

*Legal Supplement Part A to the Trinidad and Tobago Gazette”, Vol. 45,
No. 27, 14th February, 2006*

Fourth Session Eighth Parliament Republic of
Trinidad and Tobago



REPUBLIC OF TRINIDAD AND TOBAGO

Act No. 3 of 2006

[L.S.]

AN ACT to amend the Occupational Safety and Health
Act, 2004

[Assented to 10th February, 2006]

Enactment	ENACTED by the Parliament of Trinidad and Tobago as follows:—
Short title	1. This Act may be cited as the Occupational Safety and Health (Amendment) Act, 2006.
Interpretation Act No. 1 of 2004	2. In this Act “the Act” means the Occupational Safety and Health Act, 2004.
Section 4 amended	3. The Act is amended in section 4— (a) in the definition of “approved standard”, by inserting after the words “the Standards Act, 1997” the words “and includes an appropriate type as determined by the Authority”; (b) in paragraph (b) in the definition of “Court”, by inserting after the words “section 83(A)” the words “and 97A,”; (c) by inserting in appropriate alphabetical sequence the following new definitions: “ “health surveillance” means the periodic review, for the purpose of protecting health and preventing occupational related disease, of the health of employees, so that any adverse variations in their health that may be related to working conditions are identified as early as possible;”; and “intoxicant” means any alcohol, medicament, narcotics and psychotropic substances;”; and (d) in the definition of “young person”, by deleting the word “over” and substituting the word “of” and by deleting the word “fourteen” and substituting the word “sixteen”.

4. The Act is amended in section 6—

Section 6 amended

- (a) in subsection (2), by deleting paragraph (g) and substituting the following new paragraph:

“(g) compliance with sections 7, 12, 37, 46, 75 and 76, Parts III and IX and such other duties that may be imposed on him by this Act”; and

- (b) in subsection (10), by deleting the words “section 6(6)” and substituting the words “subsection 6(9)”.

5. The Act is amended in section 8—

Section 8 amended

- (a) in subsection (2)(b), by deleting the words “25H” and substituting the words “13A”; and

- (b) by inserting after subsection (4), the following new subsection:

“(5) An occupier shall ensure that the requirements under this section are complied with within three months of the employment of its twenty-fifth employee.”.

6. The Act is amended in section 9—

Section 9 amended

- (a) by deleting the word “(1)” at the commencement of the section;

- (b) by deleting the words “Environmental Management Authority” wherever they occur and substituting the words “Authority responsible for managing the environment”; and

- (c) by deleting subsections (2), (3) and (4).

Section 10 amended

7. The Act is amended in section 10—

(a) in subsection (1), by inserting after paragraph (d), the following new paragraphs:

“(e) to exercise the discretion under section 15 in a responsible manner; and

(f) to ensure that he is not under the influence of an intoxicant to the extent that he is in such a state as to endanger his own safety, health or welfare at work or that of any other person.”; and

(b) in subsection (2), by deleting the words “to a fine of ten thousand dollars” and substituting the words “in accordance with the Offences Against the Person Act”.

Chap. 11:08

Section 13 amended

8. The Act is amended by inserting after section 13 the following new section:

“Annual risk
assessment

13A. (1) Every employer shall make a suitable and sufficient annual assessment of—

(a) the risks to the safety and health of his employees to which they are exposed whilst they are at work; and

(b) the risks to the safety and health of persons not in his employment arising out of or in connection with the environmental impact of his undertaking,

for the purpose of identifying what measures are necessary for compliance with this Act or any other statutory provision.

(2) Any assessment referred to in paragraph (a) or (b) shall be reviewed by the employer who made it if—

(a) there is reason to suspect that it is no longer valid; or

(b) there has been a significant change in the matters to which it relates, and where as a result of any such review, changes to an assessment are required, the employer or self-employed person concerned shall make them.

(3) Where the employer employs twenty-five or more employees, he shall keep a record in accordance with section 75 of—

(a) the findings of the assessment; and

(b) any group of his employees identified by the assessment as being exposed to an occupational safety and health risk.”.

9. The Act is amended in section 15—

Section 15 amended

(a) by inserting the word “sufficient” before the word “reason”;

(b) in paragraph (a), by deleting the words “or others”; and

(c) by inserting the word “his” after the words “injurious to”.

10. The Act is amended in section 16—

Section 16 amended

(a) by deleting the word “promptly” and substituting the word “immediately”; and

(b) by inserting the words “refusal or” before the words “intended refusal”.

Section 18 amended

11. The Act is amended in section 18—

- (a) in subsection (1), by deleting the words “16(1)(a), (b) or (c)” and substituting words “16(2)(a), (b) or (c)” and by inserting after those words, the words “and make a decision”;
- (b) in subsection (2), by deleting the words “seventy-two” and substituting the words “twenty-four” and by deleting the words “16(a) or (b)” and substituting the words “16(2)(a) or (b)”; and
- (c) in subsection (4), by deleting the words “seek redress under section 83A.” and substituting the words “apply to the Industrial Court to have the matter determined”.

Section 19 amended

12. The Act is amended in section 19(2), by deleting the word “in” occurring in paragraph (b) and substituting the word “is”.

Section 21 amended

13. The Act is amended in section 21, by deleting the words “16(a) or (b)” and substituting the words “16(2)(a) or (b)”.

Section 25 amended

14. The Act is amended in section 25(5), by deleting the words “paragraph (b)” and substituting the words “paragraph (4)(b)”.

Section 25G repealed

15. The Act is amended by repealing section 25G.

Section 25K amended

16. The Act is amended in section 25K(1), by inserting the words “annual risk” before the word “assessment”.

17. The Act is amended in section 26—

Section 26 amended

- (a) in subsection (2), by deleting the words “every twenty-four months” and substituting the words “in the manner prescribed under this Act,”;
- (b) in subsection (4) paragraph (a), by deleting the words “employed or proposed to be employed”; and
- (c) by inserting after subsection (16), the following new subsection:

“(17) An employer shall take into consideration the results of the annual risk assessment carried out pursuant to section 13A in determining what is necessary to provide a means of escape in case of fire.”.

18. The Act is amended in section 34(1)—

Section 34 amended

- (a) in paragraph (a), by deleting the words “, in” and substituting the word “an”; and
- (b) in paragraph (b), by deleting the words “, in” and substituting the word “an”.

19. The Act is amended in section 37(1)—

Section 37 amended

- (a) by inserting the words “or is already employed” after the words “seeks employment”;
- (b) by deleting the word “shall” and substituting the word “may”;
- (c) by inserting the word “a” before the word “medical examination”; and
- (d) by inserting after the words “as a pre-condition of permanent employment” the words “or to determine fitness for work”.

Section 39 amended **20.** The Act is amended in section 39(1), by deleting the words “except that no such point shall be situated within six metres (or twenty feet) of a washing place, water closet, urinal or other sources of contamination unless a shorter distance is approved in writing by the Chief Inspector”.

Section 43 amended **21.** The Act is amended in section 43(4)—

- (a) by deleting the words “more than two hundred and fifty persons are employed” and substituting the words “there is a risk as determined in accordance with section 13A”;
- (b) by deleting the words “an ambulance” and substituting the words “emergency health facilities”; and
- (c) by inserting a full stop after the word “prescribed” in the third place where it occurs and by deleting all the words thereafter.

Section 46A amended **22.** The Act is amended in section 46A, by deleting the word “(1)”.

Section 48 amended **23.** The Act is amended in section 48(5), by deleting the word “(3)” and substituting the word “(4)”.

Section 57 amended **24.** The Act is amended in section 57(1), by deleting the word “shall” occurring before the word “obtain”.

Section 58 amended **25.** The Act is amended in section 58(2), by inserting the word “shall” before the words “satisfy the Minister”.

Section 59 amended **26.** The Act is amended in section 59(2)—

- (a) by deleting the words “six weeks” and substituting the words “thirty days”; and

- (b) by deleting the words “where the Chief Inspector shall submit his reason for the delay, in writing, to the applicant.” and substituting the words “such application shall be deemed approved for the purposes of this section.”.

27. The Act is amended in section 65(1), by Section 65 amended renumbering paragraph (h) as paragraph (i) and inserting after paragraph (g) the following new paragraph:

- “(h) a representative of the Tobago House of Assembly;”.

28. The Act is amended in section 71(1), by repealing Section 71 amended paragraph (a) and substituting the following new paragraph:

- “(a) on the advice of the Chief Inspector—
 - (i) designate a suitably qualified public officer as an inspector; or
 - (ii) appoint a suitably qualified person as an inspector; and”.

29. The Act is amended in section 72—

Section 72 amended

- (a) in subsection (3), by deleting the word “or” occurring at the end of paragraph (c) and inserting after paragraph (d) the following new paragraph:

- “(e) uses or threatens to use physical force or violence against an inspector which results or could result in serious bodily harm.”;

- (b) by renumbering subsection (4) as subsection (5); and

- (c) by inserting after subsection (3) the following new subsection:

- “(4) Every inspector shall execute his duties under this Act expeditiously and with due care.”.

Section 74 amended

30. The Act is amended in section 74—

(a) subsection (1), by inserting after the words “he shall” the words “after consultation with the Chief Inspector and”;

(b) by repealing subsection (5) and substituting the following new subsections :

“(5) Where an objection is made pursuant to subsection (4) against a notice:

(a) in the case of the improvement notice, the filing of the objection shall have the effect of suspending the operation of the notice until the hearing of the objection is finally disposed of or, if the objection is withdrawn, until the withdrawal of the objection; or

(b) in the case of a prohibition notice, the filing of the objection shall have like effect if, on the filing of the objection, the Industrial Court so directs.

(6) Any person who, without lawful authority removes, defaces or in any way tampers with a notice posted under this section, is guilty of an offence and shall be subject to the jurisdiction of the Court in accordance with the Supreme Court of Judicature Act.”.

31. The Act is amended by repealing section 79 and substituting the following new section: Section 79 amended

“Inspector to
produce
certificate 79. Every inspector shall, upon visiting an industrial establishment, produce the prescribed certificate of appointment, identifying himself as an inspector, to the agent or occupier of the industrial establishment.”.

32. The Act is amended in section 83(1)—

Section 83 amended

- (a) by deleting the words “Notwithstanding anything contained in this Act, but subject” and substituting the word “Subject”;
- (b) by inserting the word “duty” after the words “comply with any”;
- (c) by deleting the words “an offence” and substituting the words “a safety and health offence”; and
- (d) by deleting the words “liable to be dealt with in accordance with the provisions of the Summary Courts Act” and substituting the words “subject to the jurisdiction of the Industrial Court unless otherwise specified”.

33. The Act is amended in section 85—

Section 85 amended

- (a) by renumbering section 85 as section 85(1);
- (b) in the renumbered section 85(1) by inserting after the word “offence” the words “, other than a safety and health offence”; and
- (c) by inserting after the renumbered section 85(1) the following new subsection:

“(2) A person who commits a safety and health offence under this Act for which no penalty is expressly provided, is liable upon conviction to a fine of twenty thousand dollars.”.

Section 86 amended

- 34.** The Act is amended in section 86(1)—
- (a) by deleting the words “and (3)”; and
 - (b) by deleting the word “occasional” and substituting the word “occupational”.

Passed in the House of Representatives this 23rd day of January, 2006.

J. SAMPSON
Clerk of the House

Passed in the Senate this 31st day of January, 2006.

N. JAGGASSAR
Clerk of the Senate

Senate Amendments agreed to by the House of Representatives this 3rd day of February, 2006.

J. SAMPSON
Clerk of the House