

OCCUPATIONAL SAFETY AND HEALTH BILL, 2019

ARRANGEMENT OF SECTIONS

Section:

PART I - PRELIMINARY

1. Short Title
2. Application
3. Prevailing laws
4. Interpretation
5. Objectives.

PART II - NATIONAL COUNCIL FOR OCCUPATIONAL SAFETY
AND HEALTH

6. Establishment of the National council for Occupational Safety and Health
7. Appointment of Director General and other staff of the Council
8. First and Second Schedule to apply
9. Powers and functions of the Council
10. Establishment of the Governing Board of the Council
11. Tenure of the office of the Board members
12. Removal from office of members of the Board
13. Functions and Powers of the Board
14. Structure of the Council
15. Pension
16. Removal and Discipline of Senior Staff
17. Discipline of Junior Staff
18. Funds for the Council
19. Expenditure of the Council
20. Exemption from Income Tax
21. Capital Production Income
22. Disposal of Surplus Funds
23. Annual Estimates

24. Accounts and Audit
25. Annual Report
26. Offices and Premises
27. Powers to borrow
28. Powers to accept gifts
29. Powers to enter premises
30. Offences
31. Conduct of proceedings
32. Legal proceedings
33. Power of Minister to give directives
34. Dissolution of Factories Inspectorate Department.
35. Power to make Regulations

PART III - GENERAL DUTIES OF EMPLOYERS AND SELF

EMPLOYED PERSON

36. Duty of employers
37. Duties of employers and self employed persons to persons other than their employees
38. Citation
39. Right of employer to contest citation
40. Judicial Review
41. Discrimination or retaliation against employee.

PART IV - THE OCCUPATIONAL SAFETY AND HEALTH TRIBUNAL

42. Establishment and membership, structure, term, removal and conduct of proceedings

PART V - PROCEDURES TO COUNTERACT IMMINENT DANGERS

43. Power of the Court
44. Confidentiality of Trade Secrets
45. Variation, Tolerance and Exemptions

PART VI - PENALTIES

46. Penalties

47. Offences committed by agents and Trade Unions

PART VII - GENERAL DUTIES OF EMPLOYEES/WORKERS

48. Duties of workers
49. Establishment of Safety and Health Committee.
50. Responsibilities of Federal Ministries, Agencies, Parastatals, Departments, etc.

PART VIII - RESEARCH AND RELATED ACTIVITIES

51. Research and Development.
52. Training and employee education
53. Cooperative agreements with States
54. On site consultative visit
55. Duty of State to provide worksite consultations

PART IX - NATIONAL INSTITUTE FOR OCCUPATIONAL SAFETY,
AND HEALTH

56. Establishment of the Institute, Powers and Functions, Appointment of Director, etc.
57. Powers of Director
58. Annual Report to the Minister of Health, President and National Assembly

PART X - MISCELLANEOUS

59. Collaboration of the Council with the Minister of Health
60. Audit
61. Annual report
62. Appropriation

A BILL

FOR

AN ACT TO MAKE FURTHER PROVISION FOR SECURING THE SAFETY, HEALTH AND WELFARE OF PERSONS AT WORK, FOR PROTECTING OTHERS AGAINST RISKS TO SAFETY OR HEALTH IN CONNECTION WITH ACTIVITIES OF PERSONS AT WORK, TO ESTABLISH THE NATIONAL COUNCIL FOR OCCUPATIONAL SAFETY AND HEALTH AND FOR RELATED MATTERS

Sponsored by Senator Benjamin Uwajumogu

[] Commencement

ENACTED by the National Assembly of the Federal Republic of Nigeria, as follows-

PART I - PRELIMINARY

- 1 1. This Bill may be cited as the Occupational Safety and Health Short title
2 (OSH) Bill, 2019.
- 3 2. The Occupational Safety and Health (OSH) Bill, 2008 is Application
4 applicable to all Nigerian workplaces including formal and informal sector
5 workplaces.
- 6 3. All prevailing laws, existing legal instruments and other related Prevailing law
7 regulations dealing with labour affairs, workers' welfare and safety and
8 security at workplace are hereby reinforced, but where there exists any
9 inconsistency with the provisions of this bill, such laws stand amended
10 while this bill takes precedence.
- 11 4. For the purposes of this Act- Interpretation
12 "Minister" means the Minister in charge of Labour Matters;
13 "Council" means the National Council for Occupational Safety and Health
14 (NCOSH) established under this Act;
15 "Person" means one or more individuals, legal representatives, and any
16 organized group of persons;
17 "Employers" means a person engaged in a business affecting commerce

- 1 who has employees. It also includes a body corporate;
- 2 "Employee" means an employee of an employer who is employed in a business
- 3 of his employer which affects commerce;
- 4 "Commerce" means trade, traffic, commerce, transportation, or
- 5 communication among the several States in Nigeria, or between a State and any
- 6 place outside thereof;
- 7 "Workers" means all employed persons including public employees;
- 8 "Workplaces" means all places where workers need to be or to go by reason of
- 9 their work and which are under the direct or indirect control of the employer;
- 10 "Regulations" means all provisions given force of law by the competent
- 11 authority;
- 12 "Health in relation to work" means not merely the absence of disease or
- 13 infirmity but includes the physical and mental elements affecting health which
- 14 are directly related to safety and hygiene at work;
- 15 "Occupational accident" means an occurrence arising out of or in the course of
- 16 work, which results in fatal or non fatal injury;
- 17 "occupational hazard" means a condition in the workplace/environment which
- 18 could result in an occupational accident/disease;
- 19 "Fatal accident" means an accident which results in death or personal injury
- 20 involving loss of working time occurring on the way between the place of work
- 21 and place of residence, or place where a worker takes his meal or receives his
- 22 remunerations;
- 23 "Occupational diseases" means a disease contracted as a result of an exposure
- 24 to risk factors arising from work;
- 25 "Major hazard accident" (Disaster) refers to those workplace accidents, which
- 26 result in extensive damage to infrastructure, loss of life and deep emotional
- 27 disturbance of the workplace and community around the workplace;
- 28 "Occupational Health" means the promotion of the physical, mental and social
- 29 well being of workers and the adaptation of work to man and man to work;
- 30 A Statutory Authority" means competent authority as defined by ILO's

1 Convention C155 concerning occupational safety and Health and the work
2 environment;

3 "Committee" means the National Advisory Committee on Occupational
4 Safety and Health as established under this Act;

5 "Director" means the Director of the National Institute for Occupational
6 Safety and Health;

7 "Institute" means the National Institute for Occupational Safety and Health
8 established under this Act.

9 5. The objectives of this Bill are-

Objectives

10 (i) to make further provisions for securing the safety, health and
11 welfare of persons at work;

12 (ii) to make provisions for protecting others against risks to safety
13 or health in connection with the activities of persons at work;

14 (iii) to establish the National Council for Occupational Safety and
15 Health to create a general framework for the improvement of working
16 conditions and the working environment;

17 (iv) to prevent accidents and departures from health arising out of
18 or in the course of work;

19 (v) to ensure the provision of occupational safety and health
20 services to workers in all sectors of economic activity.

21 PART II - NATIONAL COUNCIL FOR OCCUPATIONAL SAFETY

22 AND HEALTH

23 6. There is hereby established a body to be known as the National
24 Council for Occupational Safety and Health (in this Act referred to as "the
25 Council") which-

Establishment
of the Council

26 (a) shall be a body corporate with perpetual succession and a
27 common seal; and

28 (b) may sue and be sued in its corporate name.

29 7.-(1) There shall be appointed for the council by the President, on
30 the recommendation of the Minister, a Director General who shall be a

Appointment of
Director General
and other staff of
the Council

1 person with good knowledge of labour, health and safety matters.

2 (2) The Director General shall be-

3 (a) the Chief Executive of the Council;

4 (b) responsible for the day to day administration of Council and keep
5 the books and records of the Council; and

6 (c) subject to the supervision and control of the Chairman of the
7 Board.

8 (3) The Director General shall hold office for a period of five (5) years
9 on such terms and conditions as may be specified in his letter of appointment
10 and be eligible for reappointment for another period of five years.

11 (4) The Board may, from time to time, appoint such other persons as
12 members of staff of the Council as it may deem necessary, to assist the Council
13 in the performance of its functions under this Act. Cap. C23 LFN 2004.

14 (5) The members of staff of the Council appointed under subsection
15 (4) of this section shall be appointed on such terms and conditions of service as
16 the Board may, after consultation with the Federal Civil Service Commission
17 determine.

18 (6) The members of staff of the Council shall be public officers as
19 defined in the Constitution of the Federal Republic of Nigeria, 1999.

20 (7) The President shall appoint the Director General and members
21 Appointment of the Council with the consent of the Senate, from of members
22 of among persons who by reason of training, education or Council experience
23 are qualified to carry out the functions of the Council under this bill.

Tenure of office

24 (8) The tenure of Director General and members of the Council shall
25 be five (5) years except that where a vacancy caused by the death, resignation,
26 or removal of a member prior to the expiration of the term for which he/she was
27 appointed shall be filled only for the remainder of such unexpired term.

Removal from
office

28 (9) A member of the Council may be removed by the President for
29 inefficiency, neglect of duty, or malfeasance in office.

1 8. The provisions of the first and second schedules to this Act
2 shall apply with respect to all the proceedings of the Council.

First and Second
Schedule to apply

3 9. The Council shall have the following powers and functions-

Powers and
functions of the
Council

4 (a) aim to ensure employee safety and health in Nigeria by working
5 with employers and employees to create better working environments;

6 (b) act as a regulatory agency by issuing safety and health
7 standards that are enforceable under Nigerian law;

8 (c) promote best practices in occupational health and safety;

9 (d) allocate adequate resources to promote occupational safety and
10 health activities;

11 (e) develop and put in place emergency preparedness and response
12 plan for the curtailment of major hazards and disasters;

13 (f) maintain liaison with relevant national and international
14 institutions, playing roles in occupational health and safety of workers;

15 (g) promote a systems approach to the management of
16 occupational safety and health at national and enterprise levels;

17 (h) publish annually information or measures taken in pursuance of
18 promoting and enforcing occupational safety and health of workers; and on
19 occupational accidents, occupational diseases and other injuries to health
20 which arise in the course of or in connection with work;

21 (i) undertake and promote studies and research to identify and
22 determine control measures in matters of occupational health and safety of
23 workers and workplace;

24 (j) cooperate with other national agencies that have
25 complementary responsibilities for safety and health and welfare at work
26 and for general environment;

27 (k) provide advice on occupational safety and health to migrant
28 workers and informal sector workforce as well as technical and other
29 support to the States and Local Governments;

30 (l) establish and coordinate a National Information Management

1 System (NMIS) on occupational accidents, injuries and diseases, so as to
2 provide a data bank linked with the National Health Information System
3 (NHIS);

4 (m) provide Information concerning occupational safety and Health
5 to all stakeholders for occupational safety and health services and planning in
6 the country;

7 (n) hold enquiries, where cases of occupational accidents,
8 occupational diseases or any other injuries to health which diseases or any
9 other injuries to health which arise in the course of or in connection with work
10 appear to reflect situations which are serious;

11 (o) establish and apply procedures for the notification of occupational
12 accidents and diseases, by employers and, when appropriate, insurance
13 institutions and others directly concerned, and the production of annual
14 statistics on occupational accidents and diseases;

15 (p) review from time to time, the safety of technical equipment used at
16 work; application of procedures defined by the competent authority, issuance
17 of regulations and codes of practice on occupational safety and health, the
18 legislation and regulations concerning occupational safety and health in the
19 light of experience and advances in science and technology;

20 (q) determine work processes and substances and agents, the
21 exposure to which is to be prohibited, limited or made of subject to
22 authorization or control by the competent authority;

23 (r) sponsor such national and international conferences as it may
24 consider appropriate;

25 (s) carry out such activities as are necessary or expedient for the
26 performance of its functions under this Bill.

Establishment
of the Governing
Board

27 10.-(1) There is hereby established for the Council, a Governing
28 Board which shall consist of-

29 (a) the Chairman who shall be appointed by the President on the
30 recommendation of the Minister;

1 (b) the Permanent Secretary of the Federal Ministry of Labour or
2 his representative;

3 (c) the National Presidents of the Nigeria Labour Congress and the
4 Trade Union Congress;

5 (d) the National President of the Nigerian Bar Association or his
6 representative;

7 (e) one person to represent the Ministry of Health;

8 (f) one person to represent Ministry of Justice;

9 (g) one person to represent the Nigerian Union of Journalists;

10 (h) one person to represent Civil Society Groups;

11 (i) the Director General of the Council; and

12 (j) five other persons to represent public interest to be appointed by
13 the Minister.

14 (2) A member of the Board, other than the Chairman, shall be
15 appointed by the Minister on the recommendation of the body, if any, he
16 represents.

17 (3) The members of the board shall be paid such allowances as the
18 Federal Government may, from time to time approve.

19 (4) The provisions of the First Schedule of this Act shall have effect
20 with respect to the proceedings of the Board and other matters mentioned
21 therein.

22 11.-(1) A member of the Board appointed, otherwise than by office, shall hold office for a term of four (4) years, and subject to provisions of
23 subsection (2) of this section, shall be eligible for reappointment for only
24 one further term of four (4) years. Tenure of office

25 (2) The office of a member of the Board shall become vacant if-

26 (a) he resigns as a member of the Board by notice in writing under
27 his hand addressed to the Minister; or

28 (b) the Minister if satisfied that it is not in the interest of Council for
29 the person appointed to continue in office and notifies the member in writing
30

1 to that effect.

Removal from
members of the
Board

2 12.-(1) If it appears to the Board that a member of the Board, other
3 than an ex officio member, should be removed from office on office of the
4 grounds of misconduct or inability to perform the functions of his office, the
5 board shall make a recommendation to the President.

6 (2) If the President, after making such enquiries as he considers
7 necessary, approves the recommendation, the Minister shall, in writing,
8 declare the office of such a member vacant.

9 (3) Notwithstanding the provisions of subsection (1) of this section,
10 the President may remove any member of the board if he is satisfied that is in
11 the interest of the public so to do.

Functions and
powers of the
Board

12 13. The Board shall-

13 (a) advice the Federal Government generally on the national policies
14 on occupational safety and health of workers in Nigeria;

15 (b) designate, establish and approve quality specifications in respect
16 of safety of workplaces necessary for their certification;

17 (c) establish the relevant guidelines and measures for optimum safety
18 and health of workers and workplaces in conformity with the Council's
19 standard specifications;

20 (d) appoint, promote and discipline staff necessary for the proper
21 discharge of the functions of the Council;

22 (e) establish Committees as may be expedient which shall be charged
23 with specific functions as delegated by the Board;

24 (f) establish appropriate programmes for the regulations of optimum
25 workplace safety and occupational health and safety of workers in the work
26 environment;

27 (g) encourage and promote activities related to this process, standard
28 specification on the safety of workplaces and guidelines of implementing
29 them;

30 (h) utilise and promote the expansion of research, surveys and studies

1 by public or private agencies, institutions and organizations concerning the
2 quality, and safety of other matters related to this Bill as the Council may,
3 from time to time, determine as necessary or useful;

4 (i) establish, encourage and promote training programmes for the
5 employees of the council and other appropriate persons from public or
6 private organizations;

7 (j) open and operate ordinary and domiciliary accounts for the
8 Council in recognized banking institutions in Nigeria;

9 (k) subject to section 14 of this Act, specify the management
10 system of the Council, including financial approval ceilings for officers of
11 the Council;

12 (l) enter into agreement with public or private organizations and
13 individuals to develop, utilize, coordinate and share such information as is
14 determined to be appropriate by the Board for the performance of its
15 functions under this Act; and

16 (m) do such other things as are necessary for the successful
17 performance of its functions under this Act.

18 **14. The Council shall have-**

19 (a) an Administration and Finance Directorate to be headed by a
20 Director, who shall serve as the Secretary of the Council;

21 (b) a Planning, Research and Statistics Directorate to be headed by
22 a Director;

23 (c) a Directorate of Health and Human Services to be headed by a
24 Director;

25 (d) a Monitoring, Evaluation and Inspectorate Directorate to be
26 headed by a Director;

27 (e) a Legal Services Directorate to be headed by a Director;

28 (f) Information, Enlightenment and Publication Directorate to be
29 headed by a Director;

30 (g) such other directorates as may be required for the proper

Structure of the
Council

Pension.
Cap. P4 LFN,
2004

1 performance of the functions of the Council.

2 **15.**-(1) Service in the Council shall be approved Service for the
3 purpose of the Pensions Act, and, accordingly, officers and other persons
4 employed in the council shall be entitled to pensions, gratuity and other
5 benefits as are prescribed thereunder.

6 (2) Notwithstanding the provisions of subsection (1) of this section,
7 the council may appoint a person to any office on terms which preclude the
8 grant of a pension, gratuity or other retirement benefits in respect of that office.

9 (3) For the purpose of the application of the provision of the Pensions
10 Act, any power exercisable thereunder by a Minister or other authority of the
11 government of the Federation, other than the power to make regulations under
12 section 35 thereof, is hereby vested in and shall be exercisable by the Council
13 and not by any other person or authority.

Removal and
discipline of
senior staff

14 **16.**-(1) If it appears to the Board that there are reasons for believing
15 that any person employed as a member of the senior staff of the Council, other
16 than the Director General, should be removed from office on grounds of
17 misconduct or inability to perform the functions of his office, the Board shall-

18 (a) give notice of those reasons to the person concerned;

19 (b) afford the person an opportunity of making representation on the
20 matter to the Board in person;

21 (c) if the person concerned or any three members of the Board so
22 request within the period of one month beginning with the date of the notice,
23 make arrangement-

24 (i) for a committee of the Board to investigate the matter and to report
25 on it to the Board; and

26 (ii) for the person in question to be afforded an opportunity of
27 appearing before and being heard by the investigating committee on the matter.

28 (2) If the Board, after considering the report of the Investigating
29 Committee, is satisfied that the person in question should be removed as
30 aforesaid, the Board may remove the person concerned by an instrument in

1 writing signed on the direction of the Board.

2 (3) The Director General of the Council may, in a case of
3 misconduct by a member of staff which, in the opinion of the Director
4 General, is prejudicial to the interest of the Board, suspend such member of
5 staff and any such suspension shall forthwith be reported to the Board.

6 (4) For good cause, any member of staff may be suspended from
7 office or his appointment may be terminated by the Board and for purposes
8 of this section, "good cause" means-

9 (a) any physical or mental incapacity which the Board, after
10 obtaining medical advice considers to be such as to render the person
11 concerned unfit for the discharge of the functions of his/her office;

12 (b) conduct of a scandalous or other disgraceful nature which the
13 board considers to be such as to render the person concerned unfit to
14 continue to hold his office; or

15 (c) conduct which the board considers to be such as to constitute
16 failure or inability of the person concerned to discharge the functions of his
17 office or to comply with the terms and condition of his service.

18 (5) Any person suspended pursuant to this section shall be placed
19 on half pay and the Board shall, before the expiration of a period of three (3)
20 months after the date of such suspension, consider the case against that
21 person and come to a decision as to-

22 (a) whether to continue such person's suspension and if so on what
23 terms (including the portion of his emoluments to be paid to him);

24 (b) whether to reinstate such person to his office, in which case the
25 Board shall restore his full emoluments to him with effect from the date of
26 the suspension;

27 (c) whether to terminate the appointment of the person in question
28 in which case such a person shall not be entitled to the portion of his
29 emoluments withheld during the period of the suspension; or

30 (d) whether to take such lesser disciplinary action against such

1 person (including the restoration of such portion of his emolument that might
2 have been withheld) as the Board may determine.

3 (6) In any case, where the Board, pursuant to this section, decides to
4 continue a person's suspension or decides to take further disciplinary action
5 against a person, the Board shall, before the expiration of a period of three (3)
6 months from the date of such decision, come to a final determination in respect
7 of the case concerning that person.

8 (7) It shall be the duty of any person who signed the instrument of
9 removal by virtue of this section to serve or cause to be served on the person
10 concerned, a copy of the instrument.

11 (8) Nothing in the foregoing provisions of this section shall prevent
12 the Board from making such regulations for the discipline of other categories
13 of staff and workers of the Board as it may think fit.

Discipline of
junior staff

14 17.-(1) If any junior member of the staff is accused of misconduct or
15 inefficiency, the Director General of the Council may suspend him/her for not
16 more than three (3) months and forthwith shall direct the matter the mater to the
17 Junior Staff Appointment and Promotion Committee to-

18 (a) consider the case; and

19 (b) make recommendation as to the appropriate action to be taken by
20 the Director General of the Council.

21 (2) In all cases under this section, the junior member of staff shall be
22 informed in writing of the charges against him/her and be given reasonable
23 opportunity to defend him/herself.

24 (3) The Director General may, after considering the recommendation
25 made pursuant to sub section (1) (b) of this section, dismiss, terminate, retire or
26 downgrade the junior staff concerned.

27 (4) Any person aggrieved by the Director General's decision under
28 subsection (3) of this section may, within a period of 21 days from the date of
29 the receipt of the letter communicating the decision to him/her, address a
30 petition to the Board to reconsider his/her case and the Board's decision thereon

1 shall be final.

2 18.-(1) The Council shall establish a fund from which shall be Funds for the
3 defrayed all expenditure incurred by the Council for the purposes of this Act. Council

4 (2) There shall be paid and credited to the fund of the Council-

5 (a) fees charged for services rendered by the Council;

6 (b) all sums accruing to the Council by way of gifts, endowments,
7 bequests or other voluntary contributions by persons and organizations;

8 (c) foreign aid assistance from bilateral agencies; and

9 (d) subventions and extra budgetary allocations from the Federal
10 Government.

11 19. The Council shall, from time to time, apply the funds at its Expenditure of
12 disposal to- Council

13 (a) the costs of establishing and maintaining the head office of the
14 agency at the Federal Capital Territory, Abuja and its other offices located in
15 other places in Nigeria;

16 (b) pay allowances and other benefits of members of the Board and
17 of its committee;

18 (c) pay the emoluments and entitlement of the Director General of
19 the Council and other members of staff of the Council;

20 (d) pay the personnel, overhead, allowances, benefits and other
21 administrative costs of the Council;

22 (e) the training of members of staff of the Council;

23 (f) provide scholarship and awards for specialized training of
24 personnel;

25 (g) publicize and promote the activities of the Council;

26 (h) support national and international scientific and professional
27 organizations and pay annual and other contributions to such bodies;

28 (i) undertake any other activity in connection with all or any of the
29 functions of the Council.

Exemption from Income tax	1	20. All income derived by the Council from the sources specified in
	2	section 18 (2) of this Act shall be exempt from income tax and all contributions
	3	to the fund of the Council shall be tax deductible.
Capital production income	4	21. Subject to the approval of the Minister, the Council may invest in
	5	the profitable production of capital goods by joint venture, partnership,
	6	shareholding or as sole proprietor, as the case may be, and the net incomes so
	7	generated shall be paid into the Fund of the Council.
Disposal of surplus funds	8	22. The Board may invest any surplus funds in profit yielding
	9	ventures, and notwithstanding that power, the Minister may issue to the
	10	Council directives as he may think necessary as to the disposal of any surplus
	11	funds of the Council.
Annual Estimates	12	23. The Board shall submit to the Minister, not later than 31 October
	13	each year, its programme of work and estimates of its income and expenditure
	14	for the following year.
Accounts and audit	15	24.-(1) The Board shall keep proper accounts of the Council and
	16	proper records in relation to those accounts.
	17	(2) The accounts of the Council shall be audited, not later than six (6)
	18	months after the end of the year to which it relates, by auditors appointed by the
	19	Council from the list and in accordance with the guidelines supplied by the
	20	Auditor General of the Federation.
Annual report	21	25. The Council shall prepare and submit to the Minister, not later
	22	than 30 June in each year, a report on the activities of the Council during the
	23	immediately preceding year, and include in such report a copy of the audited
	24	accounts of the Council for that year and the auditor's report thereon.
Offices and premises	25	26.-(1) For the purpose of providing offices and premises necessary
	26	for the performance of its functions, the Council may, subject to the Land Use
	27	Act-
	28	(a) purchase or take lease on any interest in land, building or property;
	29	and
	30	(b) build, equip and maintain offices and premises.

(2) The Council may subject to the Land Use Act, sell or lease out any office or premises held by it, which is no longer required for the performance of its functions under this Act.

Cap. L5 LFN,
2004

27.-(1) The Council may, from time to time, borrow by overdraft, or otherwise such sums as it may require for the performance of its functions under this Act.

Power to borrow

(2) The Council shall not, without the approval of the Minister, borrow money which exceeds, at any time, the limit set by the Minister.

(3) Notwithstanding sub section (1) of this section, where the sum to be borrowed is in foreign currency the Council shall not borrow the sum without the prior approval of the Minister.

28.-(1) The Council may accept gifts of land, money or other property, upon such terms and conditions, if any, as may be specified by the person or organization making the gift.

Power to accept
gifts

(2) The Council shall not accept any gifts if the conditions attached by the person or organization making the gift are inconsistent with the functions of the Council.

29.-(1) An officer of the Council may, in the course of his duty, at any reasonable time and on production of his certificate of designation if so required-

Power to enter
the premises, etc.

(a) enter (if need be by force) any premises in which he reasonably believes that workers are engaged in any form of employment, both formal and informal employment;

(b) evaluate, access and examine the safety and health activities in such place of work including standards, codes of practices and general observance of optimum safety and health practices;

(c) open and examine, while on the premises, any container, machinery or equipment which he reasonably believes may contain any information relevant to the enforcement of this Act or the regulations or which may help in his investigations.

1 (d) examine any book, document or other record found on the
2 premises which he reasonably believes may contain any information relevant
3 to the enforcement of this Act or the regulations and make copies thereof or
4 extracts therefrom; and

5 (e) seize and detain for such time as may be necessary for the purpose
6 of this Act, any article by means of or in relation to which he reasonably
7 believes any provision of this Act or regulations has been contravened;

8 (2) The owner or person in charge of any premises entered by an
9 officer of the Council in pursuant of this section, and every person found
10 thereon, shall give all reasonable assistance in their power to the officer and
11 shall make available to the officer all such information as the officer may
12 reasonably require for the purposes of this Act.

13 (3) Any article seized under this Act shall be kept or stored in such a
14 place as the officer of the Council may direct and shall be returned to the owner
15 of the person from whom it was seized if the article upon analysis or
16 examination is found to conform with the requirements of this Act and
17 Regulations.

18 (4) Any article seized by an officer of the Council pursuant to this Act
19 or the regulations may be submitted to an analyst for analysis or examinations
20 and the analyst upon making such analysis or examination shall issue a
21 certificate or report in the prescribed form setting forth the result of such
22 analysis or examination, and the officer of the Council shall on demand deliver
23 a copy of such certificate or report to the owner of the article if the article is to
24 be the subject of proceeding under this Act.

25 (5) In this section, the expression "article to which this Act or
26 regulations apply" mean-

27 (a) any machinery, equipment, tool, instrument, chemical;

28 (b) anything used for the manufacture, preparation, preservation,
29 packaging or storage or any article or material whatsoever.

1 30.-(1) A person who obstructs an officer of the Council in the Offences
2 performance of his/her duties under section 29 of this Act shall be guilty of
3 an offence and liable on conviction to a fine of N10,000 or to imprisonment
4 for a term not exceeding two (2) years or to both such fine and
5 imprisonment.

6 (2) Any person who contravenes the provisions of any regulations
7 made under this Act is guilty of an offence and liable on conviction to the
8 penalties specified in the regulations.

9 (3) Where no penalty has been specified, the person shall be liable
10 to a fine of N50,000 or imprisonment for a term of one year or to both such
11 fine and imprisonment.

12 (4) Where an offence under this Act which has been committed by a
13 body corporate is proved to have been committed with the consent or
14 connivance of, or to be attributable to any neglect on the part of any Director,
15 Manager, Secretary or other similar officer of the body corporate or any
16 person purporting to act in any of those capacities, he/she, as well as the
17 body corporate, shall be liable on conviction to a fine of N100,000.

18 (5) The Federal High Court shall have exclusive jurisdiction to try
19 offences under this Act.

20 31.-(1) Subject to the provisions of section 174 of the Constitution
21 of the Federal Republic of Nigeria, 1999 (which relates to the power of the
22 Attorney General of the Federation to institute, continue or discontinue
23 criminal proceedings against any person in a Court of law), any officer of the
24 Council may, with the consent of the Attorney General of the Federation,
25 conduct criminal proceedings in respect of offences under this Act or
26 regulations made under this Act.

27 (2) In judicial proceedings for an offence under this Act or any
28 regulation made under it, the provisions of the Criminal Procedure Act or
29 depending on the venue, the Criminal Procedure Code shall, with such
30 modifications as the circumstance may require, apply in respect of such

Conduct of
proceedings
Cap. C23 LFN,
2004

- 1 matter to the same extent as they apply to the trial of offences generally.
- Legal proceedings 2 **32.**-(1) No suit shall be commenced against the Council before the
3 expiration of a period of one month after written notice of intention to
4 commence the suit shall have been served on the Council by the intending
5 plaintiff or his agent and the notice clearly and explicitly states-
- 6 (a) the cause of action;
7 (b) the particulars of the claim;
8 (c) the name and place of abode of the intending plaintiff; and
9 (d) the relief which he claims.
- 10 (2) The notice referred to in subsection (1) of this section and any
11 summons, notice or other document required or authorized to be served on the
12 Council under the provisions of this Act or any other enactment or law, may be
13 served b-
- 14 (a) delivering the same to the Director General of Council; or
15 (b) sending it by registered post addressed to the Director General at
16 the head office of the Council.
- 17 (3) In any action or suit against the Council, no execution or
18 attachment or process in the nature thereof shall be issued against the Council,
19 but any sums of money which may, by the judgment of the court, be awarded
20 against the Council shall, subject to any directives given by the Council, be
21 paid from the fund of the Council.
- Power of Minister 22 **33.** The Minister may give directives of a general or special character
23 to the Council relating to the performance by the to give directives Council of
24 any or all of its functions under this Act, and it shall be the duty of the Council to
25 comply and give effect to the directives.
- Dissolution of factories 26 **34.**-(1) On the commencement of this Act, the Factories, Inspectorate
27 Department or any other Department or Unit in the Federal Ministry of Labour
28 and Productivity Inspectorate in charge of inspecting factories and workplaces
29 shall Department cease to exist.
- 30 (2) Accordingly the Department as mentioned in subsection (1) above

1 is hereby dissolved and the provisions of the Second Schedule to this Act
2 shall apply in relation to the employees in the said Department and the other
3 matters connected with the Department set out therein.

4 35. The Board may, with the approval of the Minister, make
5 regulations- Power to make
regulations

6 (a) to prescribe the methodologies for private sector payments into
7 the fund of the Council;

8 (b) to prescribe the fees to be paid for services rendered by the
9 Council;

10 (c) generally for the purposes of carrying out or giving full effect to
11 the provision of this Act.

12 PART III - GENERAL DUTIES OF EMPLOYERS AND SELF
13 EMPLOYED PERSONS

14 36. Each employer shall-

15 (a) furnish to each of his employees employment and a place of Duty of employers
16 employment which are free from recognizable hazards that are causing or
17 are likely to cause death or serious physical harm to his employees;

18 (b) comply with the occupational safety and health standards
19 promulgated under this Act;

20 (c) provide at no cost to the worker or employee, occupational
21 health protection and personal protective clothing and equipment, which are
22 appropriate for the nature of the job;

23 (d) arrange the workplace to ensure safety and absence of risks to
24 health in connection with the use, handling, storage, and transportation of
25 articles and substances;

26 (e) provide and maintain plant and systems of work that are safe
27 and without risk to health;

28 (f) provide adequate First Aid facilities;

29 (g) provide such information, instruction, training and supervision
30 as are necessary to ensure safety and health of all workers and employees;

1 (h) prepare, implement and constantly revise all written statement of
2 general policy with respect to safety and health of the workers;

3 (i) ensure cooperation between Management, workers and their
4 representatives on matters relating to safety and health at the workplace;

5 (j) ensure that no measures prejudicial to a worker should be taken by
6 reference to the fact that, in good faith, he complained of what is considered to
7 be a breach of statutory requirements or a serious inadequacy in the measures
8 taken by the employer in respect of occupational safety and health and the
9 working environment;

10 (k) undertake studies and keep abreast of new scientific and technical
11 knowledge necessary to comply with the fore going clauses and the provisions
12 of the safety and health laws and regulations;

13 (l) verify the effectiveness of applicable standards on occupational
14 safety and health, periodically, using safety audits, environmental monitoring
15 and health screening of workers and keep records of such verification
16 including records of all notifiable occupational accidents, injuries, and
17 occupational diseases, records of authorizations and exemptions, and data
18 concerning exposure to specialized substances, agents and work processes;

19 (m) provide compensations for work related disabilities or workers
20 and rehabilitation of such workers as reasonably practicable;

21 (n) formulate safety and health policy and also safety and health
22 committee in the workplace with the responsibility of overseeing the
23 observance and implementation of the safety and health policy of the
24 establishment;

25 (o) notify the Council in writing, within three weeks of its occurrence,
26 any accident, dangerous occurrence, occupational poisoning and diseases that
27 occurs in his workplace or to the workers.

Duties of employers
and self employed
persons to persons
other than their
employees

28 37. The provisions of this Act as it relates to the duties of employers
29 and self employed persons shall also apply mutatis mutandis to occupiers of a
30 place of work and persons other than employees provided he/she retains the

1 legal and equitable rights to make use of, or come in contact with the work
2 environment, instruments, machinery, plants, chemicals, place of work,
3 etc.

4 38.-(1) If, upon inspection or investigation, the Director General of
5 National Council for Occupational Safety and Health or his authorized
6 representative believes that an employer has violated a requirement of
7 section 36 of this Act, of any standard, Rule or Order promulgated pursuant
8 to his powers under this act, he shall with reasonable promptness issue a
9 citation to the employer.

10 (2) Each citation shall be in writing and shall describe with
11 particularity the nature of the violation, including a reference to the
12 provisions of the Act, standard, rule, regulation, or order alleged to have
13 been violated. The citation shall fix a reasonable time for the abatement of
14 the violation.

15 (3) Each citation issued under this section, or a copy or copies
16 thereof, shall be prominently posted, as prescribed in regulations issued by
17 the Council, at or near each place a violation referred to in the citation
18 occurred.

19 (4) No citation may be issued under this section after the expiration
20 of six (6) months following the occurrence of any violation.

21 39.-(1) Where the employer wishes to contest the citation by the
22 Council done pursuant to section 38, he shall within fifteen (15) working
23 days notify the Council that he wishes to contest the citation or penalty. If,
24 within fifteen (15) working days from the receipt of the notice issued by the
25 Council, the employer fails to notify the Council that he intends to contest
26 the citation or penalty, the citation and the assessment, as proposed shall be
27 deemed a final order of the Council and not subject to review by any Court or
28 agency.

Right of employer
to contest citation

29 (2) If the Council has reason to believe that an employer has failed
30 to correct a violation for which a citation has been issued within the period

1 permitted for its correction (which period shall not begin to run until the entry
2 of a final order by the Tribunal in the case of any review proceedings under this
3 Section initiated by the employer in good faith and not solely for delay or
4 avoidance of penalties), the Council shall notify the employer by certified mail
5 of such failure and the penalty, and that the employer has fifteen working days
6 within which to notify the Council that he wishes to contest the Council's
7 notification or the proposed penalty. If, within fifteen (15) working days from
8 the receipt of the notification issued by the Council, the employer fails to notify
9 the Council that he intends to contest the notification or penalty, the
10 notification and assessment as proposed, shall be deemed a final order of the
11 Tribunal and not subject to review by any Court or agency.

12 (3) (a) If an employer notifies the Council that he intends to contest a
13 citation issued under Section 38 or notification issued under subsection (a) or
14 (b) of this section, or if, within fifteen (15) working days of the issuance of a
15 citation under section 38 (a) any employee or representative of employees files
16 a notice with the Council alleging that the period of time fixed in the citation for
17 the abatement of the violation is unreasonable, the Council shall immediately
18 advise the Tribunal of such notification, and the Tribunal shall afford an
19 opportunity for a hearing;

20 (b) Upon the determination of the hearing, the Tribunal shall
21 thereafter issue an order, based on findings of fact, affirming, modifying, or
22 vacating the Council's citation or proposed penalty, or directing appropriate
23 relief, and such order shall become final thirty (30) days after its issuance;

24 (c) Upon a showing by an employer of a good faith effort to comply
25 with the abatement requirements of a citation, and that abatement has not been
26 completed because of factors beyond his reasonable control, the Council, after
27 an opportunity for a hearing as provided in subsection (a), shall issue and order
28 affirming or modifying the abatement requirements in such citation;

29 (d) The rules of procedure prescribed by the Tribunal shall provide
30 affected employees an opportunity to participate as parties to hearings under

1 this subsection.

2 40.-(1) Any person adversely affected or aggrieved by an order of Judicial Review
3 the Tribunal issued under Section 39 may obtain review of such order to the
4 Court of appeal, by filing in such court within sixty (60) days following the
5 issuance of such order a written petition praying that the order be modified
6 or set aside.

7 (2) (a) A copy of such petition shall be forthwith transmitted by the
8 Clerk of the Court to the Tribunal and to the other parties, and thereupon the
9 Tribunal shall file in the Appeal Court the record in the proceedings as
10 provided in the Court of Appeal Rules;

11 (b) Upon such filing, the Court shall have jurisdiction of the
12 proceeding and of the question determined therein, and shall have power to
13 grant such temporary relief or restraining order as it deems just and proper,
14 and to make and enter upon the pleadings, testimony, and proceeding set
15 forth in such record a decree affirming, modifying, or setting aside in whole
16 or in part, the order of the Tribunal and enforcing the same to the extent that
17 such order is affirmed or modified;

18 (c) The commencement of proceedings under this subsection shall
19 not, unless ordered by the Court, operate as a stay of the order of the
20 Tribunal. No objection that has not been urged before the Tribunal shall be
21 considered by the Court, unless the failure or neglect to urge such objection
22 shall be excused because of extraordinary circumstances;

23 (d) The findings of the tribunal with respect to questions of fact, if
24 supported by substantial evidence on the record considered as a whole, shall
25 be conclusive. If any party shall apply to the Court for leave to adduce
26 additional evidence, and shall show to the satisfaction of the Court that such
27 additional evidence is material and that there were reasonable grounds for
28 their failure to adduce such evidence in the hearing before the Tribunal, the
29 Court may order such additional evidence to be taken before the Tribunal
30 and to be made a part of the record;

1 (e) The Tribunal may modify its findings as to the facts, or make new
2 findings, by reason of additional evidence so taken and filed, and it shall file
3 such modified or new findings, which findings with respect to questions of
4 fact, if supported by substantial evidence on the record considered as a whole,
5 shall be conclusive, and its recommendations, if any, for the modifications or
6 setting aside of its original order;

7 (f) Upon the filing of the record with it, the jurisdiction of the Court
8 shall be exclusive and its judgment and decree shall be final.

9 (3) (a) The Council may also obtain review or enforcement of any
10 final order of the Tribunal by filing a petition for such relief in the Court of
11 Appeal and the provisions of Sections 40 (2) (a) (c) and (3) shall govern such
12 proceedings to the extent applicable;

13 (b) If no petition for review, as provided in subsection (a), is filed
14 within sixty (60) days after service of the Council's order, the Tribunal's
15 findings of fact and order shall be conclusive in connection with any petition
16 for enforcement which is filed by the Council after the expiration of such sixty
17 day period. In any such case, as well in the case of a non contested citation or
18 notification by the Council which has become a final order of the tribunal under
19 subsection (a) or (b) of section 40, the clerk of the Court, unless otherwise
20 ordered by the Court, shall forthwith enter a decree enforcing the order and
21 shall transmit a copy of such decree to the Council and the employer named in
22 the petition;

23 (c) In any contempt proceeding brought to enforce a decree of appeals
24 entered pursuant to this subsection or subsection (a), the Court of Appeal may
25 access the penalty provided in section 46 of this Act, in addition to invoking
26 any other available remedies.

Discrimination
or retaliation
against employee

27 41.-(1) No person shall discharge or in any manner discriminate or
28 retaliate against any employee because such employee has filed any complaint
29 or caused to be instituted any proceedings under or related to this Act or has
30 testified or is about to testify in any such proceeding or because of the exercise

1 by such employee on behalf of himself or others of any right afforded by this
2 Act.

3 (2) (a) Any employee who believes that he has been discharged or
4 otherwise discriminated or retaliated against by any person in violation of
5 this sub section may, within thirty (30) days after such violation occurs, file a
6 complaint with the Council alleging such discrimination or retaliation.
7 Upon receipt of such complaint, the Council shall cause such investigation
8 to be made as it deems appropriate;

9 (b) If upon such investigation, the Council determines that the
10 provisions of this subsection have been violated, he shall bring an action in
11 the Federal High Court against such person. In any such action, the Federal
12 High Court shall have jurisdiction, for cause shown to restrain violations of
13 subsection (a) of this subsection and order all appropriate relief including
14 rehiring or reinstatement of the employee to his former position with arrears
15 of payments;

16 (c) Within 90 days of the receipt of a complaint filed under this
17 subsection, the Council shall notify the complainant of his determination
18 under subsection (b) of this section.

19 PART IV - THE OCCUPATIONAL SAFETY AND HEALTH TRIBUNAL

20 42.-(a) The Occupational Safety and Health Tribunal is hereby
21 established. The Tribunal shall be composed of three members who shall be
22 appointed by the President, from among persons who by reason of training,
23 education or experience are qualified to carry out the functions of the
24 Tribunal under this Act. The President shall designate one of the members
25 of the Tribunal to serve as Chairman.

Establishment
and membership

26 (b) The term of members of the Tribunal shall be six (6) years
27 except that-

Term of office

28 (i) the members of the Commission first taking office shall serve,
29 as designated by the President at the time of appointment, one for a term of

- 1 two (2) years, one for a term of four (4) years, and one for a term of six (6) years;
- 2 (ii) a vacancy caused by the death, resignation, or removal of a
- 3 member prior to the expiration of the term for which he was appointed shall be
- 4 filled only for the remainder of such unexpired term.
- Removal from office 5 (c) A member of the Tribunal may be removed by the President for
- 6 inefficiency, neglect of duty, or malfeasance in office;
- Location 7 (d) The principal office of the Tribunal shall be in Abuja. Whenever
- 8 the Tribunal deems it fit that the convenience of the public or of the parties may
- 9 be promoted, or delay or expense may be minimized, it may hold hearings or
- 10 conduct other proceedings at any other place;
- 11 (e) The Chairman of the Tribunal shall be responsible on behalf of the
- 12 Tribunal for the administrative operations of the Tribunal and shall appoint
- 13 such administrative law judges and other employees as he deems necessary to
- 14 assist in the performance of the Tribunal's functions provided, that assignment,
- 15 removal and compensation of administrative law judges shall be in accordance
- 16 with the resolution of the Federal Executive Council.
- Quorum 17 (f) For the purpose of carrying out its function under this act, two
- 18 members of the Tribunal shall constitute a quorum and official action can be
- 19 taken only on the affirmative vote of at least two members;
- Public records 20 (g) Every official act of the tribunal shall be entered of record, and its
- 21 hearings and records shall be open to the public. The Tribunal is authorized to
- 22 make such rules as are necessary for the orderly transaction of its proceedings.
- 23 Unless the Tribunal has adopted a different rule, its proceedings shall be in
- 24 accordance with that applicable in the Federal High Court;
- 25 (h) The Tribunal may order testimony to be taken by deposition of any
- 26 proceeding pending before it at any state of such proceeding. Any person may
- 27 be compelled to appear and depose, and to produce books, papers, or
- 28 documents, in the same manner as witnesses may be compelled to appear and
- 29 testify and product like documentary evidence before a Court of law;
- 30 (i) An administrative law judge appointed by the Tribunal shall hear

1 and make a determination upon any proceeding instituted before the
2 Tribunal and any motion in connection therewith, assigned to such
3 administrative law judge by the Chairman of the Tribunal, and shall make a
4 report of any such determination which constitutes his final disposition of
5 the proceeding. The report of the administrative law judge shall become the
6 final order of the Tribunal within thirty (30) days after such report by the
7 administrative law judge, unless within such period any Tribunal member
8 has directed that such report shall be reviewed by the Tribunal.

9 PART V - PROCEDURES TO COUNTERACT IMMINENT DANGERS

10 43.-(1) The Federal High Court shall have jurisdiction, upon Power of the Court
11 petition of the Council, to restrain any conditions or practices in any place of
12 employment which are such that a danger exists which could reasonably be
13 expected to cause death or serious physical harm immediately or before the
14 imminence of such danger can be eliminated through the enforcement
15 procedures otherwise provided by this Act.

16 (2) Any order issued under subsection (1) may require such steps to
17 be taken as may be necessary to avoid, correct, or remove such imminent
18 danger and prohibit the employment or presence of any individual in
19 locations or under conditions where such imminent danger exists, except
20 individuals whose presence is necessary to avoid, correct, or remove such
21 imminent danger or to maintain the capacity of a continuous process
22 operation to resume normal operations without a complete cessation of
23 operations or where a cessation of operations is necessary, to permit such to
24 be accomplished in a safe and orderly manner.

25 (3) Upon the filing of any such petition, the court shall have
26 jurisdiction to grant such injunctive relief or temporary restraining order
27 pending the outcome of an enforcement proceeding pursuant to this Act. The
28 proceeding shall be as provided by the Federal High Court rules, except that
29 no temporary restraining order issued without notice shall be effective for a
30 period longer than seven (7) days.

1 (4) Whenever and as soon as an inspector concludes that conditions or
2 practices described in subsection (1) exists in any place of employment, he
3 shall inform the affected employees and employers of the danger and that he is
4 recommending to the council that relief be sought.

5 (5) If the Council arbitrarily or capriciously fails to seek relief under
6 this section, any employee who may be injured by reason of such failure, or the
7 representative of such employees, might bring an action against the Council.
8 for a writ of mandamus to compel the Council to seek such an order and for
9 such further relief as may be appropriate.

Confidentiality
of trade secrets

10 44.-(1) All information reported to or otherwise obtained by the
11 Council or its representative in connection with any inspection or proceeding
12 under this Act which contains or which might reveal a trade secret referred to in
13 any existing law in force shall be considered confidential for the purpose of that
14 law, except that such information may be disclosed to other officers or
15 employees concerned with the implementation of the provisions of this Act or
16 when relevant in any proceeding under this Act.

17 (2) In any such proceeding referred in subsection (1), the Council, the
18 Tribunal or the Court shall issue such orders as may be appropriate to protect
19 the confidentiality of trade secrets.

Variation,
tolerances and
exemptions

20 45. The Director General of Council, on the record, after notice and
21 opportunity for a hearing may provide such reasonable limitations and may
22 make such rules and regulations allowing reasonable variations, tolerances,
23 and exemptions to and from any or all provisions of this Act as he may find
24 necessary and proper to avoid serious impairment of national defense. Such
25 action shall not be in effect for more than six (6) months without notification to
26 the affected employees and an opportunity not being afforded for a hearing.

27 PART VI - PENALTIES

Penalties

28 46.-(1) (a) Any employer who willfully or repeatedly violates the
29 requirements of Section 36 of this Act, any standard, rule, or order promulgated
30 pursuant to powers conferred on the Council by this Act, or regulations

1 prescribed pursuant to this Act, may be assessed a civil penalty of not more
2 than x250,000 for each violation, but not less than x100,000 for each willful
3 violation;

4 (b) Any employer who has received a citation for a serious
5 violation of the requirements of Section 36 of this Act, or of any standard,
6 rule or order promulgated pursuant to the provisions of this Act, or of any
7 regulations prescribed pursuant to this Act, shall be assessed a civil penalty
8 of up to x100,000 for each such violation;

9 (c) Any employer who has received a citation for a violation of the
10 requirements of section 36 of this Act, of any standard, rule, or order
11 promulgated pursuant to the provisions of this Act, or of regulations
12 prescribed pursuant to this Act, and such violation is specifically determined
13 not to be of a serious nature, may be assessed a civic penalty of up to
14 N100,000 for each violation;

15 (d) Any employer who fails to correct a violation for which a
16 citation has been issued under section 38 (1) within the period permitted for
17 its correction (which period shall not begin to run until the date of the final
18 order of the Tribunal in the case of any review proceeding under section 39
19 initiated by the employer in good faith and not solely for delay or avoidance
20 of penalties), may be assessed a civil penalty of not more than N50,000 for
21 each day during which such failure or violation continues;

22 (e) Any employer who willfully violates an standard, rule or order
23 promulgated pursuant to the provisions of this Act, or of any regulations
24 prescribed pursuant to this Act, and that violation caused death to any
25 employee, shall, upon conviction, be punished by a fine of not less than
26 N300,000 or by imprisonment for not more than two years, or by both;
27 except that if the conviction is for a violation committed after a first
28 conviction, of such person, punishment shall be by a fine of not less than
29 N500,000 or by imprisonment for not more than three years, or by both.

Giving notice
inspection without
authority

1 (f) Any person who gives advance notice of any inspection to be
2 conducted under this Act, without authority from the Director General of
3 council or his designee, shall, upon conviction be punished by a fine of not
4 more than N20,000 or by imprisonment for not more than six (6) months, or by
5 both;

Making false
report

6 (g) Whoever knowingly makes any false statement, representation, or
7 certification in any application, record, report, plan or other document filed or
8 required to be maintained pursuant to this Act shall, upon conviction, be
9 punished by a fine of not more than N50,000, or by imprisonment for not more
10 than six (6) months, or by both;

11 (h) Any employer who violates any of the posting requirements, as
12 prescribed under the provisions of this Act, shall be assessed a civil penalty of
13 up to N50,000 for each violation.

14 (2) (a) The Tribunal shall have authority to assess all civil Penalties
15 provided in this section, giving due consideration to the appropriateness of the
16 penalty with respect to the size of the business of the employer being charged,
17 the gravity of the violation, the good faith of the employer, and the history of
18 previous violations;

19 (b) For the purposes of this Section, a serious violation shall be
20 deemed to exist in a place of employment if there is a substantial probability
21 that death or serious physical harm could result from a condition which exists,
22 or from one or more practices, means, methods, operations, or processes which
23 have been adopted or are in use, in such place of employment unless the
24 employer did not, and could not with the exercise of reasonable diligence,
25 know of the presence of the violation;

26 (c) Civil penalties owed under this Act shall be paid to Council and
27 shall accrue to the Council and may be recovered in a civil action in the name of
28 the Council brought in the appropriate Court of law.

Offences
committed by
agents and trade
union

29 47.-(1) Where any offence as stipulated in this Act is committed by an
30 agent, trade union or any other party, acting on behalf of the employer or

1 engaged by him, or is reasonably believed to be engaged by him, the
2 employer shall be deemed to have substantial interest in the commission of
3 the offence and shall be fully responsible as if he had committed the offence
4 himself.

5 (2) Where a person, including a juristic person, is perceived to have
6 aided and abetted in the commission of an offence under this Act, he may be
7 charged along with the principal violator and shall, upon conviction, be
8 subject to the same penalty as the principal offender.

Aiding and
abetting

9 PART VII - GENERAL DUTY OF EMPLOYEES/WORKERS

10 48.-(1) It shall be the duty of every worker in the formal or informal
11 sector while at work to:

Duties of workers

12 (a) take reasonable care for his/her health and safety and of other
13 persons who may be affected by his/her acts or omissions;

14 (b) comply with the instruction given for their own safety and
15 health and those of others and with safety and health procedures;

16 (c) co operate with the National Council for Occupational Safety
17 and Health and other bodies established by this Act, and employers in the
18 fulfillment of the obligations placed on him/her by this Act to secure the
19 occupational safety, health and welfare in the workplace as defined by this
20 Act;

21 (d) use safety and health devices and protective equipment
22 correctly and not render them inoperative;

23 (e) report forthwith to their safety and health officer, immediate
24 supervisor, the closest office of the Council any situations that could present
25 or presents a hazard, or that imminent danger exists and the Council shall
26 take steps to investigate the report as stipulated in this Act;

27 (f) report every accident or injury to health or death of an employee
28 or worker to the employer, the safety and health officer and the Council for
29 immediate remedial action.

Establishment of Safety and Health Committee	1	49.-(1) Every employer who has more than 40 workers or as directed
	2	by the Director General of the Council, must establish a Safety and Health
	3	Committee at their workplace.
Objectives of the Committee	4	(2) The objective of the Committee is to foster co operation and
	5	consultation between management and workers in identifying, evaluating, and
	6	controlling hazards at workplaces.
Composition	7	(3) The membership of the Committee shall consist of a Chairman, a
	8	Secretary, representatives of employers and representatives of employees.
Functions t	9	(4) The safety and Health Committee shall-
	10	(a) keep under review the measures taken to ensure the safety and
	11	health of persons at the workplace;
	12	(b) investigate any matters at the workplace that is considered unsafe
	13	or is a risk to health and which has been brought to the attention of the
	14	employer;
	15	(c) investigate any matters which has been brought to the attention of
	16	the employer;
	17	(d) resolve any matter that is not safe or risky and if it is unable to do
	18	so, request the Director General of Council to carry out an inspection;
	19	(e) perform other functions as may be prescribed.
Responsibilities of Federal Ministries, Agencies, Parastatals Departments, etc.	20	50.-(1) It shall be the responsibility of the head of Federal Agency,
	21	Ministry, Commission, Parastatal, Department, etc. to establish and maintain
	22	on effective and comprehensive occupational safety and health programme
	23	which is consistent with the standards promulgated under this Act or in
	24	pursuant of the powers conferred by this Act. The head of each Ministry,
	25	Agency, Parastatal or Department shall (after consultation with representatives
	26	of employees thereof)-
	27	(a) provide safe and healthy places and conditions of employment
	28	consistent with the standards set in this Act;
	29	(b) acquire, maintain and require the use of safety equipment, and
	30	devices reasonably necessary to protect employees;

(c) keep adequate records of all occupational accidents and illness for proper evaluation and necessary corrective action; Record keeping

(d) consult with the Minister or his representative with regard to the adequacy as to form and content of records kept pursuant to subsection (1) (c) of this section; and

(e) make annual report to the Minister with respect to occupational accidents and injuries and the Ministry's or Agency's programme under this section.

(2) The Minister or his representative shall have access to records and reports kept and filed by the Federal Ministries, Agencies, Parastatals and Departments pursuant to subsection (1) (c) and (e) of this section unless those records and reports are specifically required by presidential order to be kept secret in the interest of national security or foreign policy, in which case the Minister shall have access to such information as will not jeopardize national security or foreign policy.

PART VIII - RESEARCH AND RELATED ACTIVITIES

51.-(1) The Council and all relevant agencies and the academia shall facilitate quality research and analysis of occupational safety and health data. Such research, experiments, and demonstrations relating to occupational safety and health, including studies of psychological factors involved, and relating to innovative methods, techniques, and approaches for dealing with occupational safety and health problems. Research and Development

(2) The Council shall from time to time consult with the Ministry of Health, in order to develop specific plans for such research, demonstrations, and experiments as are necessary to produce criteria, including identifying toxic substances, enabling the Council to meet its responsibility for the formulation of safety and health standards under this Act, and the Minister of Health, on the basis of such research, demonstrations, and experiments, and any other information available to him, shall develop and publish at least annually such criteria as will effectuate the purposes of this Act. Consultation with the Ministry of Health

1 (3) The Minister of Health together with the Council, on the basis of
2 such research, demonstrations, and experiments, and any other information
3 available to him, shall develop criteria dealing with toxic materials and
4 harmful physical agents and substances which will describe exposure level that
5 are safe for various periods of employment, including but not limited to
6 exposure levels at which no employee will suffer impaired health or functional
7 capacities or diminished life expectancy as a result of his work experience.

8 (4) The Minister of Health, working with the Council shall also
9 conduct special research, experiments and demonstrations relating to
10 occupational safety and health as are necessary to explore new problems,
11 including those created by new technology in occupational safety and health,
12 which may require ameliorative action beyond that which is otherwise
13 provided for in the operating provisions of this Act. The Ministry of Health
14 shall also conduct research into the motivational and behavioral factors
15 relating to the field of occupational safety and health.

16 (5) The Council in collaboration with the Ministry of Health, shall
17 publish within six (6) months of enactment of this Act, and thereafter as needed
18 but at least annually a list of all known toxic substances by generic family or
19 other useful grouping, and the concentrations at which such toxicity is known
20 to occur.

21 (6) Upon a written request by any employer or authorized
22 representative of employees, the Ministry of Health shall determine,
23 specifying with reasonable particularity the grounds on which the request is
24 made, whether any substance normally found in the place of employment has
25 potentially toxic effects in such concentrations as used or found, and shall
26 submit such determination both to employers and affected employees as soon
27 as possible.

28 (7) If the Minister of Health determines that any substance is
29 potentially toxic at the concentrations in which it is used or found in a place of
30 employment, and such substance is not covered by an occupational safety and

1 health standard promulgated under this Act, the Minister of Health shall
2 immediately submit such determination to the Council, together with all
3 pertinent criteria.

4 (8) Within two years of enactment of this Act, and annually
5 thereafter, the Minister of Health shall conduct and publish industry wide
6 status of the effect of chronic or low level exposure to industrial materials,
7 process, and stress on the potential for illness, disease, or loss of functional
8 capacity in aging adults. Annual Studies

9 (9) The Minister of Health is authorized to make inspections and
10 question employers and employees as provided in section 29 of this Act in
11 order to carry out his functions and responsibilities under this section. Inspections

12 (10) Information obtained by the Council and the Minister of Health under
13 this Section shall be disseminated by the Council to employers and
14 employees and organizations thereof.

15 (11) The functions of the Minister of Health under this Act shall, to
16 the extent feasible, be delegated to the Director of the National Institute for
17 Occupational Safety and Health established by section 56 of this Act. Delegation of functions

18 52.-(1) The Minister of Health, after consultation with the Council
19 and other appropriate federal departments and agencies, shall conduct,
20 directly or by grants or contracts- Training and employee education

21 (a) education programmes to provide an adequate supply of
22 qualified personnel to carry out the purposes of this Act; and

23 (b) informational programmes on the importance of and proper use
24 of adequate safety and health equipment.

25 (2) The Council, in consultation with the Ministry of Health shall-

26 (a) provide for the establishment and supervision of programmes
27 for the education and training of employers and employees in the
28 recognition, guidance, and prevention of unsafe or unhealthful working
29 conditions in employments covered by this Act, and;

30 (b) consult with and advise employers and employees, and

Cooperative
agreements with
States

1 organizations representing employers and employees as to effective means of
2 preventing occupational injuries and illness.

3 53.-(1) The Council shall establish and support cooperative
4 agreements with the States under which employers subject to this Act may
5 consult with State personnel with respect to-

6 (a) the application of occupational safety and health requirements
7 under this Act; and

8 (b) voluntary efforts that employers may undertake to establish and
9 maintain safe and healthy employment and places of employment.

10 (2) Pursuant to such agreements the State shall provide on site
11 consultation at the employer's worksite to employers who request such
12 assistance. The State may also provide other education and training
13 programmes for employers and employees in the State. The State shall ensure
14 that on site consultations conducted pursuant to such agreements include
15 provision for the participation by employees.

16 (3) Activities under this subsection shall be conducted independently
17 of any enforcement activity. If an employer fails to take immediate action to
18 eliminate employee exposure to an imminent danger identified in a
19 consultation or fails to correct a serious hazard so identified within a
20 reasonable time, a report shall be made to the appropriate enforcement
21 authority for such action as is appropriate.

On-site
consultative
visit

22 54. The Council shall, by regulation after notice and opportunity for
23 comment, establish rules under which an employer-

24 (a) which requests and undergoes an on site consultative visit
25 provided under this subsection;

26 (b) which corrects the hazards that have been identified during the
27 visit within the time frames established by the State and agrees to request a
28 subsequent consultative visit if major changes in working conditions or work
29 processes occur which introduce new hazards in the workplace; and

30 (c) which is implementing procedures for regularly identifying and

1 preventing hazards regulated under this Act and maintains appropriate
2 involvement of, and training for, management and non management
3 employees in achieving safe and healthy working conditions, may be
4 exempt from an inspection (except an inspection requested by workers or
5 their representative or an inspection to determine the cause of a workplace
6 accident which resulted in the death of one or more employees) for a period
7 of one year from the closing of the consultative visit.

8 55. A State shall provide worksite consultations under section 53
9 (2) at the request of the employer. Priority in scheduling such consultations
10 shall be assigned to requests from small business which are in higher danger
11 industries or have the most hazardous conditions at issue in the request.

Duty of State to
provide worksite
consultation

12 PART IX - NATIONAL INSTITUTE FOR OCCUPATIONAL SAFETY
13 AND HEALTH

14 56.-(1) It is hereby established a National Institute for
15 Occupational Safety and Health (in this Act known as "the institute") in the
16 Ministry of Health in order to carry out the policy set forth in section 51 of
17 this Act and to perform the functions of the Minister of Health under sections
18 51 and 52 of this Act.

Establishment

19 (2) The Institute shall be headed by a Director who shall be
20 appointed by the Minister of Health, and who shall serve for a term of four
21 (4) years unless previously removed by the Minister of Health.

Appointment
and term of
Director

22 (3) The Institute is authorized to-

23 (a) develop and establish recommended occupational safety and
24 health standards; and

Functions and
powers

25 (b) perform all functions of the Minister of Health under sections
26 51 and 52 of this Act.

27 57.-(1) The Director of the Institute may, upon his own initiative, or
28 upon the request of the Minister of Health-

Powers of the
Director

29 (a) conduct such research and experimental programmes as he
30 determines are necessary for the development of criteria for new and

1 improved occupational safety and health standards; and

2 (b) after consideration of the results of such research and
3 experimental programmes make recommendations concerning new and
4 improved occupational safety and health standards. Any occupational safety
5 and health standard recommended pursuant to this Section shall immediately
6 be forwarded to the Ministers of Health and Labour and to the National Council
7 for Occupational Safety and Health.

8 (2) In addition to any authority vested in the Institute by other
9 provisions of this Section, the Director, in carrying out the functions of the
10 Institute, has the powers to-

11 (a) prescribe such regulations as he deems necessary governing the
12 manner in which its functions shall be carried out;

13 (b) receive money and other property donated, bequeathed, or
14 devised, without condition or restriction other than that it be used for the
15 purposes of the Institute and to use, sell, or otherwise dispose of such property
16 for the purpose of carrying out its functions;

17 (c) receive (and use, sell, or dispose of, in accordance with subsection
18 (b) above, money and other property donated, bequeathed, or devised to the
19 Institute with a condition or restriction, including a condition that the Institute
20 use other funds of the Institute for the purposes of the gift;

21 (d) in accordance with the Civil Service laws, appoint and fix the
22 remuneration of such personnel as may be necessary to carry out the provisions
23 of this section;

24 (e) obtain the services of experts and consultants in accordance with
25 the provisions of this Act;

26 (f) accept and utilize the services of voluntary and non compensated
27 personnel and reimburse them for travel expenses, in accordance with its
28 regulations;

29 (g) enter into contracts, grants or other arrangements, or
30 modifications thereof to carry out the provisions of this Section, and such

1 contracts or modifications thereof may be entered into without performance
2 or other bonds, and without regard to any other provision of law relating to
3 competitive bidding;

4 (h) make other necessary expenditures.

5 58. The Director shall submit to the Minister of Health, to the
6 President, and to the National Assembly an annual report of the operations
7 of the Institute under this Act, which shall include a detailed statement of all
8 private and public funds received and expended by it, and such
9 recommendations as he deems appropriate.

Annual report
to the Minister
of Health, President
and National
Assembly

10 PART X - MISCELLANEOUS

11 59.-(1) In order to further the purposes of this Act, the Council, in
12 consultation with the Minister of Health, shall develop and maintain an
13 effective programme of collection, compilation, and analysis of
14 occupational safety and health statistics. Such programme may cover all
15 employments whether or not subject to any other provisions of this Act.

Collaboration
of the Council
with the Minister
of Health

16 (2) The Council shall compile accurate statistics on work injuries
17 and illnesses which shall include all disabling, serious, or significant
18 injuries and illnesses, whether or not involving loss of time from work, other
19 than minor injuries requiring only first aid treatment, loss of consciousness,
20 restriction of work or motion, or transfer to another job.

21 60.-(1) Each recipient of a grant under this act shall keep such
22 records as the Council or the Minister of Health shall prescribe, including
23 records which fully disclose the amount and disposition by such recipient of
24 the proceeds of such grants, the total cost of the project or undertaking in
25 connection with which such grant is made or used, and the amount of that
26 portion of the cost of the project or undertaking supplied by other sources,
27 and such other records as will facilitate an effective audit.

Audit

28 (2) The Minister, or the Minister for Health and the Auditor
29 General of the Federation, or any of their duly authorized representatives,
30 shall have access for the purpose of audit and examination to any books,

1 documents, papers, and records of the recipients of any grant under this Act that
2 are pertinent to any such grant.

Annual reports

3 61. Not later than 30 June in each year, and in addition to the
4 responsibilities already imposed by section 25 of this act, the Council, the
5 Institute and the Minister for Health shall each prepare and submit to the
6 President for transmission to the National Assembly-

7 (a) a report on the extent of implementation of their respective
8 responsibilities as imposed by this Act;

9 (b) the needs and requirements in the field of occupational safety and
10 health;

11 (c) information regarding occupational safety and health standards
12 and criteria for such standards developed during the preceding year;

13 (d) evaluation of standards and criteria previously developed under
14 this Act;

15 (e) evaluation of the degree of observance of applicable occupational
16 safety and health standards;

17 (f) a summary of inspection and enforcement activity undertaken;

18 (g) an analysis and evaluation of research activities for which results
19 have been obtained under governmental sponsorship;

20 (h) an analysis of major occupational diseases;

21 (i) evaluation of available control and measurement technology for
22 hazards for which standards or criteria have been developed during the
23 preceding year;

24 (j) a description of co operative efforts undertaken between
25 Government agencies and other interested parties in the implementation of this
26 Act during the preceding year;

27 (k) a progress report on the development of an adequate supply of
28 trained manpower in the field of occupational safety and health;

29 (l) estimates of future needs and the efforts being made by
30 Government and others to meet those needs;

(m) a list of all toxic substances in industrial usage for which labeling requirements, criteria or standards have not yet been established; and

(n) such further recommendation for additional legislation as are deemed necessary to protect the safety and health of the worker and improve the administration of this Act.

62. There are authorized to be appropriated to carry out this Act for each fiscal year such sums as the National Assembly shall deem necessary. Appropriation

SCHEDULES

FIRST SCHEDULE

SUPPLEMENTARY PROVISIONS RELATING TO THE COUNCIL AND TO THE BOARD

1. Subject to this Act and Section 27 of the Interpretation Act, the Board may make standing orders regulating the proceedings of the Board and any Committee thereof.

2. Every meeting of the Board shall be presided over by the Chairman and if the Chairman is unable to attend a particular meeting, the members at the meeting shall elect one of their members to preside at the meeting.

3. The quorum at a meeting of the board shall consist of the Chairman (or in an appropriate case, the person presiding at the meeting pursuant to paragraph 2 of this schedule and six other members.

4. The Board may on any special occasion, co opt any person to be member of the Board for as many meetings as it may deem necessary, and that person while so co opted shall have all the rights and privileges of a member, except that he shall not be entitled to vote or count towards a quorum.

5.-(1) Subject to its standing orders, the Board may appoint such number of standing and adhoc Committees as it thinks fit to consider and report on any matter with which the Council is concerned.

1 (2) Every committee appointed under the provisions of subparagraph
2 (1) of this paragraph shall be presided over by a member of the Board and shall
3 be made up of such number of persons, not necessarily members of the Board,
4 as the Board may determine in each case.

5 6. The decision of a committee shall be of no effect until it is
6 confirmed by the Council.

7 *Miscellaneous*

8 7. The fixing of the seal of the council shall be authenticated by the
9 Signature of the Chairman of the Board and Director General of the Council
10 such other member authorized generally or specially by the Board to act for that
11 purpose.

12 8. Any contract or instrument, which, if made by a person not being a
13 body corporate, would not be required to be under seal, may be made or
14 executed on behalf of the Council by the Chairman or by any other person
15 authorized generally or specifically by the Board to act for their purpose.

16 9. Any document purporting to be a contract, an instrument or other
17 document signed or sealed on behalf of the Council shall be received in
18 evidence and, unless the contrary is proved, be presumed without further proof,
19 to have been so signed or sealed.

20 10. The validity of a proceeding of the Board or of a Committee
21 thereof shall not be adversely affected-

22 (a) by any vacancy in the membership of the Board;

23 (b) by any defect in the appointment of a member of the Board; or

24 (c) by reason that a person not entitled to do so took part in the
25 proceeding.

26 *Conflict of interest*

27 11. A member of the Board or Committee who has a personal interest
28 in any contract or arrangement entered into or proposed to be considered by the
29 Board or committee shall forthwith disclose his interest to the Board or

1 Committee and shall not vote on any question relating to the contract or
2 arrangement.

3 SECOND SCHEDULE

4 TRANSITIONAL PROVISIONS RELATING TO THE EMPLOYEES, ASSETS
5 AND LIABILITIES OF THE NATIONAL COUNCIL FOR OCCUPATIONAL
6

SAFETY AND HEALTH

7 1. By virtue of this Act, there shall be vested in the Council
8 immediately at the commencement of this Act, without further assurance, all
9 assets, funds, resources and other movable or immovable property which
10 immediately before the commencement of this Act were vested in the
11 Factories Inspectorate department of the Federal Ministry of Labour and
12 Productivity (in this Section referred to as "the Department").

13 2. As from the commencement of this Act-

14 (a) all rights, interests, obligations and liabilities of the Department
15 existing immediately before the commencement of this Act under any
16 contract or instrument, or at law or in equity apart from any contract or
17 instrument, shall by virtue of this Act be assigned to and vested in the
18 Council;

19 (b) any contract or instrument as mentioned in sub paragraph (a) of
20 this paragraph shall be of the same force and effect against or in favour of the
21 Council and shall be enforceable as fully and effectively as if, instead of the
22 Department, the Council has been named therein or had been a part thereto;
23 and

24 (c) the Council shall be subject to all obligations and liabilities to
25 which the department was subject immediately before the commencement
26 of this act, and all other persons shall as from the commencement of this Act
27 have the same rights, powers and remedies against the Council as they had
28 against the Department immediately before the commencement of this Act.

29 3. Any proceeding or cause or action pending or existing
30 immediately before the commencement of this Act by or against the

1 Department in respect of any right, interest, obligations or liability of the
2 Department may be commenced, continued or enforced by or against the
3 Council as if this Act had not been made.

4 4. Notwithstanding the provisions of this act but subject to such
5 directions as may be issued by the Council, any person who immediately
6 before the date of the commencement of this Act held office in the Department
7 shall be deemed to have been transferred to the Council on terms and
8 conditions not less favourable than those obtaining immediately before the
9 commencement of this Act, and service under the Council for purposes of
10 pension.

11 5. The Minister, if he thinks fit, may, within the twelve months after
12 the commencement of this Act, by order published in the gazette, make
13 additional or saving provisions for the better implementation of the objectives
14 of this Schedule.

EXPLANATORY MEMORANDUM

This Bill seeks to make further provision for securing the Safety, Health and Welfare of persons at work, for protecting others against risks to safety or health in connection with activities of persons at work, to establish the National Council for Occupational Safety and Health