

SRI LANKA

Observations on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes

1. The main existing national law related to the occupational safety and health is the Factories Ordinance No. 45 of 1942 with subsequent amendments up to date and relevant regulations. Further, the Constitution of Democratic Socialist Republic of Sri Lanka guarantees to every citizen the freedom to engage by himself or in association with others in any lawful occupation, profession, trade, business or enterprise (Article 14(1) (g)). The Chapter VI of the Constitution “Principles of State Policy and Fundamental Duties of the State” in Article 27 (7), (8) and (14) ensures a safe and healthy environment for all citizens.

In terms of National Environmental (Protection & Quality) Regulations of 2008, made under the National Environmental Act, Enterprises are required to obtain an Environmental Protection Licence (EPL) prior to commencement of commercial operations. This EPL is issued by the Environment Management Department of the Board of Investment of Sri Lanka with the concurrence of the Central Environmental Authority (CEA).

In addition to above, there are other legislations enforced by the government organizations which covered part of OSH such as,

1. Sri Lanka Atomic Energy Act No. 40 of 2014
2. Control Pesticide Act No. 33 of 1980 - few sections of the Act for controlling use of pesticides
3. Mines and Minerals Act No. 33 of 1992 - Part III “Safety, Health and Welfare of workers in mines”

4. Explosives Act no. 21 of 1956 - to control, and to enable the prohibition of the manufacture, importation, exportation, possession, sale, exposure for sale, supply, purchase, use and transport of any explosives.
- a) Part II – health (General provisions) of the Factories ordinance provides specific standards in places for the protection of health and safety of the workers.

Section 8 and 9 – amount of cubic space for each person and in a room

Section 10 – Number of employed to be posted in each workroom

Section 11 – Temperature

Section 12 – Ventilation

Section 13 – Lightning

Section 15 – Sanitary convenience

Further, construction sector is covered under Section 84 of the Factories Ordinance.

- b) Part V – Health, Safety and Welfare (Special provisions and Regulations) of the Factories ordinance provide specific standards for protecting workers against specific risks such as the exposure to radiation, vibration, toxic substances and etc.

Section 51 – removal of dust or fumes

Section 53 – Protection of eyes

Section 53A – Protection from radiation and vibration

Section 55 – Prohibition of use of white phosphorus in manufacture matches

Section 56 – Under ground rooms

Section 58A – Prevention of noise

- c) Refer www.labourdept.gov.lk for the Factory Ordinance No. 45 of 1942

2. The Department of Labour is the main authority to oversee the implementation of occupational safety and health.

3. Based on the Right to Information Act No. 12 of 2016, any worker can request information relating to their occupational safety and health.
4. There are legal provisions under Section 40 of the Right to Information Act No. 12 of 2016 which is given below to protect whistle blowers on sharing information.

“Notwithstanding any legal or other obligation to which a person may be subject to by virtue of being an officer or employee of any public authority, no officer or employee of a public authority shall be subjected to any punishment, disciplinary or otherwise, for releasing or disclosing any information which is permitted to be released or disclosed under this Act.”

5. The main legislation relating to OSH is the Factories Ordinance and there are some requirements relating to prevention of exposure to hazardous substances.
 - I. Section 12 – Ventilation
 - II. Section 16 - power to require medical supervision
 - III. Section 23- Vessels containing dangerous substances
 - IV. Section 32 – Confined Spaces
 - V. Section 33 – Precautions with respect to explosive or inflammable dust, gas vapour or substances
 - VI. Section 51 – Removal of dust or fumes
 - VII. Section 51 A – Precautions where asphyxiate or irritant gas or vapour is used or is liable to be present
 - VIII. Section 52- Meals in certain dangerous trades
 - IX. Section 53 – Protection of eyes
 - X. Section 53 A- Protection from radiation and vibration
 - XI. Section 63 – Notification of industrial diseases
6. The Factory Inspecting Engineers assigned to the Industrial Safety Division of the Department of Labour collect the information on situations of occupational safety and health. The relevant

statistics has been published by the DOL in Labour Statistics Report-Sri Lanka.(the statistics from 2004 to 2015 are attached.)

7. Proposed New Occupational Safety, Health & Welfare Act at Workplace, to cover all workplaces. As the Factories Ordinance does not cover all workplaces including public sector workplace, the Ministry of Labour and Trade Union Relations with the ILO technical assistance is in the process of preparing new Occupational Safety and Health Framework Act to cover all workplaces in terms of OSH. This is in the final stage at present. Once this Act is enacted, most of the issues raised by the Rapporteur will be addressed.

Further, based on this Act (to be enacted), regulation and Standards will be prepared in order to effectively implement the provisions of the Act.