons from outside its membership who, in the opinion of the Board, have professional or expert knowledge on any matter dealt with under this Act so however that the co-opted members shall not have a vote on any matter before a committee or sub-committee;

(d) to solicit participation by the social partners and promote initiatives in favour of high levels of health and safety at work;

(e) to foster harmonious relations on matters of health and safety at work between the various stakeholders and duty holders;

(f) to encourage and support a constructive dialogue between constituted bodies or organisations of whatever nature about the benefits of ensuring health and safety at work;

(g) to engage in regular consultations with constituted bodies regarding matters pertinent to the protection of workers' health and safety as regulated in this Act.

(6) Prior to the implementation of any policy relating to health and safety at work, the Minister shall request the Board to provide any recommendations or opinions it may have in relation to any policy.

(7) The Board shall refrain from being involved in executive decisions or actions taken by the Executive in fulfilment of the scope and objectives of the Act.

(8) The Board shall on an annual basis and prior to the commencement of the Authority's financial year, present to the Minister a report in relation to its activities under the Act.

(9) The Board may also undertake such other activity it may deem necessary or expedient for the purposes of its functions and

objectives under this Act.

(10) The Authority may, with the approval of the Minister, act as an agent or otherwise on behalf of other persons for any matter related to health and safety at work.

8. (1) The meetings of the Board shall be called by the Chairperson as often as may be necessary, but at least once (1) a month, either on his own initiative or at the request of any two (2) of the other members.

Provisions with respect to procedures of the Board.

(2) Half the number of members who at that point constitute the Board shall form a *quorum*. Decisions shall be adopted by a simple majority of the votes of the members present and voting. The Chairperson, or in the Chairperson's absence the Deputy Chairperson, shall have an initial vote and in the event of an equality of votes, a casting vote:

Provided that without prejudice to the other requirements of this Act, no decision which is not supported by at least two (2) members of the Board shall be valid.

(3) Subject to the provisions of this Act, the Board may regulate its own procedure.

(4) Without prejudice to the provisions of this article, no act or procedure of the Board shall be invalidated merely by reason of the existence of any vacancy among the members.

(5) All acts done by any person acting in good faith as a member of the Board shall be valid notwithstanding that some defect in the appointment or the qualification be discovered afterwards. No act or procedure of the Board shall be questioned on the ground of a breach of the provisions of article 4(12) by a member.

(6) The secretary of the Board shall have the duty to make the necessary preparations for the meetings of the Board and to keep minutes of the said meetings.

9. (1) The Executive shall be headed by a Chief Executive who shall be appointed by the Minister in consultation with the Governing Board for a defined period under such terms as established in the letter of appointment and the said period may be extended for further periods as necessary.

Provisions related to the Executive.

(2) The Executive shall have the authority and responsibility for the implementation of the provisions of the Act and shall have such functions and powers in respect of its structures as are set out in the Act and such other functions and powers as may be delegated to it by virtue of any other law, or as may be assigned to it by the Minister.

(3) The Executive shall have the following functions:

(a) apply the provisions of this Act and of any regulations made thereunder;

(b) establish implementation strategies and policies related to health and safety at work;

(c) monitor compliance with relevant laws relating to health and safety at work and to take enforcement action where necessary;

(d) promote and disseminate information regarding health and safety at work, and the methods required to prevent injury, ill health or death at work;

(e) collate and analyse data and statistics on injuries at work, ill health and deaths and on matters ancillary to health and safety at work:

Provided that the Executive may request any data or information from any person including any Government department, agency, entity or corporation on any matter, directly or indirectly related to health and safety at work, and such data or information shall be provided without delay:

Provided further that any such data or information shall be deemed to have been given and received under the obligation of confidentiality and with respect to the provisions of the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation);

(f) keep registers of such plant, installations, equipment, machinery, articles, substances, or chemicals intended for use at the workplace, as it may deem appropriate, which provide a serious risk to health and safety at work;

(g) carry out any investigation on any matter concerning health and safety at work, including but not limited to the investigation of any accident, incident, injury, disease or death occurring as a result, or by reason of, any association with work, as well as investigations to ascertain the level of health and safety provided at any workplace, and the duty of the Authority to ensure the enforcement of any provision of this Act shall not be reason to debar the carrying out of such investigations:

Provided that when carrying out the said investigation, the Executive may request any information, documentation or any item or thing deemed necessary by the

Executive for the conclusion of the investigation:

Provided further that the Executive may appoint competent persons from the register mentioned in paragraph (i) to accompany and assist in any investigation;

(h) promote and carry out, coordinate or commission, and where the Authority deems necessary publish, scientific research, surveys or other professional studies aimed at better methods of preventing illness, injury, or death at work;

(i) keep registers, if applicable in accordance with this Act, of competent persons in matters related to health and safety at work, and to develop schemes as are necessary for the accreditation of competence and, or certification in the field of health and safety at work:

Provided that the Executive may determine the minimum qualifications required before the name of a person may be entered into the register;

(j) shall receive and review reports submitted by the HSRO and take the appropriate action to address the identified concerns;

(k) issue administrative instruments as defined in article 2; and, or

(l) impose administrative penalties and fines (*multi*) as referred to in articles 25, 26 and 27.

10. (1) The Chief Executive shall be responsible for the implementation of the objectives of the Authority in the exercise of its functions and, without prejudice to the generality of the foregoing, he shall:

Chief Executive.

(a) be responsible for the implementation and fulfilment of the Authority's established goals for the efficient use of its resources;

(b) ensure that the necessary strategies for meeting the objectives of the Authority are developed; and

(c) have such other duties relating to health and safety at work as the Minister may assign from time to time.

11. (1) In the exercise of its functions, the Authority acting through the Executive shall:

Responsibility towards the Minister.

(a) give effect, as soon as practicable, to any direction, which the Minister may give to it in relation to the policy to be followed in the discharge of its functions, and in

relation to any matter which appears to the Minister to affect health and safety at work; and

(b) afford to the Minister facilities for obtaining any information with regard to the property and activities of the Authority and for this purpose the Authority shall furnish the Minister with returns, accounts and other information with respect thereto, and afford facilities for the verification of any information furnished in such manner and at such times as the Minister may reasonably require.

(2) The Authority shall, on its own initiative or at the request of the Minister, advise the Minister on any matter concerning health and safety at work.

(3) The Authority shall transmit a copy of the minutes of its meetings to the Minister as soon as practicable after each meeting.

(4) The Minister shall seek the advice of the Authority before making regulations as provided in article 45 and the said advice shall however not be binding on the Minister.

(5) The Authority shall, not later than six (6) weeks after the end of each financial year, prepare and submit to the Minister an annual report that generally covers the activities of the Authority during such preceding financial year and which contains such information related to the proceedings and policy of the Authority as the Minister may from time to time require and shall consist of:

(a) a report on the operation of the Authority during the preceding financial year; and

(b) any research, surveys or other professional studies and analysis of educational programmes and structures related to activities concerning health and safety at work that the Authority deems necessary.

(6) The Minister shall ensure that a copy of each such report is placed on the Table of the House of Representatives together with the estimates as provided in article 38(5).

PART III

Duties

Duties of
employers.

12. (1) It shall be the duty of an employer to ensure the physical and psychological wellbeing of his workers at all times and of all persons who may be affected by the work being carried out for such employer at their workplace.

(2) The measures that shall be taken by an employer to prevent physical and psychological ill-health, injury or death at work, shall be taken on the basis of the following general principles of prevention,

that is:

- (a) by the avoidance of risk;
- (b) by the identification of hazards associated with work;
- (c) by the evaluation of those risks which cannot be avoided;
- (d) by the control at source of those risks which cannot be avoided;
- (e) by taking all the necessary measures to reduce risk and danger as much as reasonably practicable, according to the particular case;
- (f) by giving collective protective measures priority over individual protective measures;
- (g) by adapting the work to the worker, particularly insofar as the design of workplaces, the choice of work equipment and the choice of working and production methods are concerned, in particular with a view to alleviating monotonous work and work at a predetermined work-rate, and to reducing their effect on health;
- (h) by adapting to technical progress in the interest of health and safety at work;
- (i) by the development of a coherent overall prevention policy which covers technology, the organisation of work, working conditions, social relationships and the influence of factors related to the working environment;
- (j) by replacing the dangerous by the non-dangerous or the less dangerous; and
- (k) by giving appropriate instructions to workers.

(3) Without prejudice to the generality of sub-article (2), it shall be the duty of an employer to provide such information, instruction, training and supervision as is required to ensure health and safety at work.

(4) It shall be the duty of an employer to ensure that at workplaces wherein a number of workers are employed as may be established by regulations issued by virtue of this Act, there shall be elected, chosen or otherwise designated a person or persons to act as the workers' health and safety representative or representatives, and who shall be consulted in advance and in good time by the employer on matters which may affect health and safety at work. Such

representatives shall:

(a) be given access to, and may request electronic copies of documents prepared in connection with health and safety at work; and

(b) they shall also be provided with the necessary means, including the time necessary to allow them to carry out their role as representatives:

Provided that no action, disciplinary or otherwise, may be taken by an employer against a representative who acts in good faith in carrying out the duties pertaining to such a position.

(5) An employer shall prepare and review as and when appropriate, a statement of the general policy with respect to health and safety at work, which shall include the main measures for the implementation of such a policy, and to bring the declaration and any review of it to the notice of all the workers and their representatives.

(6) It shall be the duty of the employer to inform any contractor, self-employed person and workers from outside the organization of the contents of the health and safety at work policy, the presence of specific hazards at work, the resultant risks, and the preventive and protective measures required to be taken, and shall ensure that the provisions of the policy are abided by at all times.

(7) An employer shall ensure that any measure required to be taken by virtue of any provision of this Act or of any regulations made thereunder, does not involve financial cost to the workers.

(8) The Minister may by regulations issued in accordance with this Act, in order to address proper compliance with the terms of this Act and the regulations made thereunder or otherwise in view of the nature of work conducted by an employer, require an employer to appoint an HSRO who shall be tasked with the supervision and monitoring of the day-to-day implementation of the health and safety at work measures, policies and procedures of this Act and any regulations made thereunder:

Provided that, without prejudice to the rights of the Authority under this Act and the regulations made thereunder, the Authority may, in such cases where serious and consistent breaches of this Act and the regulations made thereunder become apparent, order that an HSRO is appointed by an employer for such time as the Authority may deem necessary. In such cases, the terms of the Act relating to the HSRO shall apply to such employer irrespective of whether regulations in terms of this sub-article have been published.

Duties of the
HSRO.

13. (1) The HSRO shall have the following duties:

(a) receive a report made by other officials, workers

or any person of any information or other matter which may give rise to information or suspicion of a breach of this Act or any regulations made thereunder;

(b) conduct investigations necessary to determine whether the information or matter referred to in paragraph (a), warrants a report to be made to the employer;

(c) provide a report in writing to the employer when the HSRO considers there to be a breach of this Act or any regulations made thereunder, which shall also include recommendations for the rectification thereof; and

(d) provide a report in writing to the Authority where the HSRO determines that following a report made by him to the employer in accordance with paragraph (c), the employer did not reasonably implement the recommendations made therein or did not seek to comply with the provisions of this Act or its subsidiary legislation, within a reasonable time.

(2) Where following the consideration of a report in accordance with sub-article (1)(d) the HSRO determines that no reporting to the Authority is necessary, the HSRO shall record the reasons for such determination in writing and, upon request, shall make it available to the Authority. A register to this effect shall be kept by the HSRO.

(3) The employer shall at all times be kept fully informed of any communication, exchanges or discussions between the HSRO and the Authority and shall be entitled to participate at any stage thereof.

14. (1) When an employer has appointed an HSRO to perform the duties referred to in article 13, this does not relieve the employer of his duties established in terms of this Act and shall not affect the principle of employers' responsibility as provided for in this Act or any regulations made thereunder.

Responsibilities of the employer and the HSRO.

(2) The employer shall have the duty to ensure that the HSRO shall be given access to whatever resources are required for the fulfilment of his role and the implementation of any recommendation he may make in accordance with sub-article (1).

(3) The employer shall provide the HSRO with unrestricted access to any relevant information held by himself.

(4) In such instances where an HSRO is required in terms of the Act, the employer shall notify the Authority of the details of the appointed HSRO and any subsequent changes thereto. A HSRO shall retain all responsibilities under the Act until such time as the Authority is notified with such resignation. If a person appointed to act as HSRO ceases to act as such for any reason, in such instances, the HSRO shall notify the Authority with such cessation:

Provided that in the case of demise of the HSRO, the employer shall notify the Authority within fourteen (14) days from such demise.

(5) The HSRO shall consult the workers' health and safety representative for the purposes of preparing the report as outlined under article 13(1)(c).

(6) In order to preserve health and safety at work, the employer shall take into account any report made by the HSRO in accordance with article 13(1)(d) and within a reasonable time shall take all reasonable measures to rectify the breach of this Act or any regulations made thereunder by implementing the recommendations made by the HSRO or otherwise.

(7) No action, or other proceeding for damages shall lie or be instituted against the HSRO for:

(a) any act done in pursuance of this Act and any regulations made thereunder, unless the HSRO has acted in a negligent manner which shall include *inter alia* the non-observance of his duties as provided in accordance with this Act and any regulations made thereunder; or

(b) any act done or omitted to be done in the performance of his functions where it is sufficiently proven that the employer failed to provide the HSRO with the necessary information in accordance with sub-article (3) and the HSRO would have reported such lack of information to the Authority.

(8) It shall be considered an offence under this Act for the HSRO to fail to submit a report to the Authority in accordance with article 13(1)(d).

(9) In cases where a worker or any person, whether acting on his own behalf or on behalf of a worker, reports a matter in terms of this article to the HSRO, the HSRO should inform the employer in writing immediately on the matter and shall prepare his written report in relation to such a matter within fifteen (15) days from the date on which such matter was reported to him. Such report shall be provided to the employer and the worker accordingly. Where deemed necessary by the HSRO, the report shall make such recommendations and stipulate such time frames as the HSRO may deem appropriate after having consulted the employer in relation to the timelines for such implementation, taking into account the obligations of the employer under this Act. A person failing to present such a report shall be guilty of an offence against this Act.

(10) In cases where a worker or any person making a report is satisfied with the findings of the report, the HSRO shall register the matter accordingly in his register, and the matter shall be considered to

be conclusively determined provided that any recommendation made by the HSRO is implemented accordingly within stipulated time frames.

(11) In cases where the recommendations made by the HSRO are not implemented, the HSRO shall report such lack of implementation to the Authority and the employer shall be guilty of an offence under this Act.

(12) In cases where the HSRO determines that the employer has not correctly implemented the terms of the report presented by him in terms of this article, the HSRO shall provide his report made in accordance to article 13(1)(d) to the Authority within fifteen (15) days from the end date of the implementation period. The Authority having received such a report from the HSRO in accordance with article 13(1)(d) shall finally determine whether the employer acted correctly in not implementing any of the recommendations of the HSRO in terms of this submitted report. If the Authority determines that the employer should have implemented the recommendations made by the HSRO, then such lack of implementation shall be considered to be an offence under this Act:

Provided that the employer shall not have committed an offence under this Act if the Authority determines that the lack of implementation was due to lack of agreement on the interpretation of the duties of the employer under this Act and only in such instances where such lack of implementation could not have reasonably resulted in a risk of any form of bodily or psychological harm or death of a worker.

(13) In cases where a worker or any person presenting a report in writing to the HSRO is not satisfied with the report or recommendations prepared by the HSRO in relation to any matter raised by such worker or person, such worker or person shall be entitled to report the matter to the Authority. The Authority shall investigate such a matter accordingly and shall communicate its findings to such worker or person, the employer and the HSRO in writing. Should it be determined that the HSRO has failed to make the correct recommendations to the employer in terms of this Act, in that case the HSRO shall be guilty of an offence under this Act.

(14) Failure to appoint an HSRO in accordance with the provisions of this Act shall constitute an offence against this Act. Any employer found guilty of this offence shall be subject to a fine (*multa*) of not more than fifty thousand euro (€50,000), as determined by the Authority.

(15) In cases where a worker or any person submitting a report in writing to the employer in accordance with this article is not satisfied with the report or recommendations prepared by the employer in relation to any matter raised by such worker or person, such worker or

person shall be entitled to report the matter to the Authority. The Authority shall investigate such a matter accordingly and shall communicate its findings to such worker or person, and the employer in writing. If it is determined that the employer failed to correctly address the matters raised by the worker or person in terms of this Act, in such case the employer shall be guilty of an offence under this Act.

Duties of workers.

15. (1) It shall be the responsibility of each worker to take care as far as possible of his own health and safety and that of other persons affected by his acts or omissions at work in accordance with his training and the instructions given by his employer.

(2) Workers shall in accordance with their training and the instructions given by their employer:

(a) make correct use of machinery, apparatus, tools, dangerous substances, transport equipment and other means of production;

(b) make correct use of the personal protective equipment provided to them and, after use, return it to its proper place;

(c) refrain from disconnecting, changing or removing arbitrarily fitted safety devices, including those fitted to machinery, apparatus, tools, plant and buildings, and use such safety devices correctly; and

(d) immediately inform the employer and, or the workers with specific responsibility for the health and safety of workers of any work situation they have reasonable grounds for considering represents a serious and immediate danger to health and safety and of any shortcomings in the protection arrangements.

(3) It shall be the duty for every worker to cooperate with the employer and with the workers' health and safety representative or representatives at work, on all matters relating to health and safety.

(4) A worker shall not engage in any improper conduct or behaviour that is likely to endanger his own health and safety at work or that of any other person.

Obligations
pertaining to self-
employed persons.

16. The statutory provisions applicable to employers shall also apply to a self-employed person. Particularly a self-employed person shall assess all risks to the health and safety of all persons, including his own, arising out of the work to be carried out by the self-employed person and shall take all appropriate measures according to the general principles of prevention as established in this Act.

Part IV

Administrative Instruments

17. (1) The Chief Executive shall have the power, with the approval of the Minister to issue administrative instruments, which at his discretion, are required for the discharge of the Authority's functions under this Act and which ensure adequate health and safety standards at work.

The power of the Chief Executive to issue administrative instruments.

(2) The content of an administrative instrument may furthermore reinforce and supplement, in part or in whole any provision contained within this Act, and may even apply solely to one particular case or matter:

Provided that an administrative instrument may also be limited to such periods of time as the Chief Executive deems fit.

(3) Administrative instruments shall be published on the Authority's website and may be used as measures for the implementation of any requirement which shall be enforced by or under the provisions of this Act.

(4) Administrative instruments shall have the force of law and be binding in their generality.

(5) Without prejudice to the generality of the foregoing, an administrative instrument may be issued to:

(a) determine the qualifications, standards and other requirements necessary to perform any task relating to the safeguard of health and safety at work;

(b) prohibit any work activity or use of any equipment at work which may place workers at a high level of risk to health and safety;

(c) to regulate the mandatory insurance coverage that employers are required to provide for their workers; and, or

(d) to specify the minimum accreditations required for individuals to be deemed competent persons.

PART V

Health and Safety at Work Officers

18. (1) The Executive shall appoint officers who shall have such functions relating to the general implementation of this Act or of any regulations made thereunder, as well as for performing such work or assuming such responsibilities as may be prescribed or as may be assigned to them by the Authority.

Appointment of officers.

(2) An officer shall be issued with an identification document signed by the Chief Executive, and such document shall be produced at the time of any examination, investigation or inspection:

Provided that the Chief Executive shall be deemed to be an officer, and his identification document as an officer shall be signed by the Chairperson of the Board.

Powers of officers.

19. (1) An officer shall have the following powers:

(a) to enter freely and without previous notice in any workplace, at any time of day or night;

(b) to request the assistance of a member of the Police Force in the execution of his duties;

(c) to question, alone or in the presence of witnesses, including the person that put forward the complaint, any employer or worker, including any person acting on behalf of any employer or carrying out work for such employer, if such is the case, on any of the matters falling under this Act or under any regulations made thereunder;

(d) to inspect any book, document, design, plan or list of technical specifications which may provide information or clarification with regard to health and safety at work at any particular workplace;

(e) to take possession, upon giving receipt therefor, of any object required for tests or as evidence of any accident, injury or disease at work, or of any alleged breach of this Act or of any regulations made thereunder;

(f) to examine or see to the examination of workplaces and of any object therein, and to take samples for examination of any article, substance or material found in any workplace or within its curtilage for the purpose of protecting health and safety at work, and to ensure that such samples are preserved for use as evidence in any proceedings in accordance with this Act or of any regulations made thereunder;

(g) to order that nothing be disturbed at a workplace for any period which may be reasonably required for the purpose of any examination, investigation or inspection referred to in this sub-article;

(h) to require the operation or the setting in motion of any equipment, machine, device, article or process, as well as the operation of any system or procedure which, in the opinion of the officer, may be relevant to any examination, investigation or inspection referred to in paragraphs (a) to (e);

(i) to require any employer to provide at his expense:

(i) a certificate signed by a *Perit* relating to the safety of any building or structure, including any temporary structures;

(ii) a certificate signed by a mechanical or electrical engineer regarding the safety of any mechanical or electrical installation, as the case may be, including any temporary installation;

(iii) a certificate signed by a medical practitioner relating to the health at work of any worker or any class of workers, which shall be presented to a medical officer of the Authority;

(iv) any information relative to health and safety at work, including information which refers to protective measures and any certificates duly signed by other persons competent in other areas ancillary to health and safety at work;

(j) to require any duty holder and, or employer, agent, manufacturer, importer, supplier, user or other person to provide at their expense any document, certificate or list of technical specifications in relation to any matter concerning health and safety at work, the method of handling or use of any plant, installation, equipment, machinery, article, substance or chemical which is used or intended to be used at work;

(k) for the purposes of a prosecution for any offence under this Act or of any regulations made thereunder, or for the purposes of any appeal to the Tribunal against an order by an officer, to disclose to the Court or to the Tribunal such results or information received or collected during the course of the investigations; and, or

(l) any other power as is reasonably necessary for the purpose of safeguarding health and safety at work.

(2) In the case of reasonable suspicion of an offence under this Act, a competent Court shall have the power and authority to give its consent to the entry by an officer in any workplace at all times.

20. (1) An officer may give an order, verbally or in writing, to safeguard health or safety at work, and every person shall observe such order forthwith until such time as it is revoked by an officer or until it has been revoked by a competent Court or Tribunal:

Orders by officers.

Provided that the person who receives the order, whether such person is a worker or an employer, may defend oneself from the charge of not having observed the order if he proves that compliance

with the order would have been of immediate detriment to health and safety at work:

Provided further that any order given verbally shall be confirmed and notified in writing, including by electronic mail upon the person to whom it was given within three (3) working days.

(2) (a) An officer may order that a workplace or part of a workplace be sealed, and such officer may revoke any such order.

(b) When a workplace or part thereof is sealed, no person shall enter into a sealed area without an officer's permission.

(3) When an officer makes an order in writing in accordance with this article, that officer may affix in the workplace, or on any equipment, machine, device, article or thing, a copy of the said order and no person except an officer shall remove such copy unless authorised to do so by an officer.

(4) When an officer makes an order in writing in accordance with this article, or issues a report of inspection to an employer or to a person in charge of the work, the employer or person in charge of the work shall forthwith cause a copy thereof to be posted in a conspicuous place at the workplace where it is most likely to attract the attention of workers.

(5) An officer shall not be required to afford to an employer, worker or other person an opportunity for a hearing before giving an order.

Officers to be
deemed public
officers.
Cap. 9.

21. (1) Officers shall, for the purposes of the [Criminal Code](#), be deemed to be public officers.

(2) A person may not threaten, insult, molest or disturb officers in the performance of their duties, or knowingly give officers false information, or break or tamper with any seal made, or with any monitoring equipment installed, put up or left by an officer in a workplace or, in the case of personal monitoring equipment, on a worker.

Non-liability.

22. No action, disciplinary or otherwise, or other proceeding for damages, shall lie or be instituted against the Chief Executive, or against an officer of the Authority for an act done or omitted to be done by them in good faith in the execution or intended execution of any power, right or duty in accordance with this Act or any regulations made thereunder.

PART VI

The Health and Safety Tribunal

23. (1) There shall be an independent and impartial Tribunal which shall be competent to:

Establishment and composition of the Tribunal.

(a) hear appeals brought by any person following decisions, orders, or administrative instruments issued by the Authority; and

(b) hear claims in connection with breaches of an administrative nature and as a result of which an administrative penalty can be imposed.

(2) The Tribunal shall not be subject to the control or direction of any other person or authority.

(3) The Tribunal shall be composed of a Chairperson who has at least five (5) years of experience as a warranted legal professional and two (2) other members who are warranted professionals in fields related to health and safety at work with at least five (5) years of experience.

(4) The Minister may by order in the Gazette establish panels of the Tribunal, and may designate the categories of cases that shall be assigned to each panel and may by subsequent order change, revoke or substitute such order:

Provided that nothing in this article and no changes in the composition of the Tribunal or in the qualifications of experience required of its members that may occur from time to time, shall effect the validity of anything done or still to be done by the Tribunal as composed when the case was assigned to it, or the continuation of proceedings before it when such proceedings commenced.

(5) The Chairperson and the two (2) other members shall be appointed by the Minister for a period of three (3) years:

Provided that the Minister may confirm any appointment from year to year and may direct that the outgoing Chairperson or member may continue to sit on the Tribunal in respect of any such matter that he has already taken cognisance before the termination of his appointment until such matter is determined.

(6) The Chairperson shall have the right to administer the oath and examine witnesses:

Provided that a member of the Board and the Executive or an employee of the Authority may not be appointed as a member of the Tribunal.

(7) The names of persons appointed to serve as Chairpersons or as members of the Tribunal shall be published in the Gazette.

(8) The Minister shall also appoint a person to act as secretary

of the Tribunal.

Appeals from
decisions delivered
by the Tribunal.

24. Any party to a decision delivered by the Tribunal who feels aggrieved by a decision of the said Tribunal, may appeal on points of law to the Court of Appeal by means of an application filed in the registry of that court within twenty (20) days from the date on which the decision of the Tribunal was served.

PART VII

Offences and Administrative Penalties

Offences and
administrative
penalties.

25. (1) Every act or omission against this Act, and which does not constitute a criminal offence, shall be subject to an administrative penalty.

(2) Without prejudice to all other powers of the Authority, the Authority shall impose such administrative penalties or other sanctions for the breach by any person of any provision of this Act or of an administrative instrument made under it, as well as for the breach by any person of European Union legislation which falls to be enforced by the Authority which may supplemented from time to time by an administrative instrument:

Provided that the administrative penalties shall in all cases be proportionate to the severity of the respective breach:

Provided further that any administrative penalties or other sanctions imposed may be supplemented from time to time by an administrative instrument.

(3) It shall be the discretion of the Authority to impose such administrative penalties and decide the amount that shall be imposed:

Provided that such administrative penalty shall not exceed twenty thousand euro (€20,000) for each breach of an administrative nature.

(4) When the Authority imposes an administrative penalty it shall cause a notice in writing to be served on the person on whom the administrative penalty is being imposed:

Provided that before imposing an administrative penalty the Authority may, at its discretion, cause a notice in writing to be served on any person who committed a breach of an administrative nature informing such person of the said administrative breach, the remedial action to be taken, and the time period during which the remedial action is to be taken. The notice shall also provide that an administrative penalty shall be imposed when the remedial action is not undertaken as instructed and, or finalised within the time period specified.

(5) Following, the notice as provided for in sub-article (4), the

notified person shall have a period of twenty (20) working days within which to admit the administrative penalty, including the payment of any administrative penalty levied, or otherwise appeal such sanction before the Tribunal as established in accordance with article 23:

Provided that if an appeal is not filed, any administrative penalty imposed shall constitute an executive title for all effects and purposes of Title VII of Part I of Book Second of the [Code of Organization and Civil Procedure](#). Cap. 12.

(6) Any appeal from an administrative penalty not exceeding one thousand five hundred euro (€1,500) shall be filed by means of a written petition and submissions, and it shall be determined solely by the Chairperson appointed in accordance with article 23(4).

26. (1) Any person who acts in contravention of and, or who conspires or attempts, or aids, abets, counsels or procures any other person to contravene the provisions of articles 12, 14, 15, 16 or 45 or any of the regulations made thereunder shall be guilty of an offence against this Act. Offences against this Act.

(2) Any person who, in relation to any matter under this Act or any regulations made thereunder:

(a) furnishes any information which that person knows to be false, or recklessly furnishes any information which is false;

(b) with intent to deceive produces, furnishes, sends or otherwise makes use of any document which is false;

(c) wilfully refuses or without lawful reason withholds any material information, proof of which shall be brought by such person;

(d) knowingly or recklessly makes any incorrect statement or entry in any record or return or on any document kept or furnished under this Act or any regulations made thereunder;

(e) unlawfully refuses or fails to answer to the best of his knowledge any question made to him by an officer in the exercise of such officer's functions, or fails to co-operate fully with an officer in the pursuance of such officer's duties;

(f) unlawfully refuses or fails to comply with any requirement duly provided under this Act or under any regulations made thereunder; or

(g) hinders an officer in the performance of such officer's duty under this Act or under any regulations made thereunder,

shall be guilty of an offence against this Act.

(3) Any person who commits an offence against this Act or any regulations made thereunder shall, on conviction, be liable to imprisonment for a term of not more than two (2) years, or to a fine (*multa*) of not less than one thousand euro (€1,000) but not exceeding fifty thousand euro (€50,000) for every offence for which the person has been found guilty, or to both such fine and imprisonment. On a second or subsequent conviction such person shall be liable to a fine (*multa*) of not less than two thousand euro (€2,000) but not exceeding fifty thousand euro (€50,000) for every offence for which the person has been found guilty, or to imprisonment for a term of not less than one (1) year and not exceeding four (4) years, or to both such fine and imprisonment. The Court may, at the request of the prosecution, cancel or suspend all or any permits issued in terms of or in relation to this Act including by regulations or administrative instruments, or all or any licences or warrants issued to or in the name of the person found guilty in connection with the workplace where the offence was committed:

Provided that the following failures shall not be deemed to constitute an offence against this Act and shall be subject to an administrative penalty:

(a) failure to make the necessary filings with the Authority as required in terms of this Act and any regulations made thereunder;

(b) failure to keep any form of document, register, general register, report and list as required in terms of this Act and any regulations made thereunder;

(c) the omission of a required entry in a register;

(d) failure to carry out a suitable, sufficient and systematic assessment of all health and safety hazards at the workplace and the resultant risks involved; and

(e) failure to appoint workers' health and safety representative.

Cap. 9.

(4) Notwithstanding the provisions of article 370 of the [Criminal Code](#), the Court of Magistrates as a court of criminal judicature shall be competent to try all offences against this Act.

(5) In any proceeding referred to in sub-article (4), it shall be lawful for the Chief Executive and, or any officer delegated by the said Chief Executive, to examine or cross-examine witnesses, submit proof, make submissions in support of the charge and generally conduct the prosecution on behalf of or together with the Executive Police:

Provided that the sworn statement of the delegated officer attesting that such officer has been duly delegated for that purpose shall be conclusive proof of such fact.

(6) Notwithstanding the provisions of sub-article (5), the Chief Executive or the duly delegated officer may be produced as witnesses:

Provided that if the prosecution produce them as witnesses, they shall be heard before they commence to act as provided in sub-article (5) unless the necessity of their testimony arises subsequently.

(7) Where the Authority nominates any officer to be present during an inquest in terms of article 546 of the [Criminal Code](#), the presence or any intervention by such officer during such inquest shall not prohibit the said officer from future representation during proceedings or from being summoned as a witness, including in civil cases pertaining to health and safety at work: Cap. 9.

Provided that notwithstanding the provisions of the [Criminal Code](#) the Authority shall be given a copy of any investigation or inquiry, including the *procès-verbal* of any inquest carried out in connection with any breach of this Act. Cap. 9.

(8) Notwithstanding the provisions of the [Criminal Code](#), the Attorney General shall have a right of appeal from any judgement given by the Courts of Magistrates in respect of proceedings for any offence against this Act or any regulations made thereunder. Cap. 9.

(9) The punishments provided for in this Act shall apply unless the fact constitutes a more serious offence under the [Criminal Code](#) or any other law, in which case the provisions of the [Criminal Code](#) or such other law shall apply. Cap. 9.

(10) Notwithstanding the provisions of the [Criminal Code](#), proceedings for an offence against this Act relating to a breach which is not of an administrative nature may be instituted at any time within six (6) years from the commission of the offence. Cap. 9.

27. (1) Notwithstanding any other law providing for the trial and punishment of offences, where the Authority believes that a person has committed an offence against this Act, other than in circumstances involving a fatality or when the breach is administrative in nature, the Authority may give notice in writing to such person providing the following information: Special compromise procedure.

(a) a description of the offence that the Authority believes that such person has committed;

(b) a list of the steps to be taken by such person to remedy the offence;

(c) whether the offence is remediable; and

(d) a declaration that such person is required to pay a compromise fine in respect of such offence:

Provided that the Authority may not require the payment of a compromise fine exceeding fifty thousand euro (€50,000).

(2) Where a notice in accordance with this article has been given, the person named in the notice may, within sixty (60) days of the service of the notice, accept responsibility in writing for the offence specified in the notice and within the same period of sixty (60) days, remedy the offence if the offence is remediable, and pay or undertake in writing to pay the fine indicated in the notice or such other compromise fine as the Authority may accept instead, and in any such case:

(a) the person named in the notice shall be deemed to have committed the offence and to have admitted his guilt in respect thereof, and the compromise fine paid, or agreed to be paid, shall be the penalty to which he becomes liable to pay;

(b) in the case of a remediable offence, if the offence is remedied to the satisfaction of the Authority and the compromise fine is paid within the period of sixty (60) days, no further proceedings may be taken against the said person in respect of the same facts:

Provided that the agreement to pay the compromise fine shall not extinguish any civil liability to make good any damages to any person or authority:

Provided that such person fails to pay the compromise fine within the sixty (60) day period, such fine shall constitute a penalty ordered by a court, and proceedings may be taken to recover the same as a civil debt due to the Authority.

(3) Where the person to whom notice is given under sub-article (1) does not accept or, in the case of a remediable offence, having accepted such responsibility, fails to remedy the offence within the specified period, even if he has paid the compromise fine, criminal proceedings may be taken against him in accordance with the provisions of law applicable to the offence.

Publication of
administrative
penalties and
judgements.

28. (1) The Authority shall publish, on the Authority's website, any administrative penalty that has been imposed by the Authority against duty holders that have become final for any breaches of the provisions of this Act, any regulations made thereunder and administrative instruments or any compromise fine paid in terms of article 27, for such amount as may be determined from time to time by regulations issued in terms of this Act. Such information shall remain accessible on the Authority's website for such period as determined by regulations made under this Act.

(2) The Authority shall publish any case relating to an offence against this Act or any regulations made thereunder by a duty holder on the Authority's website that have been decided against duty holders. Such publication shall remain accessible on the Authority's website until such time that it is removed from the conduct certificate of the said duty holder.

(3) Such publications shall include the following information:

- (a) information on the type and the nature of the breach;
- (b) the identity of the duty holder involved;
- (c) the amount of any administrative penalty imposed;
- (d) a summary of the breach or offences committed; and
- (e) the Court's or Tribunal's decision, as applicable, and any pertinent detail related to the case.

(4) The Authority shall update and maintain such publications in a timely manner, ensuring accuracy and accessibility to the public.

(5) The Authority shall establish and publish policies and procedures to further regulate the publication of administrative penalties and decisions by the Courts.

PART VIII

Administrative provisions

29. (1) The Authority shall be empowered to delegate its duties, functions, powers and responsibilities under this Act and any regulations made thereunder to other competent authorities as it deems necessary for the effective implementation and enforcement of health and safety at work.

Delegation of powers to other authorities and power of the Minister.

(2) The delegated authority shall provide regular reports, updates and information to the Authority regarding the implementation of delegated duties, as may be requested by the Authority from time to time, at least once every twelve (12) months.

(3) The delegation of duties by the Authority shall not relieve the Authority of its overall responsibility for ensuring the protection of health and safety of all persons at work as directed by this Act and any regulations made thereunder.

(4) The Authority shall establish cooperation with any Ministry, Government department or other organisation, whether local or overseas, to promote and ensure the health and safety of all persons at

work.

(5) The Minister may, from time to time, make regulations prescribing additional procedures, requirements or conditions governing the delegation of duties provided for in this article.

Staff appointments.

30. Subject to the provisions of the Constitution and any other law applicable to or in connection thereto, including this Act, the appointment of officers and other employees of the Authority shall be made by the Chief Executive, and approved by the Authority. The terms and conditions of employment shall be determined by the Chief Executive with the approval of the Authority and with the concurrence of the Minister.

Detailing of public officers.

31. (1) The Prime Minister may from time to time, at the request of the Authority, direct that any public officer who has the necessary competences for the requested position be detailed for duty with the Authority in such capacity and with effect from such date as may be specified in the order.

(2) A direction given in terms of sub-article (1) shall cease to have effect after one (1) year from the date that the direction is given:

Provided that the Prime Minister may specify a different date of cessation and, or may revoke such direction before its cessation:

Provided further that the direction shall also cease to have effect if the public officer retires from the public service, or otherwise cease to hold office at an earlier date.

Status of public officers detailed for duty with the Authority.

32. (1) Any public officer detailed for duty with the Authority in accordance with article 31 shall be under the administrative authority and control of the Authority during the time that such direction is in force but shall for other intents and purposes remain and be considered and treated as a public officer.

(2) Without prejudice to the generality of the foregoing, a public officer detailed for duty:

(a) shall not during the time while such public officer is so detailed:

(i) be precluded from applying for a transfer to a department of the Government in accordance with the terms and conditions of service attached to the appointment with the Government held by that public officer at a date on which he was detailed for duty; or

(ii) be so employed that the remuneration and conditions of service are less favourable than those which are attached to the appointment with the

Government held by such public officer at the date he was detailed for duty or which would have become attached to such appointment, during the said period, had such public officer not been detailed for duty with the Authority; and

(b) shall be entitled to have the service with the Authority considered as service with the Government for the purpose of any pension, gratuity or benefit under the [Pensions Ordinance](#) and the [Widows' and Orphans' Pension Act](#), and of any other right or privilege to which such public officer would be entitled, and shall be liable to any liability to which he would be liable, but for the fact that he is detailed for duty with the Authority.

Cap. 93.
Cap. 58.

(3) Where an application is made as provided in terms of sub-article (2)(a)(i), the same consideration shall be given thereto as if the public officer had not been detailed for duty with the Authority.

(4) The Authority shall pay to the Government such contributions as may from time to time be determined by the Minister responsible for finance in respect of the cost of pensions and gratuities earned by a public officer detailed for duty with the Authority during the period in which such public officer is so detailed.

33. (1) The Authority may, with the approval of the Prime Minister, offer to any public officer detailed for duty with the Authority in terms of article 31 permanent employment with the Authority at a remuneration and on terms and conditions not less favourable than those enjoyed by such public officer at the date of such offer.

Offers of
permanent
employment with
the Authority to
public officers
detailed for duty
with the Authority.

(2) The terms and conditions comprised in any offer in terms of sub-article (1) shall not be deemed to be less favourable merely because they are not in all respects identical with or superior to those enjoyed by the public officer concerned at the date of such offer, if such terms and conditions taken as a whole, in the opinion of the Prime Minister, offer substantially equivalent or greater benefits.

(3) Every public officer who accepts an offer of permanent employment with the Authority shall, for all purposes other than those of the [Pensions Ordinance](#) and of the [Widows' and Orphans' Pensions Act](#), be deemed to have ceased to be in service with the Government and to have entered into service with the Authority on the date of such acceptance, and for the purposes of the Pensions Ordinance and of the Widows' and Orphans' Pensions Act, so far as applicable to such public officer, service with the Authority shall be deemed to be service with the Government within the meanings thereof respectively.

Cap. 93.
Cap. 58.

Cap. 58.

(4) Every such public officer who, immediately before accepting permanent employment with the Authority, was entitled to benefit under the [Widows' and Orphans' Pensions Act](#), shall continue to be so entitled to benefit as if service with the Authority were service with the Government.

(5) The Authority shall pay to the Government such contributions as may from time to time be determined by the Minister responsible for finance in respect of the cost of pensions and gratuities earned by a public officer who has accepted permanent employment with the Authority during the period commencing on the date of such acceptance by the public officer.

(6) (a) For the purposes of this article, the posts and salary grades with the Authority shall be classified in the most nearly corresponding grades and incremental levels in the service of the Government by reference to job description, skills, responsibilities and other analogous factors.

(b) The classification referred to in paragraph (a) shall be carried out by a Board composed of a Chairperson appointed by the Minister responsible for finance and two (2) other members, one (1) of whom appointed by the Ministry responsible centrally for personnel policies in the public service and the other appointed by the Authority. The classification shall be subject to the final approval of the Minister responsible for finance.

(c) Such classification shall take place within three (3) months of any adjustment of salaries of employees in the Government service and, or of employees of the Authority.

(d) No post shall be classified in a grade higher than that of grade three (3) in the service of the Government or such other grade that the Minister responsible for finance may from time to time by notice in the Gazette determine.

Cap. 93.

(e) Without prejudice to the provisions of article 113 of the Constitution no person may, following a classification as provided for in this article, be entitled to rights under the Pensions Ordinance less favourable than those to which such person would have been entitled prior to such classification.

PART IX

Financial Provisions

Authority shall
mete expenditure
out of revenue.

34. (1) Without prejudice to the provisions of this article, the Authority shall so conduct its affairs that the expenditure required for the proper performance of its functions shall, as far as practicable, be meted out of its revenue.

(2) For such purpose the Authority shall levy all fees, rates and other payments prescribed or deemed to be prescribed by or under this Act or any other law related to the powers and functions of the Authority.

(3) The Authority shall also be paid by Government out of the Consolidated Fund such sums as Parliament may from time to time authorise to be appropriated to cover the costs of specified works to be continued or otherwise carried out by the Authority, being works of infrastructure or a similar capital nature.

(4) Any excess of revenue over expenditure shall, subject to such directives as the Minister, after consultation with the Minister responsible for finance, may from time to time give, be applied by the Authority to the formation of reserve funds to be used for the purposes of the Authority, and without prejudice to the generality of the powers given to the Minister by this sub-article, any direction given by the Minister as aforesaid may order the transfer to the Government, or the application in such manner as may be specified in the direction, of any part of the fees, rates and other payments levied in accordance with sub-article (2) or any such excess as aforesaid.

(5) Any funds of the Authority not immediately required to meet expenditure may be invested in such manner as may from time to time be approved by the Minister.

35. (1) For the purposes of carrying out any of its functions under this Act, the Authority may, with the approval in writing of the Minister responsible for finance, borrow or raise money in such manner, from such person, body or authority, under such terms and conditions as the Minister, after consultation as aforesaid, may in writing approve.

Power to borrow capital.

(2) The Authority may also from time to time borrow, by way of overdraft or otherwise, such sums as it may require for carrying out its functions in accordance with this Act:

Provided that for any amount in excess of one hundred and sixteen thousand and four hundred and sixty-eight euro and sixty seven cents (€116,468.67), there shall be required the approval of the Minister in writing.

36. The Minister responsible for finance may, after consultation with the Minister, make advances to the Authority of such sums as the Minister responsible for finance may agree to be required by the Authority for carrying out any of its functions under this Act, and may make such advances on such terms and conditions as the Minister responsible for finance may, after consultation as aforesaid, deem appropriate. Any such advance may be made by the Minister responsible for finance out of the Consolidated Fund, and without further appropriation other than this Act, by warrant, authorising the

Advances from Government.

Accountant General to make such advance.

Borrowing from
Government.

37. (1) The Minister responsible for finance may, for any requirements of the Authority of a capital nature, contract or raise money, or incur liabilities, for such periods and on such terms and conditions as the Minister responsible for finance may deem appropriate, and any sums due in respect of or in connection with any such loan or liability shall be a charge on the Consolidated Fund.

(2) Notice of any loan, liability or advance made or incurred under the provisions of sub-article (1) shall be given by the Minister to the House of Representatives as soon as practicable.

(3) Pending the raising of any loan as mentioned in sub-article (1), or for the purpose of providing the Authority with working capital, the Minister responsible for finance may authorise the Accountant General to make advances to the Authority out of the Treasury Clearance Fund under such terms as may be specified by the Minister upon the making thereof.

(4) The proceeds of any loan raised for the purposes of making advances to the Authority, and any other moneys to be advanced to the Authority under this article, shall be paid into a fund specially established for the purpose and which shall be known as the "Occupational Health and Safety Authority Loan Fund".

(5) Sums received by the Accountant General from the Authority in respect of advances made to the Authority under sub-article (3) shall be paid, as respects of amounts received by way of repayment into the Treasury Clearance Fund and, as respects of amount received by way of interest into the Consolidated Fund.

Estimates of the
Authority.

38. (1) The Chief Executive shall cause to be prepared in every financial year, and shall not later than eight (8) weeks before the end of each financial year adopt, estimates of the income and expenditure of the Authority for the following financial year:

Provided that the estimates of the Authority for the first (1) financial year of the Authority shall be prepared and adopted within such time as the Minister may by notice in writing to the Authority specify.

(2) In the preparation of such estimates the Chief Executive shall take account of any funds and other monies that may be due to be paid to the Authority out of the Consolidated Fund during the relevant financial year, whether by virtue of this Act or an appropriation Act or of any other law, and the Authority shall so prepare the said estimates as to ensure that the total revenues of the Authority are at least sufficient to mete all sums duly chargeable to its revenue account including, but without prejudice to the generality thereof, depreciation.

(3) The estimates shall be made in such forms and shall contain such information and such comparisons with previous estimates as the Minister may direct.

(4) A copy of the estimates shall, upon their adoption by the Authority, be sent forthwith by the Chief Executive to the Minister and to the Minister responsible for finance.

(5) The Minister shall, at the earliest opportunity and not later than six (6) weeks after the Minister has received a copy of the estimates of the Authority or, if at any time the House of Representatives is not in session, within six (6) weeks from the beginning of the next following session, cause such estimates to be laid before the House of Representatives together with a motion that the House approves the said estimates. Not more than one sitting shall be allotted for the debate in the House of Representatives on such motion and both the motion and the approval of the estimates by the House of Representatives may be with or without amendment to the estimates.

39. (1) No expenditure shall be made or incurred by the Authority unless it has been approved by the House of Representatives as provided in article 38.

Expenditure
according to the
approved
estimates.

(2) Notwithstanding the provisions of sub-article (1):

(a) until the expiration of six (6) months from the beginning of a financial year, or until the approval of the estimates for such year by the House of Representatives, whichever is the earlier date, the Authority may make or incur expenditure for carrying out its functions in accordance with this Act not exceeding in the aggregate one half of the amount approved for the preceding financial year;

(b) expenditure approved in respect of a head or sub-head of the estimates may, with the approval of the Minister, be incurred in respect of another head or sub-head of the estimates;

(c) in respect of the first (1) financial year, the Authority may make or incur expenditure until the approval of the estimates for such year by the House of Representatives not exceeding in the aggregate such amounts as the Minister responsible for finance may, after consultation with the Minister, allow;

(d) if in respect of any financial year it is found that the amount approved by the House of Representatives is not sufficient, or if a need has arisen for expenditure for a purpose not provided for in the estimates, the Authority may adopt supplementary estimates for approval by the House of Representatives and, pending such approval, the Authority may

in special circumstances and with the approval of the Minister, incur the relative expenditure or part thereof as the said Minister may so approve, and in any such case the provisions of this Act applicable to the estimates shall, as soon as practicable, apply to the supplementary estimates.

Publication of approved estimates.

40. All estimates and supplementary estimates approved by the House of Representatives shall, as soon as practicable, be published in the Gazette.

Accounts and audit.

41. (1) The Authority shall cause to be duly kept books of account and other records in respect of the Authority's operations and shall cause to be prepared a statement of accounts in respect of each financial year.

(2) The accounts of the Authority shall be audited by an auditor to be appointed by it and approved by the Minister:

Provided that the Minister responsible for finance may require the books and other records of the Authority to be audited or examined by the Auditor General who shall for this purpose have the power to carry out such physical verifications and other verification, and may require such information, as the Auditor General may deem necessary.

(3) After the end of each financial year, at the same time as a copy of the estimates of the Authority is forwarded to the Minister in accordance with article 38(4), the Authority shall cause a copy of the statement of accounts duly audited to be transmitted to the Minister and to the Minister responsible for finance together with a copy of any report made by the auditor on such statement or on the accounts of the Authority.

(4) The Minister shall cause a copy of every such statement and report to be laid on the Table of the House of Representatives together with the motion tabled before the House of Representatives under article 38(5).

Deposit of revenues and payment by the Authority.

42. (1) All moneys of the Authority shall be paid into a bank appointed as bankers by the Authority by a resolution of the Authority. Such moneys shall, as far as practicable, be paid into the banks from day to day, except for such sum as the Authority may require to retain to mete petty disbursements and immediate payments.

(2) All payments out of the funds of the Authority, except petty disbursements not exceeding such sum as may be fixed by the Authority, shall be made by such officer of the Authority as shall be appointed or designated for the purpose.

(3) Cheques against and withdrawals from any bank account of the Authority shall be signed by such officer of the Authority as may be appointed or designated by the Authority for that purpose and shall

be countersigned by the Chief Executive, or such other member or officer of the Authority as may be authorised by the Authority for such purpose.

(4) The Authority shall also make provision with respect to:

- (a) the manner in which and the officer by whom payments are to be authorised or approved;
- (b) the title of any account held with the bank into which the monies of the Authority are to be paid, and the transfer of funds from one account into another;
- (c) the method to be adopted in making payments out of the funds of the Authority; and
- (d) generally with respect to any matter which is relevant to the proper keeping and control of the accounts, books and other records and the control of the finances of the Authority.

43. The Authority shall follow the [Public Procurement Regulations](#) when entering into any contract for the supply of goods or materials or for the execution of work or for the rendering of services, to or for the benefit of the Authority.

Contracts of supply and of works.
S.L. 601.03.

44. The Authority shall, not later than six (6) weeks after the end of each financial year, make and transmit to the Minister and to the Minister responsible for finance, a report dealing generally with the activities of the Authority during such financial year and containing such information relating to the proceedings and policy of the Authority as either of the said Ministers may from time to time require. The Minister shall cause a copy of every such report to be laid on the Table of the House together with the estimates as provided for in article 38(5).

Annual report.

PART X Miscellaneous

45. (1) The Minister may make regulations for safeguarding health and safety at work, for determining the precautions to be taken for this purpose and generally for the purpose of carrying into operation any of the provisions of this Act, and in particular, but without prejudice to the generality of the foregoing, the Minister may make regulations:

Power to make regulations.

- (a) prescribing anything that is required or authorised by this Act to be prescribed;
- (b) concerning the testing, examination and the certificates or seals of approval of any equipment, machinery, device, article or thing used or intended to be used in a

workplace;

(c) on the importation, presence, use, handling of, or exposure to any chemical, biological or physical agent, or a combination thereof, which may be used at the workplace;

(d) on the methods, standards or procedures for determining the amount, concentration or level of any physical, chemical or biological agent in a workplace;

(e) concerning the protection of workers from the risks related to exposure to chemical, physical and biological agents at the workplace;

(f) on the notification, reporting and investigation of deaths, diseases, injuries or other accidents or incidents involving health and safety in a workplace;

(g) on the hours a worker may be required to work;

(h) relating to the safety of any equipment, machinery, device, material, chemicals, process, article or thing whatsoever used or intended to be used in a workplace;

(i) relating to the right of a worker to refuse to work or to do a particular work, the circumstances in which, and the conditions under which the said right is exercisable;

(j) prescribing or altering the procedure to be used for an appeal to be made to the Tribunal and to regulate the procedure to be used by the Tribunal;

(k) regulating the assignment and delegation of duties in accordance with the Act by an employer to any person, when the employer is a body corporate. The said regulations shall determine the responsibilities of such person being delegated or assigned such duties in accordance with the Act. Such regulations shall furthermore be drafted and interpreted consistently with the terms of European Union legislation regulating health and safety at work;

(l) on any other matter related to health and safety at work; and, or

(m) determine the qualifications, standards and other requirements necessary to perform any task relating to the safeguard of health and safety at work.

(2) Without prejudice to any matter aforesaid, regulations made by virtue of this article may also:

(a) distinguish between different classes of work

places, different classes of work and between different classes of workers, and may also make other distinctions as may be deemed appropriate;

(b) prohibit, regulate, restrict, limit or control any matter in respect of which regulations may be made; and

(c) empower the Authority to require a licence, certificate or other requirements in respect of any matter for which regulations may be made and to levy fees or other charges in respect thereof, or in respect of any service provided by the Authority.
