Code of Practice for the Construction Industry

Part 1
Foreword

Many accidents in the construction industry are due to bad planning, lack of organization and poor co-ordination on construction sites.

According to the European Agency for Safety and Health at Work, in the European Union, construction work leads to most serious accidents at places of work, with more than 1300 people being killed in construction accidents every year. Worldwide, construction workers are three times more likely to be killed and twice as likely to be injured as workers in other occupations. As is evident in this Code of Practice, the costs of these accidents are not borne by workers and employers only, but are also usually shouldered by the owner or owners of the project, legally known as the "client". These costs can amount to a considerable share of the contract price.

In Malta, most occupational fatalities occur in construction sites, and most of these fatalities are due to falls from heights. Moreover, the construction sector claims the second highest rate of occupational accidents each year, reaching 16.5% of all reported accidents in 2005.

Eliminating or reducing accidents and injuries at the place of work will not only save a great deal of pain and suffering to workers but will also help to reduce the many direct and indirect financial costs related to these accidents and injuries. Furthermore, owners of projects (clients), client appointed supervisors, employers, directors, managers and other supervisors can be held responsible for failing to have effective occupational health and safety control measures in place.

The overall objective of this Code of Practice is to provide practical guidance on a technical, administrative and legal framework for health and safety in the construction industry. This is required to obtain improvement, especially in the working environment, to ensure a better level of protection of the health and safety of workers in this sector, and to obtain an improvement in people's attitudes and views towards occupational health and safety in the construction industry.

This Code of Practice is also intended to help duty-holders achieve compliance with their legal obligations in protecting workers' health and safety and third persons that can be affected by the work. It is complimentary to the regulations and standards set in the relevant local occupational health and safety regulations, which include Act XXVII of 2000, L.N. 281 of 2004 and L.N. 36 of 2003. There are other regulations in force, which although not referring to Building and Civil Engineering, are still required to be followed within the overall scope for which they are intended.

Although it is not intended to replace any legal requirements, a duty holder who follows the measures included in this Code of Practice is on the right track to achieve compliance. It is not possible to deal with every situation that may be found at a work place – this Code of Practice only provides a generic guide, and it is always recommended to seek the advice of a competent person regarding the institution of preventive and protective measures.

This Code of Practice has been approved by the Occupational Health and Safety Authority following consultation with all relevant stake-holders.

Dr Mark Gauci
Chief Executive Officer
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Introduction

These guidelines describe good practice and as such support the Occupational Health and Safety Authority Act (Act XXVII of 2000) and its relevant subsidiary regulations. While every effort has been made towards completeness and accuracy at the time of publication, these are guidelines, and they should at any point in time be read in conjunction with the legislation.

These guidelines do not replace obligations arising out of the relevant legislation.

These guidelines contain three sorts of information on occupational health and safety:

1. the general duties and roles of all duty-holders in the construction industry;
2. in many cases, reference is made to the most relevant sections of the legislation governing construction work under Act XXVII of 2000 and its subsidiary regulations, which are listed separately in table format. Generally, these sections contain general legal requirements; they are being quoted because it is most likely that any prosecution would be taken when there is a breach of these regulations. It must be remembered that the observance of all regulations under Act XXVII of 2000 is mandatory and should be observed where they apply; and
3. the guidelines themselves, which are based on standards set in the legislation, on generally accepted good practice found in other codes of practice and also on generally accepted good practice found in the construction industry.

Application

These guidelines are applicable to all building and civil engineering works, where these are construed to have the same meaning as that used in L.N. 281 of 2004.

These include such works as excavations, tunnels, earthworks, the laying of foundations for all types of buildings or structures, building, construction, structural alteration, assembly and disassembly of prefabricated elements, conversion or fitting-out, alterations, renovation or restoration, repairs, dismantling, demolition, upkeep, maintenance - painting and cleaning work and drainage.

The provisions of this code shall be considered as the minimum requirements for protecting workers’ and third persons’ health and safety.

These guidelines apply to all duty-holders in the building and civil engineering industry, especially:
- the owner of construction projects referred to in this Code of Practice and in the relevant occupational health and safety regulations as the “client”;
- the client appointed planning and design supervisor of construction projects, referred to in this Code of Practice and in the relevant occupational health and safety regulations as the “project supervisor for the design stage” (PSDS);
- the client appointed project supervisor of construction projects during execution stage, referred to in this Code of Practice as the “project supervisor for the construction stage” (PSCS), and in the relevant occupational health and safety regulations as the “project supervisor for the execution stage”;
- all other persons in control of construction sites, such as employers, contractors, sub-contractors, managers, foremen and other supervisors; and
- self-employed persons and employees engaged to undertake construction work.

Shared Responsibilities

If more than one duty-holder mentioned above and in Clauses 1.1 to 1.6. of this Code of Practice, have a responsibility for any health and safety matter, then:

- each of these parties retains responsibility for the matter;
- each party must fulfill their responsibility to the extent that they control the construction project or the construction work;
- all of them must discharge their responsibilities in a coordinated manner; and
• each party must cooperate with all other parties who have a responsibility concerning occupational health and safety;

**Important note:**

To obtain and maintain health and safety standards on site, it is important to note that:

1. a health and safety approach is to be taken right from the start, namely at the design stage;
2. appointments of duty-holders (e.g. project supervisors and contractors) mentioned above, must be made as early as possible;
3. in order to facilitate other duty-holders to discharge their duties effectively, it is important that any relevant and significant information concerning health and safety is provided to all who need it. This information must as much as possible also be provided in good time and well in advance, such as a pre-tender health and safety plan (*vide* Appendix 3) to tendering contractors;
4. the time allowed for the work, including planning and preparation, must be realistic and reasonable;
5. duties cannot be avoided by passing them on to someone else who shares the same responsibility;
6. the amount of resources and the level of effort (such as time, trouble and money) exerted to protect health and safety must be commensurate and proportional to the risks involved. Thus the higher the risk and the more difficult it is to manage such risks, the more resources and effort could be needed to counteract such risks associated with the project.²

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Interpretations

(to be supplemented as required)

In this Code of Practice, unless the context otherwise requires:

<table>
<thead>
<tr>
<th>Term</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>the Act</td>
<td>means the Occupational Health and Safety Authority Act.</td>
</tr>
<tr>
<td>the Authority</td>
<td>means the Occupational Health and Safety Authority established by article 8 of the Act.</td>
</tr>
<tr>
<td>building or civil engineering works</td>
<td>has the same meaning as that of Schedule II of L.N. 281 of 2004</td>
</tr>
<tr>
<td>client</td>
<td>means any natural or legal person for whom a project is carried out.</td>
</tr>
<tr>
<td>competent person</td>
<td>means a person who by reason of training, experience or professional qualification is competent to perform the task or function, or assume the responsibility in question;</td>
</tr>
<tr>
<td>construction site</td>
<td>means any construction site at which “building or civil engineering works” are carried out, a non-exhaustive list of which is given in Schedule I of L.N. 281 of 2004</td>
</tr>
<tr>
<td>construction project</td>
<td>means any construction project at which “building or civil engineering works” are to be carried out, including design, preparation and planning.</td>
</tr>
<tr>
<td>contractor and sub-contractor</td>
<td>means a contractor or employer whose workers undertake, carry out or manage construction work, and who supplies materials and, or labour to carry out such work.</td>
</tr>
<tr>
<td>designer</td>
<td>means any person that makes a design or assign any person under his responsibility, including employees, to prepare designs related to a structure or part of a structure.</td>
</tr>
<tr>
<td>duty-holders</td>
<td>means all persons who have a duty, responsibility, role or task in construction projects, including clients, designers, engineers, architects, project supervisors, contractors, sub-contractors, self-employed persons and employees.</td>
</tr>
<tr>
<td>hazard</td>
<td>means anything which may cause harm to persons or damage to property. This could include a condition, situation, thing, occurrence or practice.</td>
</tr>
<tr>
<td>main contractor</td>
<td>- is usually the leading contractor who undertakes and carries out the main construction work. If clients manage their own construction work and are competent for the project in hand they may appoint themselves.</td>
</tr>
<tr>
<td>project</td>
<td>means any development which includes or is intended to include “building or civil engineering works”.</td>
</tr>
<tr>
<td>project supervisor</td>
<td>means any natural or legal person responsible for the design and / or execution and / or supervision of the execution of a project, appointed by the client.</td>
</tr>
<tr>
<td>self-employed person</td>
<td>means any person, other than a person in the employment, traineeship or apprenticeship of a contractor, whose professional activity contributes to the completion of a project.</td>
</tr>
</tbody>
</table>
1. General Duties and Roles of Key Duty-Holders

1.1. The Client - The Owner/s of a Project

a. The legal term used to describe the owner of a project involving building and civil engineering works (such as the construction of a building), is “the client”. The “client” (or clients), has an important role to play in preventing accidents related to the project, both during and after construction.

b. Through proper commitment to health and safety, and through coordination, many benefits can be reaped by the client/s of construction projects, such as:

- maximizing the return of money spent;
- safer and more efficient work because foreseeable hazards were considered during the design stage resulting in less problems and work stoppages;
- realistic and more reasonable time allocation for the project;
- projects are planned and controlled better resulting in quicker completion;
- more accurate production schedules;
- better communication between duty-holders involved in a project;
- less accidents, injuries, ill-health and fatalities among construction workers as a result of better health and safety management;
- better welfare facilities which enhance the working environment and lift the morale of workers;
- the information provided in the Health and Safety File (see Clause 1.1.2. below) will assist in achieving better risk management when undertaking future work on the finished building or structure; and
- better compliance with health and safety regulations resulting in less risks of prosecutions and civil litigations.3

c. Clients can greatly influence the occupational health and safety aspects of a project. Among other things, they have the greatest influence on the amount of time and resources to be made available for the project and must allow sufficient time for those they appoint to carry out their duties in good time. Sufficient time must be allowed to carry out the design, develop the health and safety plans for the pre-tender and construction phase. They must also allow contractors enough time to organize their labour force and equipment, including welfare facilities, planning, and preparation for the project as well as carry out the actual construction work.4

1.1.1. Appointment of Project Supervisors

a. In respect of every project, and with the intention to ensure work carried out for the client is conducted with proper regard to the health and safety of workers and others, a Client is to appoint in good time, a Project Supervisor for the Design Stage (PSDS) and a Project Supervisor for the Construction Stage (PSCS) to perform the duties required by regulations 4 and 5 of L.N. 281 of 2004, and the duties mentioned in this Code of Practice.

There is nothing in L.N. 281 of 2004 to prevent the client, an architect or the main contractor from acting as the project supervisor at either stage, on condition that there is competence5 to undertake the duties involved.

LEGISLATION - L.N. 281 of 2004 - Work Place (Minimum Health and Safety Requirements for Work at Construction Sites) Regulations

3. (1) It shall be the duty of a client to appoint, in respect of every project, a project supervisor for the design stage and a project supervisor for the construction stage, and any such appointment shall be terminated, changed or renewed as necessary.

b. The Client must be reasonably sure that all duty-holders appointed for each project - especially designers, the PSDS, the PSCS, the main contractor, contractors/sub-contractors and self-employed persons - are competent6 and

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3 Ibid. p. 23
4 Ibid. p. 23
5 Vide Appendix 7 for ways of assessing competence. See also definition of “competent person” in the Interpretations of this CoP.
6 Health and Safety Commission. op. cit. pp. 25, 61

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have sufficient resources, including time, to achieve compliance with this Code of Practice and with all relevant standards and regulations. This could mean that clients will have to make reasonable enquiries and seek advice to satisfy themselves that the organizations or individuals they appoint are competent, and have, or will allocate adequate resources.7

c. The Client is to ensure that a suitable pre-tender Health and Safety Plan, and a construction phase Health and Safety Plan as referred to in Clause 1.4.3. hereunder has been prepared in good time before construction begins.8

d. The client shall also require those submitting tenders to make provisions for the costs of health and safety measures to be taken during the construction stage of the project.9

e. The appointment of project supervisors to perform the duties referred to in L.N. 281 of 2004 and mentioned in this Code of Practice, will neither relieve clients from their responsibilities and duties nor affect employers’ responsibilities as established in Act XXVII and its relevant subsidiary regulations.

<table>
<thead>
<tr>
<th>LEGISLATION - L.N. 281 of 2004 - Work Place (Minimum Health and Safety Requirements for Work at Construction Sites) Regulations</th>
</tr>
</thead>
<tbody>
<tr>
<td>6. (1) Where a client has appointed any project supervisor to perform the duties referred to in regulations 4 and 5, this does not relieve the client his responsibilities in that respect.</td>
</tr>
<tr>
<td>(2) The implementation of these regulations shall not affect the principle of employers’ responsibility as provided for in the Act or in subsidiary legislation.</td>
</tr>
</tbody>
</table>

1.1.2. Health and Safety File10

a. With a view to document and keep important health and safety information for future use, the client, in consultation with the PSDS during the design phase of the project, and with the PSCS during the execution stages of the project, shall make available and keep any required Health and Safety File/s related to the project.

b. The Client shall ensure that the Health and Safety File is kept available for inspection and to be consulted for any future need.

<table>
<thead>
<tr>
<th>LEGISLATION - L.N. 281 of 2004 - Work Place (Minimum Health and Safety Requirements for Work at Construction Sites) Regulations</th>
</tr>
</thead>
<tbody>
<tr>
<td>3.(2) It shall be the duty of a client to keep and make available any health and safety files prepared in accordance with regulation 4 and any other relevant information regarding health and safety, for inspection by any person who may need information in the file for the purpose of compliance with any statutory obligations.</td>
</tr>
</tbody>
</table>

1.1.3. File Transfer

a. If a client disposes of his or her interests in the project, such as when the project is sold, even when construction of the project is complete, he must then transfer the Health and Safety File related to that project to that person/s that will acquire such interest in the project. Any obligations arising out of the regulations of L.N. 281 of 2004 shall be assumed by this person.

<table>
<thead>
<tr>
<th>L.N. 281 of 2004 - Work Place (Minimum Health and Safety Requirements for Work at Construction Sites) Regulations</th>
</tr>
</thead>
<tbody>
<tr>
<td>3.(3) Where a client disposes of his or her interests in the project, a client shall deliver the health and safety file in respect of the project to that person who acquires such interest in the project, and any obligations arising out of these regulations remaining for the duration of the project, shall be assumed by this person.</td>
</tr>
</tbody>
</table>

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7 Ibid. p. 61
8 Ibid. p. 26
10 Vide Appendix 1
1.2 Designers, engineers and architects

1.2.1 General duties

a. Those concerned with the design and planning of a construction project shall receive training in health and safety and shall integrate the health and safety of the construction workers into the design and planning process in accordance with national laws, regulations and practice.

b. Care shall be exercised by engineers, architects and other professional persons, not to include anything in the design which would necessitate the use of dangerous structural or other procedures or materials hazardous to health or safety which could be avoided by design modifications or by substitute materials.

c. Those designing buildings, structures or other construction projects shall take into account the safety problems associated with subsequent maintenance and upkeep where maintenance and upkeep would involve special hazards.

d. Facilities shall be included in the design for such work to be performed with the minimum risk.

1.3. The Project Supervisor for the Design Stage (PSDS)

1.3.1 General Provisions

a. If requested, the client-appointed PSDS should be in a position to provide advice to the client about competence such as that of designers. S/he should also be in a position to provide advice about the satisfactory allocation of resources, including time, for health and safety.

b. The PSDC shall reasonably ensure that hazard elimination and if not possible, risk control, are addressed at the design stage, even if this necessitates coordination with architects and designers. Any remaining significant hazards are to be communicated by the PSDS to prospective contractors in the pre-tender and construction health and safety plans mentioned in Clause 1.4.3. hereunder.

c. The PSDS is to ensure that the Health and Safety File referred to in Regulation 3 (2) of L.N. 281 of 2004 and in Clause 1.1.2. of this Code of Practice, is compiled.

d. If requested, the PSDS should be in a position to provide advice to the main contractor and any other contractor and sub-contractor engaged in the project, about designers’ competence and resources.

1.3.2 Notification

a. Depending on the size of the project, the PSDS must furnish the Occupational Health and Safety Authority, at least four calendar weeks prior to the commencement of work, with an advance notification (prior notice) on the construction work to be carried out.

LEGISLATION - L.N. 281 of 2004 - Work Place (Minimum Health and Safety Requirements for Work at Construction Sites) Regulations

4.(5) The project supervisor for the design stage shall prepare a file appropriate to the characteristics of the project containing relevant health and safety information to be taken into account during any subsequent works.

d. If requested, the PSDS should be in a position to provide advice to the main contractor and any other contractor and sub-contractor engaged in the project, about designers’ competence and resources.

11 International Labour Organization, Op. cit. p. 9 – Taken in its entirety
12 Vide Clause 1.1.1.
13 Vide Appendix 7 for ways of assessing competence. Vide also definition of “competent person” in the Interpretations of this CoP
14 Health and Safety Commission. op.cit. p. 42
15 Ibid. pp. 10, 42
16 Ibid. p. 42
17 Vide Appendix 2

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Notification must not be delayed because some of the information is unavailable. Additional information can be provided to the Occupational Health and Safety Authority at a later stage once it becomes available.

This notification must be done when:

**Work** is scheduled to last longer than 30 working days and on which more than 20 workers are occupied simultaneously

or

On which the volume of work is scheduled to exceed 500 person-days

* Work includes any construction work such as site clearing, demolition, excavation, building, plastering, tile laying, electrical and water installations, etc., to complete the project.

† ‘Person days’ is the total number of days worked by all persons involved in the project, including supervisors and all persons carrying out construction work for one normal working shift.

b. Once work activity on the project starts, a copy of this notification is to be posted in a prominent position on site and if necessary, kept updated.

**LEGISLATION - L.N. 281 of 2004 - Work Place (Minimum Health and Safety Requirements for Work at Construction Sites) Regulations**

4.(1) In the case of construction sites on which work is scheduled to last longer than 30 working days and on which more than 20 workers are occupied simultaneously, or on which the volume of work is scheduled to exceed 500 person-days, the project supervisor shall communicate a prior notice drawn up in accordance with Schedule III to the Authority at least four calendar weeks before work starts. Once any work activity on the project commences, a copy of the prior notice shall be clearly displayed on the construction site and, if necessary, periodically updated.

**LEGISLATION - L.N. 281 of 2004 - Work Place (Minimum Health and Safety Requirements for Work at Construction Sites) Regulations**

4. (2) The project supervisor for the design stage shall coordinate the implementation of the provisions of this regulation, and shall ensure that prior to the setting up of a construction site, a health and safety plan is drawn up in accordance with regulation 5.

a. The PSDS shall ensure that prior to the setting up of a construction site, a construction phase Health and Safety Plan is prepared in good time, in accordance with Regulation 4. (2) of L.N. 281 of 2004. He is to also to ensure that a pre-tender Health and Safety Plan is made available in good time to tendering contractors.

b. The Health and Safety Plan shall be made with a view to ensure that the necessary measures for the protection of health and safety on and around the construction site are taken.

c. It shall include the setting up of Health and Safety Rules applicable to the construction site. These rules should be set so that they take account of all work activities in and around the site.

d. It shall include any specific safety measures required, especially for work which involves particular risks, to the health and safety of workers, such as those mentioned in Schedule II of L.N. 281 of 2004.

**LEGISLATION - L.N. 281 of 2004 - Work Place (Minimum Health and Safety Requirements for Work at Construction Sites) Regulations**

4. (4) The health and safety plan shall set out the rules applicable to the construction site concerned, taking into account where necessary the industrial activities taking place on the site; this plan must also include specific measures concerning work which falls within one or more of the categories of Schedule II.

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18 Vide Appendix 3
19 Vide Appendix 8
1.3.4. General Principles of Prevention

a. During the various stages of design and preparation of the project, the PSDS, if necessary through coordination with all designers, architects and engineers, must take account of the General Principles of Prevention, referred to in Act XXVII of 2000, with a view to eliminate or minimize all risks to health and safety related to the project.

b. The PSDS shall take account of the General Principles of Prevention especially when architectural, technical and organizational aspects of the project are being decided, particularly:
   
   i. when planning the various items or stages of work which are to take place simultaneously or in succession; and
   
   ii. when estimating the period required for completing such work or work stages so that enough time is allocated to complete the work without risks.

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**LEGISLATION - L.N. 281 of 2004- Work Place (Minimum Health and Safety Requirements for Work at Construction Sites) Regulations**

4. (3) The project supervisor for the design stage, shall take account of the general principles of prevention concerning health and safety referred to in the Act and subsidiary regulations as appropriate, during the various stages of designing and preparing the project, in particular:

   (a) when architectural, technical and, or organizational aspects are being decided, in order to plan the various items or stages of work which are to take place simultaneously or in succession,

   (b) when estimating the period required for completing such work or work stages.

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1.3.5. The Health and Safety File

a. The PSDS is also required to prepare the Health and Safety File referred to in L.N. 281 of 2004 and Clause 1.1.2. hereunder.

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**LEGISLATION - L.N. 281 of 2004 - Work Place (Minimum Health and Safety Requirements for Work at Construction Sites) Regulations**

4. (5) The project supervisor for the design stage shall prepare a file appropriate to the characteristics of the project containing relevant health and safety information to be taken into account during any subsequent works.

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1.4. The Project Supervisor for the Construction Stage (PSCS)

1.4.1. General Provisions

a. If requested, the PSCS should be in a position to provide advice to the client about competence, such as that of contractors, and also about the satisfactory allocation of resources, including time, for health and safety.

b. The PSCS shall ensure that there are effective procedures to identify and control those hazards representing potential risks to the health and safety of workers and to any other person that could be affected by the construction work.

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20 Vide Appendix 4
21 Vide Appendix 1
22 Vide Clause 1.1.1
23 Vide Appendix 7 for ways of assessing competence. Vide also definition of “competent person” in the Interpretations of this CoP
24 Health and Safety Commission. op. cit. p. 42
c. The PSCS must arrange for measures to be taken to ensure that only authorized persons enter the construction site. This includes where necessary, the setting up of a boundary wall, hoarding, enclosure or other physical barriers to keep unauthorized visitors, including children, out of the site.

**LEGISLATION - L.N. 281 of 2004 - Work Place (Minimum Health and Safety Requirements for Work at Construction Sites) Regulations**

5. (f) take the steps necessary to ensure that only authorized persons are allowed onto the construction site.

d. The PSCS shall ensure that the notification previously mentioned is displayed on site.

e. Taking account of the progress of the work and the changes this can cause, the PSCS is to provide the PSDS with any information s/he has reasonable grounds to believe should be included in the Health and Safety File.25

**LEGISLATION - L.N. 281 of 2004 - Work Place (Minimum Health and Safety Requirements for Work at Construction Sites) Regulations**

5. The project supervisor for the execution stage shall:
   (c) make, or cause to be made, any adjustments required to the health and safety plan and the file referred to in regulation 4 to take account of the progress of the work and any changes which have occurred.

f. The PSCS is to encourage people at work, or their Health and Safety Representatives, to give their view on health and safety matters.

g. The PSCS shall ensure that welfare facilities are provided to all workers and that these facilities are maintained to the required standard from the start of the construction phase of the project.26

1.4.2. General Principles Prevention27

a. The PSCS is to ensure, as far as is reasonably practicable, that the General Principles of Prevention referred to in Act XXVII of 2000 and also in Clause 1.3.4. of this Code of Practice, are taken into account and observed by all contractors/sub-contractors and self-employed persons, during all construction activities.

b. The PSCS shall coordinate the implementation of the General Principles of Prevention when technical and organizational aspects are being decided, in order to plan the various items or stages of work which are to take place simultaneously or in succession. These principles shall also be considered when the PSCS is estimating the period required for completing the work or the particular work stages.

**LEGISLATION - L.N. 281 of 2004 - Work Place (Minimum Health and Safety Requirements for Work at Construction Sites) Regulations**

5. The project supervisor for the execution stage shall:
   (a) coordinate implementation of the general principles of prevention and safety:
   (i) when technical and, or organizational aspects are being decided, in order to plan the various items or stages of work which are to take place simultaneously or in succession,
   (ii) when estimating the period required for completing such work or work stages...

1.4.3. The Health and Safety Plan28

a. The PSCS shall follow the pre-tender Health and Safety Plan as made by the PSDS and prepare the construction phase Health and Safety Plan before construction begins. He is also to take account of the progress and significant changes on the construction site so as to make any required adjustments to the Health and Safety Plan and keep such plan updated as the project develops.29

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25 Vide Clauses 1.1.2 and 1.3.5
26 Health and Safety Commission. op. cit. p. 55
27 Vide Appendix 4
28 Vide Appendix 3
29 Health and Safety Commission. op. cit pp. 52-55
b. The PSCS shall provide all contractors, sub-contractors and if necessary self-employed person, with relevant information about significant risks that they can be expected to encounter on site. This could include newly discovered risks not previously identified in an earlier health and safety plan or risks resulting from any changes such as changes made in the design. This information can be provided by an updated construction phase Health and Safety Plan.\(^{30}\)

b. Any rules contained in the Health and Safety Plan shall be provided in a comprehensible manner and in writing by the PSCS to all parties such as contractors, sub-contractors and self-employed persons, who may need to follow or implement such rules.\(^{31}\)

c. The PSCS may give reasonable instructions and coordinate implementation of the relevant provisions in order to ensure that contractors, sub-contractors and if necessary self-employed persons, follow the Health and Safety Plan.

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**1.4.4. Co-ordination and Co-operation**

a. The PSCS is to organize co-operation between all contractors/sub-contractors and self-employed persons sharing the same site, coordinating their activities with a view to protect health and safety of workers, avoiding undesirable or hazardous situations, and to enable each of the above to comply with their duties imposed on them by or under the relevant statutory provisions relating to the construction work.

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**LEGISLATION - L.N. 281 of 2004 - Work Place (Minimum Health and Safety Requirements for Work at Construction Sites) Regulations**

5. The project supervisor for the execution stage shall:

\[\text{(c)}\] make, or cause to be made, any adjustments required to the health and safety plan and the file referred to in regulation 4 to take account of the progress of the work and any changes which have occurred;

\[\text{(b)}\] coordinate implementation of the relevant provisions in order to ensure that contractors, and if necessary for the protection of workers, self-employed persons

\[\text{(i)}\] apply the principles...

\[\text{(ii)}\] where required, follow the health and safety plan referred to in regulation 4.

---

b. The PSCS shall make and coordinate the necessary arrangements, such as the organization of frequent site inspections with other duty-holders, to ensure that safe work procedures are being implemented correctly to ensure the protection of health and safety of workers and third parties that might be affected by the construction works.

\(^{30}\) Ibid. p. 64

\(^{31}\) Ibid. pp. 56-57
1.4.5. Schedule IV of L.N. 281 of 2004

a. It is the duty of the PSCS to coordinate arrangements with contractors/sub-contractors and self-employed persons for the implementation of all relevant health and safety provisions, especially those of Schedule IV of L.N. 281 of 2004.

b. The PSCS is to also reasonably ensure that contractors/sub-contractors and self-employed persons are taking measures that are in line with the relevant minimum health and safety requirements set out in Schedule IV of L.N. 281 of 2004.

1.5. Contractors, Sub-Contractors and Self-Employed Persons

1.5.1. Shared responsibilities

a. If more than one contractor and/or sub-contractor has responsibility for a health and safety matter, then:

- each of these parties retains responsibility for that matter;
- each party must fulfill their responsibility to the extent that they control the construction project or the construction work;
- all of them must discharge their responsibility in a co-ordinated manner; and
- each party must cooperate with all other parties who have a responsibility concerning occupational health and safety.

1.5.2. General Provisions

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32 Vide Appendix 5
a. Contractors and sub-contractors shall satisfy themselves that those they appoint, such as sub-
contractors and self-employed persons, are competent and have sufficient resources, including time, to
reach compliance with this Code of Practice and all relevant standards and regulations. This could be in
the form of making reasonable enquiries and seeking advice to satisfy themselves that those they appoint
are competent, amongst others.

b. Contractors, sub-contractors and if necessary self-employed shall take all appropriate precautions to
protect all persons who may be affected by the work being carried out. This includes employees and
other persons not in their employment, such as other contractors’ employees, visitors, suppliers, nearby
residents and the general public. The main contractor could be in the best position to control and/or
influence the protection of health and safety on the site.

<table>
<thead>
<tr>
<th>LEGISLATION - Occupational Health and Safety Authority Act (Act 27 of 2000)</th>
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<tbody>
<tr>
<td><strong>PART II</strong></td>
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<tr>
<td>Principles and General Duties</td>
</tr>
<tr>
<td>(1) It shall be the duty of an employer to ensure the health and safety at all times of all persons who may be affected by the work being carried out for such employer.</td>
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<tr>
<th>LEGISLATION - L.N. 282 of 2004 - Work Equipment (Minimum Safety and Health Requirements) Regulations</th>
</tr>
</thead>
<tbody>
<tr>
<td>3. (1) (a) The employer shall take the measures necessary to ensure that the work equipment made available to workers in the undertaking and, or establishment itself are suitable for the work to be carried out or properly adapted for that purpose and may be used by workers without impairment to their safety or health.</td>
</tr>
</tbody>
</table>

d. When the use of work equipment is likely to involve a specific risk to the health or safety of workers,
contractors and sub-contractors shall take the measures necessary to ensure that:

i. the use of work equipment is restricted to those persons given the task of using it, and who have been adequately trained for the specific task;
ii. repairs, modifications, maintenance or servicing is only conducted by competent workers that are specifically designated to carry out such work.

<table>
<thead>
<tr>
<th>L.N. 282 of 2004 - Work Equipment (Minimum Safety and Health Requirements) Regulations</th>
</tr>
</thead>
</table>
| 6. When the use of work equipment is likely to involve a specific risk to the safety or health of workers, the employer shall take the measures necessary to ensure that:
(a) the use of work equipment is restricted to those persons given the task of using it;
(b) in the case of repairs, modifications, maintenance or servicing, the workers concerned are specifically designated to carry out such work. |

e. Contractors and sub-contractors shall provide and maintain workplaces, plant, equipment, tools and
machinery that are free from risk of accident or injury to the detriment of the health and safety of workers.
They shall also ensure that plant, equipment, tools or machinery made available to workers are suitable
for the work to be carried out, conform to approved standards and regulations, are safe and can be
operated without risk to health and safety.

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34 Vide Appendix 7 for ways of assessing competence. Vide also definition of “competent person” in Interpretations.
35 Health and Safety Commission. op. cit. p. 61
37 Ibid. pp. 5-6 Taken in its entirety

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PART II
Principles and General Duties

6. (1) It shall be the duty of an employer to ensure the health and safety at all times of all persons who may be affected by the work being carried out for such employer.

f. Contractors, sub-contractors and self-employed persons shall ensure that drivers of heavy machinery are over 21 years of age and have followed an approved course in relation to the equipment to be used or driven. The instruction and training shall be renewed periodically.38

g. It is also the responsibility of contractors, sub-contractors and if necessary self-employed persons to take the necessary measures to keep the construction site in good order and in a satisfactory state of cleanliness. This includes the regular removal of all unwanted material and the storing and stacking of any needed material in an orderly and safe manner. All passageways and stairways, especially emergency routes and exits are to be kept clear and free from all obstacles. The main contractor could be in the best position over sub-contractors to control/influence good housekeeping on the site.

LEGISLATION - L.N. 281 OF 2004 - Work Place (Minimum Health and Safety Requirements for Work at Construction Sites) Regulations

7. When the work is being carried out, the principles set out in regulations 4 to 8 of the Regulations of 2003 shall be applied, in particular as regards:
(a) keeping the construction site in good order and in a satisfactory state of cleanliness;
(b) choosing the location of workstations, bearing in mind how access to these workplaces is obtained, and determining routes or areas for the safe passage and movement of equipment;
(c) the conditions under which various materials are handled;
(d) technical maintenance ...;
(e) the demarcation and laying-out of areas for the storage of various materials, in particular where dangerous materials or substances are concerned;
(f) the conditions under which the dangerous materials used are removed;
(g) the storage and disposal or removal of waste and debris;
(h) the adaptation, based on...;
(i) cooperation between contractors and self-employed persons;
(j) interaction...

h. Contractors, sub-contractors and if necessary self-employed persons, are to provide without delay the PSCS with any health and safety information which might affect workers or other persons, and which should be included in, or may require a review of the Health and Safety Plan (referred to in L.N. 281 of 2004 and Clauses 1.3.3. and 1.4.3. of this Code of Practice).39 Here again, the main contractor could be in the best position over sub-contractors to obtain this information.

i. Contractors, sub-contractors and self-employed persons are to provide the PSCS with any health and safety information which could be included in the Health and Safety File (referred to in L.N. 281 of 2004 and in Clauses 1.1.2. and 1.3.5. of this Code of Practice).40 The main contractor could be in the best position over sub-contractors to obtain this information.

j. Contractors, sub-contractors and self-employed persons shall promptly provide the PSCS with the relevant information in relation to any death, injury, condition or dangerous occurrence, including “near misses”, occurring at the place of work.41

k. Contractors, sub-contractors and self-employed persons shall comply with any rules applicable to them, such as those in the Health and Safety Plan referred to in L.N. 281 of 2004 and in Clause 1.3.3. of this Code of Practice.

LEGISLATION - L.N. 281 OF 2004 - Work Place (Minimum Health and Safety Requirements for Work at Construction Sites) Regulations

38 Ibid. p. 7 – Taken in its entirety
39 Health and Safety Commission. op. cit. p. 59
40 Ibid. pp. 11, 59
41 Ibid. p. 60
In order to preserve health and safety on the construction site, under the conditions set out in regulations 5 and 6, contractors shall:

- take into account directions from any project supervisor on health and safety matters.

In order to preserve health and safety on the construction site, self-employed persons shall:

- take into account directions from the project supervisor or supervisors on health and safety matters.

Contractors and sub-contractors shall establish health and safety committees with the participation of representatives of management and the workers. In the exercise of their functions, these committees shall favour the creation of safe systems of work and working conditions, their correct implementation and strict observance, and the adoption of safe working procedures with particular emphasis on the comfort, fit, type and quality of personal protective clothing to be provided by the employer.

### 1.5.3. Co-operation and Co-ordination

a. With a view to safeguard health and safety on site, contractors, sub-contractors and self-employed persons must co-operate with any Project Supervisor referred to in L.N. 281 of 2004 and also in Clause 1.1.1. of this Code of Practice. They must also take account of all directions and remarks on health and safety matters made by such Supervisors.

b. Contractors, sub-contractors and self-employed persons must cooperate with each other and coordinate their work in a way as to ensure the health and safety on site. Particularly they must inform the PSCS and each other about any hazards and about any protective measures that might affect each other.

### 1.5.4. General Principles of Prevention

a. The health and safety control measures that need to be taken by contractors, sub-contractors and if necessary self-employed persons to prevent accidents, injuries and ill-health on construction sites, should be taken on the basis of the general principles of prevention referred to in Act XXVII of 2000 and in Clauses 1.3.4. and 1.4.2. of this Code of Practice.

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**LEGISLATION - L.N. 36 OF 2003 - General Provisions for Health and Safety at Work Places Regulations**

7. Without prejudice to other provisions of these regulations, where several employers, contractors and, or self-employed persons share a work place, the employers, the contractors and the self-employed persons shall co-operate in implementing the occupational health, safety and hygiene provisions and, taking into account the nature of the activities, shall co-ordinate their actions in matters which concern protective and preventive measures, and shall inform one another and their respective workers and, or workers’ representatives of these risks.

8. In order to preserve health and safety on the construction site, under the conditions set out in regulations 5 and 6, contractors shall:

- take into account directions from any project supervisor on health and safety matters.

9. (1) In order to preserve health and safety on the construction site, self-employed persons shall:

- take into account directions from the project supervisor or supervisors on health and safety matters.

(2) ... (b) take account of the comments of the project supervisor or supervisors on health and safety matters.

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PART II

Principles and General Duties

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42 The Commission for the Promotion of Occupational Health and Safety. op. cit. p. 5
6. (2) The measures that need to be taken by an employer to prevent physical and psychological occupational ill-health, injury or death, shall be taken on the basis of the following general principles of prevention, that is by:

(a) the avoidance of risk;
(b) the identification of hazards associated with work;
(c) the evaluation of those risks which cannot be avoided;
(d) the control at source of those risks which cannot be avoided;
(e) the taking of all the necessary measures to reduce risk as much as reasonably practicable, including the replacement of the hazardous by the non-hazardous or by the less hazardous;
(f) giving collective protective measures priority over individual protective measures;
(g) adapting the work to the worker, particularly in so far as the design of work places, 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 occupational health and safety; and
(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.

1.5.5. Risk Assessments

a. Contractors, sub-contractors and self-employed persons are to ensure that they identify, assess and evaluate all risks and hazards which may be present in the place of work, and which may affect their employees or other persons.

LEGISLATION - L.N. 36 OF 2003 – General Provisions for Health and Safety at Work Places Regulations

10. (1) It shall be the duty of every employer and of every self-employed person to carry out, or to ensure that is carried out, a suitable, sufficient and systematic assessment of all the occupational health and safety hazards which may be present at the place of work and the resultant risks involved concerning all aspects of the work activity. Such assessments shall consider the risks to the health and safety of workers and of self-employed persons to which they are exposed whilst at work, as well as the risks to the health and safety of other persons, including visitors to the place of work, which risks arise out of, or in connection with the work being carried out, or by the conduct of the undertaking;

Provided that when carrying out such assessments, an employer and a self-employed person shall also take into consideration changes to the work activities being carried out and to the workplace, and shall take appropriate action.

b. Subsequent to the assessment and evaluation mentioned in the preceding Clause, contractors, sub-contractors and self-employed shall take all necessary measures in order to safeguard the health and safety of any person who could be affected by their work.

LEGISLATION - L.N. 36 OF 2003 – General Provisions for Health and Safety at Work Places Regulations

5. Without prejudice to the generality of the provisions of these regulations, an employer shall, after taking into account the nature of the activities of the enterprise and, or establishment:

(i) identify hazards at the place of work and shall avoid risks to occupational health and safety;
(ii) evaluate those risks to the health and safety of workers which cannot be avoided and shall combat them at source;
(iii) adapt the work to the individual...

c. Contractors, sub-contractors and if necessary self-employed persons must assess and identify the risks to health and safety present in the workplace, thus enabling the most appropriate means to eliminate or reducing those risks to an acceptable level. In particular, construction work should be so planned, prepared and undertaken in such a manner that:

i. Dangers liable to arise at the place of work are prevented as soon as possible;
ii. The organization of work (including the work practices and work processes to be used) takes into account the health and safety of workers;

43 Vide Appendix 6
iii. All precautions are taken to protect workers against the harmful effects of chemical, physical and biological agents.\textsuperscript{44}

<table>
<thead>
<tr>
<th>LEGISLATION - L.N. 36 OF 2003 – General Provisions for Health and Safety at Work Places Regulations</th>
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<tbody>
<tr>
<td>6. (1) Without prejudice to the generality of the foregoing, an employer shall evaluate risks to occupational health and safety, inter alia in the choice of work equipment, the chemical substances or chemical preparations used, the work practices or activities, and the design and fitting-out of work places, as well as the workers’ capabilities to carry out safely the task or tasks entrusted to them.</td>
</tr>
<tr>
<td>(2) Subsequent to the evaluation referred to in the preceding sub-regulation, and as necessary, the employer shall take all necessary measures to prevent occupational risks to health and safety, and shall control those factors which are likely to give rise to accidents or which create a risk to occupational health and, or safety including where necessary by changing the working and production methods, so as to assure an improvement in the level of protection afforded to workers with regard to health and safety.</td>
</tr>
</tbody>
</table>

1.5.6. Schedule IV of L.N. 281 of 2004\textsuperscript{45}

a. Contractors, sub-contractors and self-employed persons are to ensure that the relevant obligations laid down in Schedule IV of L.N. 281 of 2004 are applied in a consistent manner, wherever required by the features of the construction site, the activity, the circumstances or a hazard.

<table>
<thead>
<tr>
<th>LEGISLATION - L.N. 281 OF 2004 - Work Place (Minimum Health and Safety Requirements for Work at Construction Sites) Regulations</th>
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</thead>
<tbody>
<tr>
<td>8. In order to preserve health and safety on the construction site, under the conditions set out in regulations 5 and 6, contractors shall:</td>
</tr>
<tr>
<td>(a) in particular when implementing regulation 7, take measures that are in line with the minimum requirements set out in Schedule IV, ...</td>
</tr>
<tr>
<td>9. (1) In order to preserve health and safety on the construction site, self-employed persons shall:</td>
</tr>
<tr>
<td>(a) comply in particular with the following, mutatis mutandis:</td>
</tr>
<tr>
<td>(i) the requirements of ...and Schedule IV of these regulations.</td>
</tr>
</tbody>
</table>

1.5.7. Information, Instruction, Training and Supervision

a. Unless a contractor or a sub-contractor has been provided with the names of the PSDS and of the PSCS, and all relevant parts of the Health and Safety Plan, they are not to begin their work or to allow their employees to start work.\textsuperscript{46}

b. Contractors and sub-contractors should establish procedures to be followed by their employees in the event that situations presenting serious and imminent danger were to arise. For this purpose, they shall nominate a sufficient number of trained persons to implement those procedures to be followed when the circumstances or the situation require the evacuation of persons from the place of work.

<table>
<thead>
<tr>
<th>LEGISLATION - L.N. 36 OF 2003 - General Provisions for Health and Safety at Work Places Regulations</th>
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<tbody>
<tr>
<td>II. (1) An employer shall establish and give effect to appropriate procedures to be followed in the event of serious and imminent danger, and for this purpose shall nominate a sufficient number of competent persons to implement those procedures to be followed when the circumstances or the situation require the evacuation of persons from the place of work.</td>
</tr>
</tbody>
</table>

c. Where there is an imminent danger to the safety of workers, contractors and sub-contractors shall take immediate steps to stop the operation and evacuate workers as appropriate.\textsuperscript{47}

\textsuperscript{44} The Commission for the Promotion of Occupational Health and Safety. \textit{op. cit.} p. 5
\textsuperscript{45} \textit{Vide} Appendix 5
\textsuperscript{46} Health and Safety Commission. \textit{op. cit.} 14 and 59
\textsuperscript{47} The Commission for the Promotion of Occupational Health and Safety. \textit{op. cit.} p. 6
d. Contractors and sub-contractors shall provide their employees with any information, instruction and training relating to the hazards, risks and the control measures to be taken. If necessary to protect health and safety, contractors and sub-contractors are to provide the necessary supervision to enforce any required control measures.

e. Contractors and sub-contractors shall provide the necessary supervision so as to ensure that their employees carry out their work with due regard to health and safety, including the wearing of the necessary personal protective equipment and clothing.

f. The manner and timing of the provision of information, instruction and training given by contractors and sub-contractors to their employees, shall be commensurate with the level of risk to health and safety.

g. Contractors and sub-contractors shall assign workers only to employment for which they are suited by level of training, age, state of health and skill, and having ensured that the workers are fully aware of any risks to their health or hazards connected with work, and that they are trained in the precautions necessary to avoid accidents or injury to health. Such training is to be given in a language that is understandable to the workers. The training shall be sustained periodically and shall take into account any new or changed risks to the health and safety of the employees concerned.

h. Contractors and sub-contractors shall inform in advance and in good time, their employees and the Health and Safety Representatives about all the measures to be taken concerning their health and safety.

1.5.8. More Duties of Self-Employed Persons

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a. Self-employed persons are not to start work until they have been provided with:
   i. The names of the PSDS and PSCS;
   ii. The relevant parts of the Health and Safety Plan which is to include the Site Rules. 49

b. Self-employed persons are to take care of their own health and safety and that of other persons that can be affected by their work or their work activities.

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<td>Principles and General Duties</td>
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<tr>
<td>7. (1) It shall be the duty of every worker to safeguard one's own health and safety and that of other persons who can be affected by reason of the work which is carried out.</td>
</tr>
<tr>
<td>(2) It shall be the duty ..........</td>
</tr>
</tbody>
</table>

c. In order to preserve health and safety on the construction site, self-employed persons must:
   - Make correct use of all equipment, machines, apparatus, tools, hazardous substances, vehicles, transport equipment and other means of production;
   - Make correct use of all safety devices and do not tamper with these devices;
   - Make correct use of personal protective equipment;
   - Immediately inform the person or persons in control of the workplace, of any work situation they have reasonable grounds to consider that it represents a serious and immediate danger and of any shortcomings in the protection arrangements;
   - Cooperate with other workers and all duty-holders and other persons in control of the workplace to protect health and safety;
   - Cooperate with all workers and all duty-holders and other persons in control of the workplace to ensure that the working environment and working conditions are safe and pose no risk to health and safety within their field of activity.

| LEGISLATION - L.N. 281 OF 2004 - Work Place (Minimum Health and Safety Requirements for Work at Construction Sites) Regulations |
| 9. (1) In order to preserve health and safety on the construction site, self-employed persons shall:
   (a) comply in particular with the following, mutatis mutandis:
   (i) the requirements of regulations 7 and 15(2) of the Regulations of 2003 and ...

| LEGISLATION - L.N. 36 OF 2003 - General Provisions for Health and Safety at Work Places Regulations |
| 15. (1) It shall be the duty of each worker to take care as far as possible of his own safety and health as well as that of other persons who can be affected by his acts or commissions at work in accordance with the training and the instructions given by the employer. |
| (2) Without prejudice to the generality of the foregoing, it shall be the duty of a worker to:
   (i) make correct use of machinery, apparatus, tools, dangerous substances, transport equipment and other means of production;
   (ii) make correct use of the personal protective equipment supplied to him and, after use, return it to its proper place;
   (iii) refrain from disconnecting, changing or removing arbitrarily safety devices fitted to machinery, apparatus, tools, plant and buildings, and to use such safety devices correctly;
   (iv) immediately inform the employer and, or the workers with specific responsibility for the safety and health of workers of any work situation he has reasonable grounds for considering that it represents a serious and immediate danger to safety and health and of any shortcomings in the protection arrangements;
   (v) cooperate with the employer and with workers having a specific responsibility for the safety and health of workers, for as long as may be necessary to enable to be carried out any tasks or requirements imposed by the Authority to protect the safety and health of workers at work;
   (vi) cooperate with the employer and, or workers with specific responsibility for the safety and health of workers, for as long as may be necessary to enable the employer to ensure that the working environment and working conditions are safe and pose no risk to safety and health within their field of activity.

d. Self-employed persons are to ensure that their work equipment is kept and maintained in good working order and free from any defects that may give rise to accidents or injuries.

49 Health and Safety Commission. op. cit. p. 14
1.6. The Employees – Rights and Duties

1.6.1. Rights

a. Employees have a right to choose from amongst themselves Health and Safety Representative/s who shall be consulted in advance and in good time by the employer on matters which may affect occupational health and safety.

b. Employees and their Health and Safety Representatives, have the right to obtain information regarding hazards and risks and the related measures to be taken concerning their health and safety on the construction site. This information must be presented in forms and languages which the employees easily understand.

c. Employees have the right and the duty to participate in ensuring safe working conditions, to the extent of their control over the equipment and methods of work. They also have the right to express views on working procedures adopted as they may affect their health and safety.

d. Employees have the right to a safe and healthy place of work and to influence their working conditions in a positive way. They also have the right to be heard by all duty-holders mentioned in this code of practice, including their employers, the PSCS and by the client.

e. Personal protective equipment shall be provided free of charge by the employer to all employees, as required. Any maintenance, repairs or replacements of such equipment is to be ensured by the employer.

f. Employees have the right for all welfare facilities such as drinking water, sanitary and toilet facilities, resting and eating facilities, shelter from inclement weather and the harmful effects of the sun, changing facilities and washing facilities. They also have a right for a safe journey back home.
1.6.2. Duties

a. Employees must take care of their own health and safety as well as that of other persons, including fellow workers and third persons that can be affected by their work.

LEGISLATION - Occupational Health and Safety Authority Act (Act 27 of 2000)

PART II
Principles and General Duties

7. (1) It shall be the duty of every worker to safeguard one’s own health and safety and that of other persons who can be affected by reason of the work which is carried out.
(2) It shall be the duty of every worker to co-operate with the employer and with the Health and Safety Representative or Representatives at the work place on all matters relating to health and safety.

b. Employees are to wear the necessary protective equipment given by their employer and to cooperate with him and their Health and Safety Representatives on matters related to health and safety.

c. Employees should also:

i. Co-operate as closely as possible with their employer in the application of prescribed health and safety measures and instructions given by the employer;
ii. Take reasonable steps to ensure their own health and safety, and that of other persons who may be affected by their acts or omissions at work;
iii. Use at all times, and take care of personal protective equipment, protective clothing and facilities placed at their disposal by their employer and must not misuse anything provided for their own protection or that of others;
iv. Report immediately to their immediate supervisor, or to their Health and Safety Representative, any situation which they believe could present a risk, and which they cannot properly deal with themselves;
v. Comply with all prescribed health and safety measures.

Employees should NOT:

i. Interfere with, remove, alter or displace any safety device such as guards or any other appliance furnished for their protection or that of others;
ii. Interfere with any method or process adopted with a view to avoiding accidents and injury to health;
iii. Operate or interfere with plant and equipment that they have not been duly authorized to operate, maintain and use;
iv. Rest or sleep in or on dangerous places such as scaffolds, garages, trucks or other heavy vehicles or equipment, or in the vicinity of fires, and dangerous or toxic substances.

LEGISLATION - L.N. 36 OF 2003 - General Provisions for Health and Safety at Work Places Regulations

15. (1) It shall be the duty of each worker to take care as far as possible of his own safety and health as well as that of other persons who can be affected by his acts or commissions at work in accordance with the training and the instructions given by the employer.
(2) Without prejudice to the generality of the foregoing, it shall be the duty of a worker to:
(i) make correct use of machinery, apparatus, tools, dangerous substances, transport equipment and other means of production;
(ii) make correct use of the personal protective equipment supplied to him and, after use, return it to its proper place;
(iii) refrain from disconnecting, changing or removing arbitrarily safety devices fitted to machinery, apparatus, tools,

50 The Commission for the Promotion of Occupational Health and Safety. op. cit. p. 7
51 Ibid. p. 7
plant and buildings, and to use such safety devices correctly;
(iv) immediately inform the employer and, or the workers with specific responsibility for the safety and health of workers of any work situation he has reasonable grounds for considering that it represents a serious and immediate danger to safety and health and of any shortcomings in the protection arrangements;
(v) cooperate with the employer and with workers having a specific responsibility for the safety and health of workers, for as long as may be necessary to enable to be carried out any tasks or requirements imposed by the Authority to protect the safety and health of workers at work;
(vi) cooperate with the employer and, or workers with specific responsibility for the safety and health of workers, for as long as may be necessary to enable the employer to ensure that the working environment and working conditions are safe and pose no risk to safety and health within their field of activity.
Appendices
Appendix 1

THE HEALTH AND SAFETY FILE

The planning supervisor (PSDS) needs to ensure that a suitable Health and Safety File is prepared for the project. This task involves the co-operation of several duty-holders. It is helpful if an early start is made with all parties working together to identify the type of information that should be in the Health and Safety File. The planning supervisor obtains the required information from others and in most cases also prepares the file.

The Health and Safety File is mainly intended to be used to alert those who will carry out future construction work, refurbishments, certain hazardous cleaning work, etc., to risks that must be managed. This includes when the structure and associated services are maintained, cleaned, repaired, renovated or demolished. The file is a record of information to be consulted when making decisions about such future work. The Health and Safety File is not a maintenance manual.

Health and Safety Files are the means by which health and safety information is recorded and kept for future use. The file is not a maintenance manual, but it can be incorporated with a maintenance manual. Information in the file is essential to alert those who are responsible after hand over to the health and safety risks that must be managed during subsequent construction work (eg maintenance, repair, renovation, demolition or certain types of cleaning work). The file is a valuable document as the information it contains can form the basis of future pre-tender health and safety plans.

What duty-holders have to do

In relation to health and safety files:

a. Planning supervisors have to ensure that the file is prepared;
b. Designers, main contractors and other contractors need to supply information for the file; and

c. Clients have to take reasonable steps to ensure that the project health and safety file is kept available for future work.

The purpose of the health and safety file

The purpose of the file is to provide information to protect the health and safety of those involved in future construction and cleaning work on the structure. This information will be useful to:

a. Clients, who have a duty to provide information about their premises;
b. Designers and planning supervisors during the development of further designs;
c. Those carrying out planning supervisor functions when preparing pre-tender health and safety plans; and
d. Main contractors and other contractors preparing to carry out or manage such work.

Planning supervisors normally have to ensure that files are prepared in respect of each structure involved in a project. However, a single file may be appropriate where a project comprises a number of structures with common attributes (eg identical bridges on a motorway project). It may be preferable to amend or add to an existing file rather than to create a new file, depending on what will be the most useful in future work. The collection and compilation of the relevant data needs to be managed properly.

There is no particular file format, this depends on particular circumstances. Often, clients will have the most knowledge of the way a completed project is to be managed, perhaps entailing a division of responsibility between several owners or tenants. Clients should, therefore, discuss the format with the planning supervisor at the start of a project and make clear their needs regarding, eg, scope, structure, format and medium. Their contribution will improve the Health and Safety File, and will assist clients, their

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52 This section is taken in its entirety from: Health and Safety Commission, Proposals for revising the Approved Code of Practice on 'Managing construction for health and safety'. Suffolk: HSE Books, 2000. pp. 12, 46-50
successors and tenants, with the future management of the property. A well prepared file also minimises future costs by avoiding the need for preparatory work.

Whatever its format the file should make it easy to retrieve relevant data. The file may be kept electronically (with suitable backup arrangements) or on paper.

The Content of the File

The file must include adequate information about any aspect of the structure or materials used which might affect the health or safety of anyone carrying out construction or cleaning work or of anyone who may be affected by such work.

Depending on the particular circumstances, the file may include the following information:

a. Residual hazards and how they have been dealt with (e.g. the presence of asbestos, contaminated land, water bearing strata, buried services);

b. Key structural principles incorporated in the design of the structure (e.g. bracing and tensioned elements and safe working floor and roof loads (e.g. maximum designed loads for floors and roofs which may preclude scaffolding or heavy machinery being placed there);

c. Any hazards associated with the materials used (e.g. special coatings which should not be burnt off);

d. Information regarding the removal or dismantling of installed plant and equipment (e.g. Lifting arrangements);

e. Health and safety information about equipment provided for cleaning or maintaining the structure;

f. The nature, location and markings of significant utilities and services, including fire-fighting services;

g. Information and, where appropriate, as-built drawings of the structure, its plant and equipment if they affect health and safety (e.g. the means of safe access to and from service voids).

The Health and Safety File is NOT expected to contain the following:

a. Construction-phase risk assessments;

b. Details about the operation of the building, e.g. emergency and fire-fighting procedures;

c. Construction-phase accident statistics;

d. The names and addresses of contractors and designers involved in the project; or

e. Contractual documents.

THE PREPARATION OF THE FILE

Planning Supervisors

Planning supervisors need to:

a. Agree the structure and format of the file with the client at the start of the project;

b. Gather relevant information throughout the project;

c. Prepare the file;

d. Check the information is complete;

e. Review the file with the client;

f. Amend or add to the file if necessary; and

g. Give the file to the client as soon as possible.

Designers

Designers need to provide the planning supervisor with information needed for the Health and Safety File. This must not wait until the end of the project.

(See “The content of the file” above)

Contractors

Main contractors and other contractors have to provide relevant information to planning supervisors promptly. Information should be made available as early as possible to ensure the file can be developed
as the project progresses and completed in good time so that it can be handed over when the client takes over responsibility for the structure.

**Clients and the Health and Safety File**

Clients have to keep the Health and Safety File available and up to date, for inspection by any person who needs the information. Where clients dispose of their entire interest in a structure, they should pass the file to the new owner and should ensure that the new owner is aware of the nature and purpose of the file. Where a client sells part of a structure, it is good practice for relevant information in the file to be passed or copied to the new owner.

If the client leases out all or part of the structure, arrangements will need to be made for the Health and Safety File to be made available to the leaseholder. In some cases, the client might transfer the Health and Safety File to the leaseholder during the lease period. In other cases, it may be better for the client to keep the Health and Safety File, but tell the leaseholder that it is available.

If the leaseholder acts as a client for future construction projects, the leaseholder and the original client will need to make arrangements for the Health and Safety File to be made available to the new planning supervisor.

In multi-occupancy cases, such as a housing association which owns a block of flats, the housing association should keep and maintain the file, but also ensure that individual flat occupiers are supplied with health and safety information concerning their home and the common areas that are their responsibility.

When each unit is occupied the Health and Safety File should be given to the householder or housing association.

A development may include roads and sewers which will be adopted by the local or water authority. This part of the file should be passed to them.
## Appendix 2

### THE NOTIFICATION FORM

Copy of a Construction Notification Form

![Construction Notification Form](image)

**MEPA Application number**

<table>
<thead>
<tr>
<th>Client</th>
<th>I.D. card No.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Name:</td>
<td>Tel No:</td>
</tr>
<tr>
<td>Full address:</td>
<td>Fax No:</td>
</tr>
<tr>
<td></td>
<td>E Mail</td>
</tr>
</tbody>
</table>

**Company Name:**

| Company Registration Number of applicable LTA No(s): |

**Address of site where construction work is to be carried out**

| Type of Project: |

**To be filled in by the project supervisor for the design stage:**

<table>
<thead>
<tr>
<th>Design Supervisor</th>
<th>I.D. card No.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Name:</td>
<td>Tel No:</td>
</tr>
<tr>
<td>Full address:</td>
<td>Fax No:</td>
</tr>
<tr>
<td></td>
<td>E Mail</td>
</tr>
</tbody>
</table>

| Company Name: | Warranty No. |

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53 Also known as “Construction Notification Form” which can be downloaded from the OHSA website: www.ohsa.org.mt
Code of Practice for the Construction Industry

<table>
<thead>
<tr>
<th>Construction Supervisor</th>
<th>I.D. card No.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Name:</td>
<td>Tel No:</td>
</tr>
<tr>
<td>Full address:</td>
<td>Fax No:</td>
</tr>
<tr>
<td></td>
<td>E Mail</td>
</tr>
<tr>
<td>Company Name:</td>
<td>Warrant No.</td>
</tr>
</tbody>
</table>

The following is being requested:

1. Commenence date for construction work
2. Duration of construction works
3. The maximum number of workers carrying out construction work on site at any one time
4. The number of contractors expected to work on site (+ their respective details (names, assigned work activities…)

Construction work: give brief details of the type of construction work that will be carried out
Declaration of Design supervisor

I hereby declare that (name of organization if any) has been appointed as planning supervisor for the project

Signed by project Supervisor o.b.o. (construction stage)

Date

Declaration of Construction supervisor

I hereby declare that (name of organization if any) has been appointed as planning supervisor for the project

Signed by project Supervisor o.b.o. (construction stage)

Date

In terms of L.N. 281 Work Place (Minimum Health and Safety Requirements for Work at Construction Sites) Regulations, 2004, the following particulars must be given in writing, by the Project Supervisor (Construction), to the Occupational Health and Safety Authority (OHSAs), before commencement of work on a construction site. This notice must be displayed clearly on the site (and updated as necessary). Notification is required for work scheduled to last longer than 30 working days and on which more than 20 workers are occupied simultaneously, OR for work scheduled to exceed 500 person-days.

this notification form duly filled and signed should reach the Occupational Health and Safety Authority 30 (thirty) days prior to commencement of works at 17, Edgar Ferro Street, Pieta MSD 07
Appendix 3

THE HEALTH AND SAFETY PLAN

Health and Safety Plans serve two different purposes

1. During the pre-tender phase of a project, the Pre-tender Health and Safety Plan brings together health and safety information obtained from the client, designers and the PSDS, for the benefit of prospective main contractor and other contractors. The plan needs to be project specific and focused on the hazards from the proposed work. The pre-tender plan needs to address significant hazards that competent contractors could not reasonably be expected to identify.

2. The Construction Phase Health and Safety Plan should draw on the pre-tender plan, and should set out the arrangements for managing the project (including monitoring) taking account of the particular risks and should set out the arrangements for welfare. The Health and Safety Plan may need to be developed as the work progresses providing a focus for management and co-ordination of health and safety.

1. THE PRE-TENDER HEALTH AND SAFETY PLAN

The pre-tender health and safety plan should, include or address all the following topics where they are relevant to the work proposed.

General description:

- Name and address of client;
- Name and address of the PSDS;
- Names and addresses of significant designers;
- Statement of the client’s health and safety requirements; and
- Location of the works and identification of specific structures.

Time and programme:

- Time allowed for development of the construction phase health and safety plan;
- Time allowed to mobilise for the works;
- Project completion date; and
- Identification of phases or sections of work and respective interim completion dates.

Existing off-site conditions:

- Land use adjacent to the site with particular regard to structurally dangerous buildings, industrial processes, and public buildings, for example, schools, hospitals and supermarkets;
- The potential for contamination from adjacent land;
- The potential for ground instability arising from movement on adjacent land;
- Traffic systems and restrictions, including waiting and delivery time;
- History of trespass or vandalism; and
- Restrictions on noise and other environmental nuisances.

Existing on-site conditions, including:

- Existing status and location of overhead and buried services such as electricity and water;
- Traffic conditions on site including pedestrian routes;

54 This section is taken in its entirety from: Health and Safety Commission, Proposals for revising the Approved Code of Practice on ‘Managing construction for health and safety’. Suffolk: HSE Books, 2000. pp. 11, 52-55 and 97-99,
– Traffic restrictions affecting unloading, waiting and delivery times;
– Site investigation reports giving conditions of buildings and ground conditions;
– Any potential instability from excavations, mine workings and buried structures; and
– Underground obstructions, ground contamination and the ground water regime.

Hazards from existing structures which might arise from demolition and refurbishment including the presence of:

– Asbestos;
– Fragile materials;
– Fire damage;
– Post-tensioned reinforced concrete; and
– Structural instability.

Existing records, including:

– Available drawings of structures affected by the works;
– Health and Safety File if available;
– Previous site investigation reports; and
– Historical maps records of flooding mine workings etc.

The design, including:

– Principles and assumptions of design for structures identifying states of instability during erection including any suggested methods or sequence of assembly;
– Specific risks inherent in the design where the contractor will be required to state how they will avoid or control them; and
– Significant hazards (including health hazards) which it has not been possible to eliminate by design.

Site layout and management, including:

– Site access and egress;
– Storage and unloading arrangements;
– Site offices; and
– Welfare facilities.

Site rules and procedures, including:

– Security arrangements;
– Permit-to-work procedures;
– Site rules from statutory bodies; and
– Emergency procedures.

Procedures for review of the Health and Safety Plan, including:

– Systems to consider elements of the work designed by the main contractor or other contractors; and
– Procedures for managing design changes.

2. THE CONSTRUCTION PHASE HEALTH AND SAFETY PLAN

This plan is a practical response to the management of the risks including those set out in the pre-tender plan. It needs to set out how the key risks will be addressed and be updated throughout the construction phase in response to significant developments.

The plan should be clear in its purpose, well structured, relevant and comprehensible to contractors and others who may use it, and proportionate to the risks associated with the project.

When developing the plan, the general principles of prevention referred to in Act XXVII, must be applied.
The plan should not include irrelevant material. In general a short, focused plan is preferable to an unnecessarily long one with limited practical use.

As much of the plan as possible should be developed before construction work starts, particularly:

- The procedures and arrangements needed for the early work;
- The procedures and arrangements which are generally applicable to the construction phase, including those for the management and monitoring of health and safety;
- Emergency procedures;
- Arrangements for communication; and
- Provision of welfare facilities.

If the design and preparation for later work is not complete at the start of the construction phase, the parts of the plan relating to that work needs to be developed as information becomes available.

The plan needs to incorporate any required method statements, safety rules and monitoring arrangements. The level of detail in the plan should be proportionate to the risks involved in the project. It needs to address the arrangements for managing and organising the project including the topics listed below, as relevant:

1. **Introduction**
   - A description of the project;
   - A general statement of health and safety principles and objectives for the project;
   - Information about restrictions which may affect the work, (eg neighbouring buildings, utility services, vehicular and pedestrian traffic flows and restrictions from the work activities of the client); and
   - The site layout for the work.

2. **Management**
   - The management structure and responsibilities of the various members of the project team whether based at the site or elsewhere; and
   - Arrangements for the PSCS to give directions and to co-ordinate contractors, sub-contractors and self-employed person.

3. **Setting standards**
   - The health and safety standards to which the project will be carried out.

4. **Information for contractors, sub-contractors and self-employed persons**
   - Means for informing contractors about risks to their health and safety arising from the environment — eg existing activities and services.

5. **The PSCS selection procedures for:**
   - Contractors;
   - Designers;
   - Suppliers of materials, machinery and other plant.

6. **Communications and co-operation**
   - Means for communicating and passing information to all members of the project team including the workforce and others whose health and safety may be affected;
   - Arrangements for securing co-operation between contractors;
   - Arrangements for management meetings and health and safety initiatives; and
   - Arrangements for dealing with design work carried out during the construction phase, especially temporary works.
7. Hazardous activities
- Arrangements for the identification and effective management of hazardous activities, including method statements where appropriate, addressing:
  - the storage and distribution of materials;
  - transport management, particularly pedestrian safety;
  - control and disposal of waste;
  - means of access and places of work;
  - mechanical plant;
  - temporary services, eg electricity;
  - temporary support structures, eg falsework;
  - commissioning, including the use of permit-to-work systems;
  - protection from falling materials;
  - protection of workers and other persons from falling from heights;
  - exclusion of unauthorised people; and
  - protection of members of the public, including neighbors and pedestrians.
- Emergency procedures
  - emergency arrangements for dealing with and minimising the effects of injuries, fire and other dangerous occurrences; and
  - any special access arrangements for the emergency services.

8. Reporting of accidents, including those required under Part VI, Section 51 (Notification of accidents) of the Factories (Health, Safety and Welfare) Regulations, 1986 – L.N. 52 of 1986
- Arrangements for informing the PSCS about accidents, ill health, dangerous occurrences and near misses and their investigation.

9. Welfare
- The provision and maintenance of welfare facilities.

10. Information and training for people on site
- Arrangements for providing and monitoring the provision of:
  - induction training;
  - health and safety information; and
  - health and safety training including toolbox or task health and safety talks.

11. Consultation with people on site
- Arrangements for consulting people on site or their representatives.

12. Site Rules
- Arrangements for site rules and for bringing them to the attention of those affected.

13. Health and Safety File
- Arrangements for the timely gathering and passing on of information for the preparation of the Health and Safety File.

14. Arrangements for monitoring
- Arrangements for monitoring compliance with:
  - legal requirements;
  - the site rules;
  - procedures; and
  - standards.

15. Project review
- Identifying and applying lessons learned.
Appendix 4

THE GENERAL PRINCIPLES OF PREVENTION

Act XXVII of 2000 identifies the following general principles of prevention:

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

(a) the avoidance of risk;

(b) the identification of hazards associated with work;

(c) the evaluation of those risks which cannot be avoided;

(d) the control at source of those risks which cannot be avoided;

(e) the taking of all the necessary measures to reduce risk as much as reasonably practicable, including the replacement of the hazardous by the non-hazardous or by the less hazardous;

(f) giving collective protective measures priority over individual protective measures;

(g) adapting the work to the worker, particularly in so far as the design of work places, 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 occupational health and safety; and

(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.

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56 Ibid. Section 6. (2)
Appendix 5

SCHEDULE IV of L.N. 281 of 2004

Minimum Health and Safety Requirements for Construction Sites

Preliminary remarks

The obligations laid down in this Schedule apply wherever required by the features of the construction site, the activity, the circumstances or a hazard. For the purposes of this Schedule, ‘rooms’ covers, inter alia, hutted accommodation.

PART A: GENERAL MINIMUM REQUIREMENTS FOR ON-SITE WORKPLACES

1. Stability and solidity
1.1. Materials, equipment and, more generally, any component which, when moving in any way, may affect the health and safety of workers must be stabilized in an appropriate and safe manner.
1.2. Access to any surface involving insufficiently resistant materials is not authorized unless appropriate equipment or means are provided to enable the work to be carried out safely.

2. Energy distribution installations.
2.1. The installations must be designed, constructed and used so as not to present a fire or explosion hazard; persons must be adequately protected against the risk of electrocution caused by direct or indirect contact.
2.2. The design, construction and choice of equipment and protection devices must take account of the type and power of the energy distributed, external conditions and the competence of persons with access to parts of the installation.

3. Emergency routes and exits
3.1. Emergency routes and exits must remain clear and lead as directly as possible to a safe area.
3.2. In the event of danger, it must be possible for workers to evacuate all workstations quickly and as safely as possible.
3.3. The number, distribution and dimensions of emergency routes and exits depend on the use, equipment and dimensions of the site and of the rooms and the maximum number of persons that may be present.
3.4. Specific emergency routes and exits must be indicated by signs in accordance with the regulations contained in (LN 45 of 2002). Such signs must be sufficiently resistant and be placed at appropriate points.
3.5. Emergency routes and exits, and the traffic routes and doors giving access to them, must be free from obstruction so that they can be used at any time without hindrance.
3.6. Emergency routes and exits requiring illumination must be provided with emergency lighting of adequate intensity in case the lighting fails.

4. Fire detection and fire fighting
4.1. Depending of the characteristics of the site, the dimensions and use of the rooms, the on-site equipment, the physical and chemical properties of the substances present and the maximum potential number of people present, an adequate number of appropriate fire-fighting devices and, where required, fire detectors and alarm systems must be provided.
4.2. These fire-fighting devices, fire detectors and alarm systems must be regularly checked and maintained.

57 L.N. 281 of 2004, Work Place (Minimum Health and Safety Requirements for Work at Construction Sites) Regulations, 2004
Appropriate tests and drills must take place at regular intervals.

4.3. Non-automatic fire-fighting equipment be easily accessible and simple to use. The equipment must be indicated by signs in accordance with the regulations contained in the work place, (Provisions of Health and Safety Signs) Regulations, 2002. L.N. 45 of 2002. Such signs must be sufficiently resistant and placed at appropriate points.

5. Ventilation
5.1. Steps shall be taken to ensure that there is sufficient supply of fresh air, having regard to the working methods used and the physical demands placed on the workers.
5.2. If a forced ventilation system is used, it must be maintained in working order and must not expose workers to draughts which are harmful to health.
5.3. Any breakdown must be indicated by a control system where this is necessary for workers’ health.

6. Exposure to particular risks
6.1. Workers must not be exposed to harmful levels of noise or to harmful external influences (e.g. gases, vapours, dust).
6.2. If workers have to enter an area where the atmosphere is liable to contain a toxic or harmful substance or to have an insufficient oxygen level or to be inflammable, the confined atmosphere must be monitored and appropriate steps taken to prevent any hazards.
6.3. A worker may not in any circumstances be exposed to a high-risk confined atmosphere. S/he must at least be watched at all times from outside and all appropriate precautions must be taken to ensure that he can be assisted effectively and immediately.

7. Temperature
During working hours, the temperature must be appropriate for human beings, having regard to the working methods used and the physical demands placed on the workers.

8. Natural and artificial lighting of workstations, rooms and traffic routes on the site
8.1. Workstations, rooms and traffic routes must as far as possible have sufficient natural lighting and be provided with appropriate and sufficient artificial lighting at night and when natural daylight is inadequate; where necessary, portable light sources that are protected against impact must be used. The colour of artificial light used must not alter or affect the perception of signals or signposts.
8.2. Lighting installations for rooms, workstations and traffic routes must be placed in such a way that there is no risk of accident to workers as a result of the type of lighting fitted.
8.3. Rooms, workstations and traffic routes where workers are especially exposed to risks in the event of artificial lighting, must be provided with emergency lighting of adequate intensity.

9. Doors and gates
9.1. Sliding doors must be fitted with a safety device to prevent them from being derailed and falling over.
9.2. Doors and gates opening upwards must be fitted with a mechanism to secure them against falling back.
9.3. Doors and gates along escape routes must be appropriately marked.
9.4. In the immediate vicinity of gates intended primarily for vehicle traffic, there must be doors for pedestrian traffic unless it is safe for pedestrians to cross; such doors must be clearly marked and kept free at all times.
9.5. Mechanical doors and gates must operate without any risk of accident to workers. They must be fitted with emergency stop devices which are easily identifiable and accessible and, unless they open automatically in the event of a power-cut, it must be possible for them to be opened manually.

10. Traffic routes - danger areas
10.1. Traffic routes, including stairs, fixed ladders and loading bays and ramps, must be calculated, located, laid out and made negotiable to ensure easy, safe and appropriate access in such a way as not to endanger workers employed in the vicinity of these traffic routes.
10.2. Routes used for pedestrian traffic and, or goods traffic including those used for loading and unloading must be dimensioned in accordance with the number of potential users and the type of activity concerned.

If means of transport are used on traffic routes, a sufficient safety clearance or adequate protective devices must be provided for other site users.

Routes must be clearly marked, regularly checked and properly maintained.

10.3. Sufficient clearance must be allowed between vehicle traffic routes and doors, gates, passages for pedestrians, corridors and staircases.

10.4. If the site includes limited-access areas, these must be equipped with devices to prevent unauthorized workers from entering.

Appropriate measures must be taken to protect workers who are authorized to enter the danger areas. Danger areas must be clearly signposted.

11. Loading bays and ramps

11.1. Loading bays and ramps must be suitable for the dimensions of the loads to be transported.

11.2. Loading bays must have at least one exit point.

11.3. Loading ramps must be sufficiently safe to prevent workers from falling off.

12. Freedom of movement at the workstation

The floor area at the workstation must be such as to allow workers sufficient freedom of movement to perform their work, taking account of any necessary equipment or appliances present.

13. First aid

13.1. The employer must ensure that first aid can be provided, and that the staff trained to provide it can be called upon, at any time.

Measures must be taken to ensure that workers who have had an accident or have suddenly been taken ill can be removed for medical treatment.

13.2. One or more first-aid rooms must be provided where the scale of the works or the types of activity being carried out so require.

13.3. First-aid rooms must be fitted with essential first-aid installations and equipment and be easily accessible to stretchers.

They must be signposted in accordance with the regulations contained in Legal Notice 45 of 2002.

13.4. In addition, first-aid equipment must be available at all places where working conditions so require.

This equipment must be suitably marked and easily accessible.

The address and telephone number of the local emergency service must be clearly displayed.

14. Sanitary equipment


14.1.1. Appropriate changing rooms must be provided for workers if they have to wear special work clothes and if, for reasons of health or propriety, they cannot be expected to change in another area.

Changing rooms must be easily accessible, be of sufficient capacity and be provided with seating.

14.1.2. Changing rooms must be sufficiently large and have facilities to enable each worker, where necessary, to dry his working clothes as well as his own clothing and personal effects and to lock them away.

If circumstances so require (e.g. dangerous substances, humidity, dirt), facilities must be provided to enable working clothes to be kept in a place separate from workers’ own clothes and personal effects.

14.1.3. Provisions must be made for separate changing rooms or separate use of changing rooms for men and women.

14.1.4. If changing rooms are not required as referred to in point 14.1.1, first paragraph, each worker must be provided with a place in which he can lock away his own clothes and personal effects.

14.2. Showers and washbasins

14.2.1. Suitable showers in sufficient numbers must be provided for workers if required by the nature of the work or for health reasons.

Provisions must be made for separate shower rooms or separate use of shower rooms for men and women.

14.2.2. The shower rooms must be sufficiently large to permit each worker to wash without hindrance in conditions of an appropriate standard of hygiene.
The showers must be equipped with hot and cold running water.

14.2.3. Where showers are not required under the first paragraph of 14.2.1, a sufficient number of suitable washbasins with running water (hot water if necessary) must be provided in the vicinity of the workstations and the changing rooms.

Provisions must be made for separate washbasins, or separate use of washbasins for men and women when so required for reasons of propriety.

14.2.4. Where the rooms housing, the showers or washbasins are separate from the changing rooms, there must be easy communication between the two.

14.3. Lavatories and washbasins

Special facilities with an adequate number of lavatories and washbasins must be provided for workers in the vicinity of workstations, rest rooms, changing rooms and rooms housing showers or washbasins.

Provisions must be made for separate lavatories or separate use of lavatories for men and women.

15. Rest rooms and, or accommodation areas

15.1. Where the safety or health of workers, in particular because of the type of activity carried out or the presence of more than a certain number of employees as well as the remote nature of the site, so require, workers must be provided with easily accessible rest rooms and, or accommodation areas.

15.2. Rest rooms and, or accommodation areas must be large enough and equipped with an adequate number of tables and seats with supporting backs for the number of workers concerned.

15.3. If there are no facilities of this kind, other facilities must be provided in which workers can stay during interruptions in work.

15.4. Fixed accommodation areas unless used only in exceptional cases, must have sufficient sanitary equipment, a rest room and a leisure room.

They must be equipped with beds, cupboards, tables and seats with backs taking account of the number of workers, and be allocated taking account, where appropriate, of the presence of workers of both sexes.

15.5. Appropriate measures should be taken for the protection of non-smokers against discomfort caused by tobacco smoke in rest rooms and or accommodation areas.

16. Pregnant women and nursing mothers

Pregnant women and nursing mothers must be able to lie down to rest in appropriate conditions.

17. Workers with a disability

Workplaces must be organized to take account of workers with a disability, if necessary. The provision applies in particular to the doors, passageways, staircases, showers, washbasins, lavatories and workstations used or occupied directly by handicapped persons.

18. Miscellaneous provisions

18.1. The surroundings and the perimeter of the site must be signposted and laid out so as to be clearly visible and identifiable.

18.2. Workers must be provided at the site with a sufficient quantity of drinking water and possibly another suitable non-alcoholic beverage both in occupied rooms and in the vicinity of workstations.

18.3. Workers must:

(a) be provided with facilities enabling them to take their meals in satisfactory conditions,
(b) where appropriate, be provided with facilities enabling them to prepare their meals in satisfactory conditions.

PART B: SPECIFIC MINIMUM REQUIREMENT FOR ON-SITE WORKSTATIONS

Preliminary remark

If special situations so dictate, the classification of these minimum requirements into two sections, as below, should not be regarded as binding.

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Section I: On-site indoor workstations

1. Stability and solidity
Premises must have a structure and stability appropriate to the nature of their use.

2. Emergency doors
Emergency doors must open outwards.
Emergency doors must not be so locked or fastened that they cannot be easily and immediately opened by any person who may require to use them in an emergency.
Sliding or revolving doors are not permitted if intended as emergency exits.

3. Ventilation
If air-conditioning or mechanical ventilation installations are used, they must operate in such a way that workers are not exposed to draughts which cause discomfort. Any deposit or dirt likely to create an immediate danger to the health of workers by polluting the atmosphere must be removed without delay.

4. Temperature
4.1. The temperature in rest areas, rooms for duty staff, sanitary facilities, canteens and first-aid rooms must be appropriate to the particular purpose of such areas.
4.2. Windows, skylights and glass partitions should allow excessive effects of sunlight to be avoided, having regard to the nature of the work and the use of the room.

5. Natural and artificial lighting
Workplaces must as far as possible have sufficient natural light and be equipped with the means of providing artificial lighting which is adequate for the purposes of protecting workers’ health and safety.

6. Floors, walls, ceilings and roofs of rooms
6.1. The floors of workplaces must have no dangerous bumps, holes or slopes and must be fixed, stable and not slippery.
6.2. The surfaces of floors, walls and ceilings in rooms must be such that they can be cleaned or refurbished to an appropriate standard of hygiene.
6.3. Transparent or translucent walls, in particular all-glass partitions, in rooms or in the vicinity of workplaces and traffic routes must be clearly indicated and made of safety material or be shielded from such places or traffic routes to prevent workers from coming into contact with walls or being injured should the walls shatter.

7. Windows and skylights
7.1. It must be possible for workers to open, close, adjust or secure windows, skylights and ventilators in a safe manner.
When open, they must not be positioned so as to constitute a hazard to workers.
7.2. Windows and skylights must be designed in conjunction with equipment or otherwise fitted with devices allowing them to be cleaned without any risk to the workers carrying out this work or to workers present.

8. Doors and Gates
8.1. The position, number and dimensions of doors and gates, and the materials used in their construction, are determined by the nature and use of the rooms or areas.
8.2. Transparent doors must be appropriately marked at a conspicuous level.
8.3. Swing doors and gates must be transparent or have see-through panels.
8.4. If transparent or translucent surfaces in doors and gates are not made of safety material and if there is a danger that workers may be injured if a door or gate should shatter, the surfaces must be protected against breakage.
9. **Traffic routes**
Where the use and equipment of rooms so requires for the protection of workers, traffic routes must be clearly identified.

10. **Specific measures for escalators and travelators**
Escalators and travelators must function safely. They must be equipped with any necessary safety devices. They must be fitted with easily identifiable and accessible emergency shut-down devices.

11. **Room dimensions and air space in rooms**
Workrooms must have sufficient surface area and height to allow workers to perform their work without risk to their safety, health or well-being.

**Section II: On-site outdoor workstations**

1. **Stability and solidity.**

1.1. High-level or low-level movable or fixed workstations must be solid and stable, taking account of:
- the number of workers occupying them;
- the maximum loads they may have to bear and the weight distribution;
- the outside influences to which they may be subject; and
- if the support and the other components of these workstations are not intrinsically stable, their stability will have to be ensured by appropriate and safe methods of fixing to avoid any untimely or spontaneous movement of the whole or of parts of the workstations.

1.2. **Checking**
Stability and solidity must be checked appropriately and especially after any change in the height or depth of the workstation.

2. **Energy distribution installations**
2.1. On-site energy distribution installations, especially those subject to outside influences, must be regularly checked and maintained.
2.2. Installations existing before the site began must be identified, checked and clearly signposted.
2.3. Whenever possible, where overhead electric power lines exist, either they must be redirected away from the area of the site or else the current must be cut off.
If this is not possible, there will be barriers or notices to ensure that vehicles and installations are kept away. Suitable warnings and suspended protections must be provided where vehicles have to pass beneath the lines.

3. **Atmospheric influences**
Workers must be protected against atmospheric influences which could affect their health and safety.

4. **Falling objects**
Wherever technically feasible, workers must be protected by collective methods against falling objects. Materials and equipment must be laid out or stacked in such a way as to prevent their collapsing or overturning.
Where necessary, there must be covered passageways on the side or access to danger areas must be made impossible.

5. **Falls from a height**
5.1. Falls from a height must be physically prevented in particular by means of solid cradles which are sufficiently high and have at least an end-board, a main handrail and an intermediate handrail or an equivalent alternative.
5.2. In principle, work at a height must be carried out only with appropriate equipment or using collective protection devices such as cradles, platforms or safety nets. If the use of such equipment is not possible because of the nature of the work, suitable means of access must be provided and safety harnesses or other anchoring safety methods must be used.

5.3 Protection railings should be fitted around stairwells and stairs.

6. Scaffolding and ladders
6.1. All scaffolding must be properly designed, constructed and maintained to ensure that it does not collapse or move accidentally.
6.2. Work platforms, gangways and scaffolding stairways must be constructed, dimensioned, protected and used in such a way as to prevent people from falling or being exposed to falling objects.
6.3. Scaffolding must be inspected by a competent person:
   (a) before being put into service;
   (b) subsequently, at periodic intervals; and
   (c) after any modification period without use, exposure to bad weather or seismic tremors, or any other circumstance which may have affected its strength or stability.
6.4. Ladders must be sufficiently strong and correctly maintained. They must be correctly used, in appropriate places and in accordance with their intended purpose.
6.5. Mobile scaffolding must be secured against spontaneous movements.

7. Lifting equipment
7.1. All lifting devices and accessories, including their component parts, attachments, anchorings and supports, must be:
   (a) properly designed and constructed and sufficiently strong for the use to which they are put;
   (b) correctly installed and used;
   (c) maintained in good working order;
   (d) checked and subjected to periodic tests and inspections in accordance with current legislation; and
   (e) operated by qualified workers who have received appropriate training.
7.2. All lifting devices and accessories must clearly display their maximum load values.
7.3. Lifting equipment and accessories may not be used for other than their intended purposes.

8. Excavating and materials-handling vehicles and machinery
8.1. All excavating and materials-handling vehicles and machinery must be:
   (a) properly designed and constructed taking account, as far as possible, of the principles of ergonomics;
   (b) kept in good working order; and
   (c) used correctly.
8.2. Drivers and operators of excavating and materials-handling vehicles and machinery must be specially trained.
8.3. Preventive measures must be taken to ensure that excavating and materials handling vehicles and machinery do not fall into the excavations or into water.
8.4. Where appropriate, excavating machinery and materials-handling machinery must be fitted with structures to protect the driver against being crushed if the machine overturns, and against falling objects.

9. Installations, machinery, equipment
9.1. Installations, machinery and equipment, including hand tools whether power-driven or not, must be:
   (a) properly designed and constructed taking accounts, as far as possible, of the principle of ergonomics;
   (b) kept in good working order;
   (c) used solely for the work for which they were designed; and
   (d) operated by workers who have received appropriate training.
9.2. Installations and equipment under pressure must be checked and subjected to regular tests and inspections in accordance with existing legislation.

10. Excavations, wells, underground works, tunnels and earthworks
10.1. Suitable precautions must be taken in an excavation, well, underground, working or tunnel:
   (a) using an appropriate support or embankment;
   (b) to prevent hazards entailed in the fall of a person, materials or objects, or flooding;
(c) to provide sufficient ventilation at all workstations so as to ensure a breathable atmosphere which is not dangerous or harmful to health; and
(d) to enable workers to reach safety in the event of fire or inrush for water or materials.

10.2. Before excavation starts, measures must be taken to identify and reduce to a minimum any hazard due to underground cables and other distribution systems.

10.3. Safe routes into and out of the excavation must be provided.

10.4. Piles of earth, materials and moving vehicles must be kept away from the excavation; appropriate barriers must be built if necessary.

11. Demolition work
Where the demolition of a building or construction may present a danger:
(a) appropriate precautions, methods and procedures must be adopted; and
(b) the work must be planned and undertaken only under the supervision of a competent person.

12. Metal or concrete frameworks, shutterings and heavy prefabricated components
12.1. Metal or concrete frameworks and their components, shutterings, prefabricated components or temporary support, and buttresses must be erected and dismantled only under the supervision of a competent person.

12.2. Adequate precautions must be taken to protect workers against risks arising from the temporary fragility or instability of a structure.

12.3. Shutterings, temporary supports and buttresses must be devised and designed, installed and maintained so as to safely withstand any strains and stresses which may be placed on them.

13. Cofferdams and caissons
13.1. All cofferdams and caissons must be:
(a) well constructed, of appropriate, solid materials of adequate strength; and
(b) appropriately equipped so that workers can gain shelter in the event of an irruption of water and materials.

13.2. The construction, installation, transformation or dismantling of a cofferdam or caisson must take place only under the supervision of a competent person.

13.3. All cofferdams and caissons must be inspected by a competent person at regular intervals.

14. Work on roofs
14.1. Where necessary to avert a risk or where the height or the slope exceed set values, collective preventive measures must be taken to prevent workers, and tools or other objects or materials, from falling.

14.2. Where workers have to work on or near a roof or any other surface made of fragile materials through which it is possible to fall, preventive measures must be taken to ensure that they do not inadvertently walk on the surface made of fragile.
Appendix 6

RISK ASSESSMENT

What is a risk assessment?
Employers and self-employed persons are required to evaluate risks to safety and health and take action to improve the level of protection given to workers. This process is called a risk assessment, and involves identifying hazards and assessing the associated risk.

Without risk assessment, there is no effective prevention possible. Carrying out a risk assessment identifies dangers and the chance of harm happening. Based on this, the proper measures can be taken to prevent or reduce the chance of the harm occurring.

Who should be responsible for risk assessment?
The level at which risk assessments will be made and risk management will take place will vary depending on the work involved, but is not possible to have a generic risk assessment. Specific hazards on individual sites should be addressed; the risk assessment on a small house build will be very different from a multi-million Euro infrastructure project.

The person assigned to carry out the risk assessment should have knowledge of both the risk assessment process and of the site concerned. Cooperation with the workforce is vital.

Who should be covered by the risk assessment?
Any risk assessment should cover all employees and others who may be affected by the enterprise. This includes contractors, clients, employers, self-employed persons, suppliers while on site, visitors, and the public. The assessment should cover the risks throughout all the phases of construction, from preliminary groundwork to final painting and decorating.

What are hazard, risk, and harm?

A hazard is anything that can cause harm.
The risk is the chance of harm being done.
The harm is a negative safety and health consequence (e.g. injury or ill health)

How do you do a risk assessment?
There are many models of risk assessment, and the way it is done will depend on the size and complication of the building works. Whichever method is used, it is usually best to break the process down into a series of steps.

1 - Look for the hazards

Think about the work that is done and what materials, equipment, and chemicals that are used. What can cause harm?

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58 This section is taken in its entirety from: European Agency for Safety and Health at Work, Construction Sector, (http://osha.eu.int/good_practice/sector/construction/faq.stm/#health)
What are the main hazards in construction?

Among the dangers in construction are:

- Falls from working at height,
- Crush injuries,
- Slips and trips,
- Being struck by falling objects,
- Moving heavy loads,
- Vehicles on site
- Bad working positions, often in confined spaces,
- Being struck or crushed by a workplace vehicle,
- Receiving injuries from hand tools,
- Inhalation of dust,
- Handling of rough materials,
- Exposure to dangerous substances (chemical and biological),
- Working near, in, or over water,
- Exposure to radiation,
- Loud noise,
- Vibration from tools or vibrating machinery.

Cover all relevant activities throughout the construction period. Think about the work that is done and what materials, equipment, and chemicals are used. Cover all relevant issues. Assess the work conditions for anything that has the potential to cause harm. It is important that the examination is as wide-ranging as possible, so that all hazards are included. The following approaches may help identify trouble spots.

- Think by work area on site (e.g. site entrance, main work area, cabins by classroom).
- Think by type of hazard (e.g. physical, chemical, biological, psychosocial).
- Think by job (e.g. bricklayer, painter, surveyor).
- Check records (e.g. the accident book) to identify problems.
- Think by time through all the phases of the project.
- Ask the workers!

2 - Decide who may be harmed and how

Think about everyone who may be hurt. This means not just employees, but also other workers on site and the public. Consider who and how many may be harmed, and how.

3 - Evaluate the risks and decide on action

How likely it is that the hazard will result in harm or injury, and how severe is that injury likely to be? Are the control measures currently in place sufficient? The focus for cost-effective and sustainable risk
management should be on collective protection and preventive measures. If someone is likely to be harmed, the following hierarchy should be followed.

- Can the hazard be removed completely?
- Can the risk be reduced or controlled?
- Can collective protective measures be taken to protect all the persons exposed to risk?
- Is personal protective equipment needed to protect the worker from a risk that cannot be adequately controlled by collective preventive measures? Individual protective measures should be used as a last option.

**What happens after a risk assessment?**

**1 - Take Action!**

List the preventive measures needed in order of priority, then take action, involving the workers and their representatives in the process. Targeting the underlying problems is the most cost-effective way for risk management. Finding a remedy for the dangerous situation should always occur respecting a hierarchy of measures:

1. Avoid the danger (e.g. don’t do the process);
2. Replace the danger by a non or less dangerous process or material (e.g. substitution of dangerous substances);
3. Collective protection measures (e.g. machinery safeguards);
4. Individual protection measures (e.g. PPE).

Interventions should be agreed with the workforce (either directly or through worker safety representatives). The agreed solutions should be carefully implemented, monitored and evaluated. The information arising from the risk assessment must be shared with the appropriate persons.

**2 – Monitor and review the findings**

It is important to perform an evaluation to see which interventions were successful and which not. Assess the effectiveness of the control measures. Ensure that the risks have been appropriately reduced and that other hazards have not been created. Ways of working, along with equipment and chemicals change. Ways of working change, and so do hazards and risks. When a significant change takes place, check to make sure that there are no new hazards that need addressing. Repeat the risk assessment when necessary.

**3 - Communicate**

Tell people what you are doing. Talk to the worker representatives. Involve them in the risk assessment process and tell them what you are doing to reduce risk.

**Are there any specific risk assessments requirements?**

Some specific risk assessments may be required for different risks that arise from particular work tasks. Specific risk assessments may be needed for:

- Manual handling (see L.N. 35 of 2003)
- Exposure to chemical agents (see L.N. 227 of 2003)
- Exposure to biological agents (see L.N. 228 of 2003)
- Exposure to cancer causing agents (see L.N. 122 of 2003)
- Pregnant workers and breast feeding mothers (see L.N. 92 of 2000)
Appendix 7

WAYS OF ASSESSING COMPETENCE AND RESOURCES

The following principles should be borne in mind when assessing competence and resources:

1. The competencies and resources required under this Code of Practice relate only to those necessary for health and safety purposes;
2. The judgement is about the duty-holder’s ability to comply with their legal health and safety obligations;
3. The checks carried out are only for the project being planned;
4. The checks should be proportionate and well targeted — irrelevant, generic questions are a waste of everyone’s time and can obscure the real issues;
5. There is no need to repeat checks where relevant evidence exists following recent, similar work;
6. In most cases demonstrating a successful track record in similar work should be a sufficient indication; and
7. For low-risk projects, minimal checks are needed.

Unnecessary bureaucracy obscures the real issues and diverts effort from them. It usually results in insufficient attention to resources, and particularly the time available. Standard, generic pre-qualification questionnaires have been widely used and have often created lots of paperwork, but little benefit to health and safety. Moreover they tend to measure negative rather than positive issues. There are generally more positive ways to reasonably assess competence and resources, for example, site visits and one-to-one interviews can make it easier to reach a final decision.

Checks to be carried out to assess competence and resources, before making an appointment, might include some or all of the following:

1. Track record — simple evidence of previous projects, eg references from those who have engaged the duty-holder on previous projects;
2. Evidence of competence for those to be employed on the project including, particularly in the case of larger and more complex projects, of managerial and supervisory personnel (eg qualifications, continued training in health and safety, practical experience and knowledge of the work);
3. The availability of sufficient, appropriate, competent personnel and the essential equipment, facilities and management systems;
4. Time — in particular, whether organisations and key personnel can devote sufficient time to the project; and
5. Information about their track record on health and safety including previous enforcement action and the steps taken to remedy shortcomings.

Appendix 8

SCHEDULE II of L.N. 281 of 2004

Non-Exhaustive List of Work Involving Particular Risks to the Health and Safety of Workers

1. Work which puts workers at risk of burial under earthfalls, engulfment in swampland or falling from a height, where the risk is particularly aggravated by the nature of the work or processes used or by the environment at the place of work or site.

2. Work which puts workers at risk from chemical or biological substances constituting a particular danger to the health and safety of workers or involving a legal requirement for health monitoring.

3. Work with ionizing radiation requiring the designation of controlled or supervised areas.
   a. Controlled area means an area subject to special rules for the purposes of protection against ionizing radiation and to which access is controlled.
   b. Supervised area means an area subject to appropriate supervision for the purpose of protection against ionizing radiation.

4. Work near high voltage power lines.

5. Work exposing workers to the risk of drowning.

6. Work on wells, underground earthworks and tunnels.

7. Work carried out by drivers having a system of air supply.

8. Work carried out by workers in caisson with a compressed-air atmosphere.

9. Work involving the use of explosives.

10. Work involving the assembly or dismantling of heavy prefabricated components.