

Press Briefing on Occupational Safety and Health Concerns in the Construction Industry

April 13th, 2005

During the period from August 2004 to March 2005 the number of construction workers on Grand Cayman has increased by 460%, from 803 to 4496. This change reflects a dramatic increase of 3693 new work permit issued or a total increase of 460%.

Most of these workers are likely untrained and many of the newly established construction companies are working with unsafe operating practices. This situation has created a high risks for accidents to occur, and regrettably we have already seen two deaths and several serious injuries in the construction industry, and I am very concerned that more deaths and injuries will occur unless a serious effort is made to correct many of these unsafe work practices.

Part 8 of the Labour Law places the responsibility for investigating Health and safety Issues within the workplace within this Department. We expect that **every employer** will be aware of their obligations under the current law, because we will be carrying out safety inspections to ensure compliance with the Law. Due to the high incidents of accidents now occurring, **non-compliance will not be tolerated**. These inspections will focus on the construction industry, but we will also include other high risk industries. All employers are encouraged to carryout a risk assessment of their operations to ensure that work is being done in accordance with the highest standards of safety in their particular industry.

Attention is also drawn to Sect 57(1) of the law, which states that any employer who commences the operation of a workplace must within one month, file a written notice with the Director of Labour indicating the following particulars:

- Name of the Employer
- Address and location of the business premise (place of operation)
- A brief statement of the type of work to be conducted
- The total number of workers (persons) employed
- The form of employment i.e.: Indicate if shift work will be involved how many employees will be operating on shifts at any given time.

Employers have routinely overlooked this requirement, back we are taking this opportunity to advise that **ALL** employers must comply with this section, and failure to do so may result in prosecution.

In an effort to ensure that employers are familiar with their obligations, we have placed a synopsis of Part 8 of the Labour Law on our website at www.employmentservices.gov.ky, along with links to other sources of useful information.

During the month of May, we also propose to hold a two-day Health and Safety Workshop which will be facilitated by guest speakers from the Institute of

Occupational Safety and Health (UK). The theme of this Workshop is, "Health and Safety the Key to Working Effectively". The program content will include but not be limited to:

- Contractors Safety
- Monitoring Health and Safety Performance
- Developing a Health and Safety Management System
- Safety and Employers Liability
- Implementing a Behavioural Safety System
- Assessing Hazards and Risks
- Risk Management
- Safety and the Labour Law – A Study of Safety Laws in the UK, US and Cayman Islands.

Health & Safety & Welfare at Work
Part VIII
(Sect. 56 – 70)
Labour Law (2001 Revision)

The following is a brief synopsis:

Sect 57(1) of the law, states that any employer who commences the operation of a workplace must within one month, file a written notice with the Director of Labour indicating the following particulars:

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- Address and location of the business premise (place of operation)
- A brief statement of the type of work to be conducted
- The total number of workers (persons) employed
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Sec 57(2) also addresses the issues **of any changes** to the above that the employer is also expected to submit those in writing to the Director within one month also.

Sect 58 of the law goes on to state generally that every employer must, as far as reasonably possible; insure the health, safety and welfare of his employees and their place of employment.

Sect 59 contains that for the purposes of safeguarding the health of employees the employer shall maintain the following standards:

- Maintain a clean environment
- Free from overcrowding
- In addition, maintain an environment that is at a comfortable or optimal temperature, which is reasonable and appropriate to the type of work, which is being performed.
- There should be adequate ventilation
- Adequate lighting and where applicable effective drainage
- In addition, there should be suitable, sufficient sanitary conditions for employees.

These are some of the very basic requirements under the law. There are also other areas of concern, which will include **Fire safety, which is addressed in Sect 60 of the law**, and here the law indicates the employer responsibility in providing adequate and safe measures for the prevention of fire, routes of escape in the event that there is a fire.

Section (60) also addresses the safety of operation of machinery; by law, all machinery must be properly maintained as not to cause injury to employees. This includes all buildings, which must be of adequate construction and properly maintained.

Section (61) addresses the issue of the employer's contributions to the welfare of their employees in areas such as:

- Providing adequate and wholesome drinking water
- Adequate and reasonable seating
- Readily accessible first aid equipment
- Reasonable, and sanitary canteen and restroom facilities

Section (62) deals with the provision of special protective measures and addresses the following areas:

- That any area allocated for employees to consume food or beverage must be free of any poisonous substance, such as lead or arsenic.
- The employer must provide the necessary equipment such as goggles or eye screens to prevent eye injury.
- That in the event of a hazardous occupation whereby there is a reasonable possibility of injury to the employee, the appropriate protective equipment must be provided.
- Further, in the event of possible exposure to any wet or otherwise injurious and offensive substances the necessary protective gear and equipment must be properly maintained and readily available for the use of employees.

- Additionally, in the area of occupations involving the use of heat or steam facilities must be in place, and well maintained, to adequately protect employees.

One area of the law, which should be specifically brought to the attention of employers, is **Section 63**. This section places the onus of responsibility with the employer to forthrightly notify the director of Labour of (1) any industrial accident which is deemed to be serious in nature and (2) any type of occupational disease which has occurred at a workplace or involving any employee.

These are the relevant sections of the law related to Occupational Safety and Health as they relate to the responsibilities and requirements for employers.

With regards to the **obligations of the employees, Section 64** of law states:

- It is the obligation of the employee to make use of all means, appliances, equipment and conveniences which has been provided for his or her protection in the normal conduct of their duties and to the extent that their health and safety is at risk.
- Otherwise, that no employee should interfere, misuse or otherwise willfully cause damage to any of the equipment or conveniences, which have been provided, as required by this law, for their protection.
- Neither, shall any employee willfully cause damage, endangerment or injury to themselves or others.
- Thereby, it is expected that all employees shall abide by their companies prescribed rules, policies and procedures in the conduct of their duties as it applies to the use of any hazardous materials or otherwise dangerous equipment.

The section of the law, which deals with redress, is **Section 66 (1 – 5)**.

Section 66(1) and (2) states that, any **employer** who contravenes the general duties or obligations as stated in **Sections 56-63** may be found guilty of an offence or offences under the law.

Section 66 (3) also states that any **employee** who contravenes **section 64** may be found to be guilty of an offence.

Section 65(1) and (2) deals with notice of non-compliance. Here the law states that if an issue of non-compliance comes to the attention of the Director, and if he is of the opinion that steps are necessary to insure compliance with the law or any regulations under the law, he may serve that person with a remedial notice. This remedial notice shall state the relative requirements and include what steps will be taken and the timeframe.

Section 65(3) continues with a person's right to appeal before the Tribunal once served with a notice from the director.

Section 65(4) addresses the persons right to appeal but also indicates that an appeal in it's own right does not preclude an automatic stay of the actions which the director may deem necessary to effect in ensuring the health and safety of employees. This would require the issuing of a stay by the Grand Court pending the appeal hearing by the Tribunal. The Grand Court may grant such a stay including the requirement of work, which was prescribed to be carried out and also direct a time period for the appeal to be brought.

Section 65(4) also gives the Director of Labour, if he has formed the opinion that an imminent danger exist to the health and safety of employees and in consultation with the Chief Environmental Health Officer, the right to serve a remedial notice according to **Section 65(5)** which allows him to effect the following:

- Close a premise or operation
- Order the vacation, alteration of such premise or plant
- Otherwise implement such temporary measures, as he may deem necessary pending the institution or completion of future permanent measures.

The Director, however, shall only order the closure of a premise withstanding written confirmation from the minister. (**Section 65(6)**)

Section 67 Gives the Director the responsibility to investigate complaints or violations regularly and routinely conduct checks to ensure compliance with this law.

Section 68 of this law enables the Director of Labour to request a copy of any report of a workplace accident from any relevant authority which has been appointed to hold a formal investigation. If the Director determines that any of the relevant parts of this laws or regulations has not been complied with, then action maybe taken within six months of the report or inquest against the relevant parties for non-compliance.

Section 69 addresses the power of the Grand Court to modify any prior agreement between owners and operators of a place of employment to insure compliance of employers with workplace standards under this Law. This may include building alterations and the division of the expense to do so if necessary.

Section 70 makes provision for the Governor to prescribe regulations to the relevant sections of this law.

Statistics indicate that 73% of all workplace accidents were caused by unsafe behaviour. 24% attributed to unsafe working environment (poor equipment conditions) and 3% of all accidents were determined to be unavoidable or due to natural disasters.

What is Safety?

- The prevention of accidents, injuries and disease.
- To avert hazards
- Adopt appropriate measures conducive to a safe working environment and equipment.

What is unsafe behaviour?

- Negligence and carelessness
- Failure to comply with whatever has been deemed prohibited in the workplace.
- Failure to follow working guidelines.
- Failure to wear protective gear or equipment.
- Working under poor health conditions

What is the Importance of workplace safety?

- The preservation of life and prevention of bodily injury invaluable.
- Work place accidents cause physical, emotional, and financial problems and stress. Cause pain and suffering, loss of income, legal issue and reduce or stop production.

What type of accidents occur most frequently in the workplace?

- Falling
- Electric shock
- Injuries related to pinching or jamming in machinery
- Traffic accidents
- Fire or explosions

Having said all of this then what can say in terms of prevention and providing a safe working environment? There are a few basic safety guidelines that we can address briefly for now.

- Follow the required working procedure of the company.
- The working environment must be maintained in good order and in adherence with the law and regulations.
- Adopt and implement an automatic inspection system for hazards.
- Forewarn of possible hazards
- Completely and properly conform to the safety requirements and maintenance of all buildings and equipment.