



Occupational Health and Safety Act 85, 1993

Section 7, 14 and 38 explained

Section 7: General Duties of Employers to Their Employees

This is the cornerstone of the Act. It places the primary responsibility for safety on the employer.

Summary: Employers must provide and maintain, as far as is reasonably practicable, a working environment that is safe and without risk to the health of their employees. This isn't just about fixing broken machines; it's a holistic duty that includes:

- Identifying hazards and assessing risks.
- Implementing measures to eliminate or mitigate those risks.
- Providing information, instructions, training, and supervision.
- Ensuring that work is performed under competent supervision.
- Enforcing safety measures (i.e., making sure employees actually follow the rules).

In Practice: If an accident happens, the first question asked is: "Did the employer do everything reasonably possible to prevent this?" Section 7 is the benchmark for that answer.



Section 14: General Duties of Employees at Work

Safety is a two-way street. While employers carry the heavy load, employees have legal obligations too.

Summary: Every employee must take reasonable care for their own health and safety, as well as that of other persons who may be affected by their acts or omissions. Specifically, employees must:

- Cooperate with the employer to ensure compliance with the Act.
- Carry out any lawful order given regarding health and safety.
- Report any unsafe conditions or incidents to the employer or health and safety representative.
- Not misuse or damage any safety equipment provided.
- Not interfere with anything provided in the interest of health and safety.

In Practice: An employee cannot claim ignorance if they refuse to wear PPE or bypass a safety guard. Section 14 empowers employers to discipline staff who negligently endanger themselves or others.





Section 38: Offences and Penalties

This section outlines the consequences for failing to comply with the Act. It's the "teeth" of the legislation.

Summary: Any person who contravenes or fails to comply with any provision of the Act is guilty of an offence. The penalties can be severe and include:



- **Fines:** Substantial monetary penalties.
- **Imprisonment:** Up to one year for general offences, but up to **two years** for more serious breaches.
- **Both:** A court can impose both a fine and imprisonment.

Crucially, if an offence is committed by a body corporate (a company), every director or manager can be held personally liable unless they can prove they took all reasonable steps to prevent the offence.

In Practice: This is why legal appointments (like Section 16(2)) are critical. It ensures there is a designated, competent person accountable for safety, protecting both the company and its leadership from personal criminal liability where due diligence has been shown.