



# Appendix C

## The National Occupational Safety and Health Policy

DRAFT



**REPUBLIC OF KENYA**

**MINISTRY OF LABOUR**

**THE NATIONAL OCCUPATIONAL SAFETY AND HEALTH  
POLICY**

## **FOREWORD**

A proactive and well-functioning policy on Occupational Safety and Health is important for improving the safety and health of workers, reducing cost of business and improving productivity. The Government has developed this National Occupational Safety and Health Policy to enhance the framework for implementation of occupational safety and health programmes for the country's development. Implementation of the policy will contribute significantly to the achievement of the goals of the Economic, Social and Political pillars of the country's development blueprint, the Kenya Vision 2030.

The Kenya Vision 2030 aims to create a globally competitive and prosperous country with a high quality of life by the year 2030. For the country to achieve the aspirations of the Vision, there is need to improve the safety and health of workers. It is expected therefore, that implementation of this Policy will contribute significantly to the country's competitiveness and development of the human resource, and hence the achievement of the aspirations of the Vision 2030.

Kenya faces a major challenge of employment creation, especially for the youth. However, a significant portion of those in employment still face the challenge of unsafe and unhealthy workplaces. It is therefore important that the country not only focuses on creating jobs but also improves safety and health at workplaces.

Globalization is ever affecting the business environment in countries. Due to this, firms are continuously being subjected to competition from similar businesses in other countries. Regionally, the recent accelerated efforts towards the creation of a Common Market Protocol for the East African Community will impact significantly on business practices. One of the key areas of focus expected to arise from this, is the free movement of labour in the regional bloc. It is therefore imperative that, an occupational safety and health culture be entrenched in the country for businesses to not only become more productive but also attract better workers and investments.

This Policy has outlined a framework for addressing various emerging occupational safety and health issues and challenges. With its implementation, it is expected that the country will achieve significant economic, social and political development for its citizens. I wish to thank all those involved in the formulation of this policy. In addition, I wish to pledge Government support in the achievement of the objectives of the policy and urge all those involved in its implementation to support it in order to achieve the aspirations outlined herein.

**Hon. John K. Munyes, E.G.H., M.P.,  
Minister for Labour**

## **PREFACE**

The importance of occupational safety and health cannot be over-stated. A safe and healthy work environment leads to healthier and motivated workers who are able to increase their output and hence improve productivity. In addition, a safety and health preventative culture leads to reduced accidents and diseases which minimizes costs and hence impacts positively on firm competitiveness. Further, compliance to occupational safety and health laws and regulations significantly enhances relations between workers and employers thus improving industrial peace and harmony which creates a conducive environment for growth of business and employment opportunities.

It is in recognition of the above that the Government, in collaboration with social partners and other key stakeholders, has developed this National Policy on Occupational Safety and Health. The policy mainly seeks to address various challenges related to occupational safety and health in the country, provide guidelines for key legal and institutional reforms and a framework for mainstreaming occupational safety and health at workplaces. It has been formulated through an extensive and consultative process involving Government, social partners and other key stakeholders.

The development of this policy comes at a time when the Government is implementing legislation aimed at addressing various legal challenges in occupational safety and health in the country. This is through the implementation of the Occupational Safety and Health Act, 2007 and the Work Injury Benefits Act, 2007. Compliance to these laws was envisaged to entrench a safety and health culture at workplaces and hence improve the welfare of workers in addition to increasing the competitiveness of business. This policy therefore provides a framework for various reforms aimed at streamlining the implementation of the laws.

The Kenya Vision 2030 and its First Medium Term Plan 2008-2012 have identified the formulation and implementation of a National Occupational Safety and Health Policy as a key programme towards achievement of the aspirations of the two development blueprints. The Vision seeks to transform Kenya into 'a newly-industrialising, middle-income country providing a high quality of life to all its citizens in a clean and secure environment'. This policy will provide a framework for the integration of occupational safety and health issues in both public and private sectors of the country.

The country faces numerous challenges in the delivery of occupational safety and health services. Key among these are; an inadequate legal and institutional framework for streamlining service delivery and inadequate financial and human resource capacity to implement programmes. Others are low levels of awareness on occupational safety and health issues, lack of a safety and health culture, inadequate data management systems and, inadequate coverage of the informal sector. These challenges can impact negatively on the country's development, hence the need for

this Policy which provides a framework to effectively address them and guidelines for implementing related programmes.

An effective coordination and implementation mechanism will be crucial for the success of this policy. To address the challenges outlined above, the capacity of the Directorate of Occupational Safety and Health Services will be enhanced in addition to implementing other institutional reforms. A strong Monitoring and Evaluation system will also be established to track implementation of this policy, inform future planning for occupational safety and health programmes and institute corrective mechanisms where achievement falls short of targets. The system will be aligned to the National Monitoring and Evaluation System to assess contribution to the goals of the Kenya Vision 2030.

For this Policy to be effectively implemented, it is imperative that close collaboration between Government, social partners and other stakeholders be enhanced. Whereas the Government will establish mechanisms for the achievement of the objectives of the policy, social partners and stakeholders will be expected to play a key role in facilitating the implementation of various programmes. This is critical for the achievement of good results in the implementation of this policy.

**Beatrice N. Kituyi (Mrs.), C.B.S.**  
**Permanent Secretary**  
**Ministry of Labour**

## Contents

Abbreviations .....	6
PART I: INTRODUCTION .....	7
1.1. Preamble .....	7
1.2. Rationale .....	8
1.3. Objectives .....	8
1.4. Scope.....	9
1.5. Guiding Principles .....	9
PART II: SITUATIONAL ANALYSIS AND CHALLENGES .....	11
2.1. Situational Analysis .....	11
2.2. Challenges .....	12
PART III: POLICY ISSUES AND STATEMENTS .....	13
3.1 Policy Issue: OSH Legal Framework .....	13
3.2 Policy Issue: Work Injury Benefits Legal Framework .....	13
3.3 Policy Issue: Institutional Framework .....	13
3.4 Policy Issue: Mechanisms for ensuring Compliance .....	14
3.5 Policy Issue: Framework to enhance commitment of stakeholders.....	15
3.6 Policy Issue: Information and advisory services on OSH.....	15
3.7 Policy Issue: Education and training .....	16
3.8 Policy Issue: Occupational Health Services .....	16
3.9 Policy issue: Research on OSH.....	17
3.10 Policy Issue: Compensation .....	17
3.11 Policy Issue: MSE Support Mechanism on OSH.....	17
3.12 Policy Issue: Financing.....	18
3.13 Policy Issue: Sectoral and Cross-Sectoral issues .....	18
PART IV: IMPLEMENTATION OF THE POLICY .....	21
4.1 Framework for Implementation .....	21
4.2 Monitoring and Evaluation.....	21
4.3 Roles of Stakeholders.....	22
4.4 Review of the Policy.....	22

## Abbreviations

AG	Attorney General
AIDS	Acquired Immuno-Deficiency Syndrome
AKI	Association of Kenya Insurers
BSPS	Business Sector Program Support
CJ	Chief Justice
COTU	Central Organization of Trade Union
DANIDA	Danish International Development Agency
DOSHS	Directorate of Occupational Safety and Health Services
FINIDA	Finish International Development Agency
FKE	Federation of Kenya Employers
GOK	Government of Kenya
ILO	International Labour Organization
IRA	Insurance Regulatory Authority
ISO	International Standardization Organisation
KAIS	Kenya Aids Indicators Survey
KMTC	Kenya Medical Training College
KNBS	Kenya National Bureau of Statistics
MoE	Ministry of Education
MoF	Ministry of Finance
MoHETT	Ministry of Higher Education and Technical Training
MoL	Ministry of Labour
MoLG	Ministry of Local Government
MoMS	Ministry of Medical Services
MoPH&S	Ministry of Public Health and Sanitation
MoSPS	Ministry of State for Public Service
MSE	Micro and Small-scale Enterprises
NACADA	National Campaign against Drug Abuse Authority
NACC	National Aids Control Council
NACOSH	National Council for Occupational Safety and Health
NCST	National Council for Science and Technology
NEMA	National Environmental Management Authority
OSH	Occupational Safety and Health
OSHA, 2007	Occupational Safety and Health Act, 2007
OSHIBA	Occupational Safety, Health and Injury Benefits Authority
OSHO	Occupational Safety and Health Officer
PSC	Public Service Commission
WHO	World Health Organisation
WIBA, 2007	Work Injury Benefits Act, 2007

# PART I: INTRODUCTION

## 1.1. Preamble

This Policy intends to significantly sustain continual development and implementation of the National Occupational Safety and Health systems and programs to reduce incidences of work related accidents and diseases. In addition, it seeks to offer equitable compensation to those who suffer physical injuries and contract occupational diseases.

In his speech delivered on the occasion of Workers' Memorial Day in New York City on 28th April, 2002, former UN Secretary General Kofi Annan stated "*...Safety and health of workers is a part and parcel of human security..... Safe Work is not only sound economic Policy, it is a basic human right...*".

In 2008, the Seoul Declaration<sup>[1]</sup> on Safety and Health at Work re-affirmed the principle that the right to a safe and healthy working environment should be recognized as a fundamental human right. Such a principle applies equally to ensuring protection against both emerging and well-established Occupational Safety and Health (OSH) risks.

Unsafe and unhealthy work environment causes accidents, diseases, disasters and pollution that occasion huge economic and social burdens to individuals and enterprises thereby stifling economic and social growth. Ensuring safety and health of the working population is therefore, a primary responsibility of a state to its citizens.

The aspiration of the Kenya Vision 2030 is to create a newly-industrialising middle-income country providing quality life to its citizens in a just, cohesive society enjoying social development in a secure and clean environment. A sound National Occupational Safety and Health System will play a key role in the attainment of the goal of the Vision by ensuring the safety and health of workers. This directly improves their quality of life and increases productivity. Provision of a safe and healthy work environment will therefore play a crucial role in the attainment of the Vision through accelerated economic growth, social development and political stability.

This National Occupational Safety and Health Policy addresses the current challenges, gaps and future development of safety and health systems and programmes in the country. It shall promote basic principles of assessing occupational risks or hazards; combating occupational risks or hazards at source; and developing a national preventative safety and health culture that includes information, consultation, research and training. The policy will also promote continuous improvement of occupational safety and health by integrating Kenyan

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<sup>1</sup> The Safety and Health Summit of the XVIII World Congress on Safety and Health at Work

national laws and regulations with Regional Protocols, ILO Conventions, ISO standards and the best practices in the world. It will also set up mechanisms for resource mobilization for occupational safety and health programs and activities and provide guidance to all stakeholders in the development and implementation of national occupational safety and health systems and programmes.

## **1.2. Rationale**

Kenya does not have a National Occupational Safety and Health Policy. This has led to uncoordinated implementation of occupational safety and health programmes and duplication of efforts in implementing such programmes. In addition, the realization of the Kenya Vision 2030 will require a globally competitive workforce in decent work environment which this policy seeks to deliver through the establishment and maintenance of sound safety and health systems and programmes. Further, good occupational safety and health management systems lead to a reduction in occupational accidents and diseases, protection and development of human resource, and savings on financial resources. It is in this regard that the government has developed this National Occupational Safety and Health Policy as a guide to all key players in the promotion of Occupational Safety and Health in the country.

## **1.3. Objectives**

### **1.3.1 Main Objective**

The main objective of this policy is to establish national occupational safety and health systems and programmes geared towards the improvement of the work environment. The Policy seeks to reduce the number of work-related accidents and diseases, and equitably provide compensation and rehabilitation to those injured at work or who contract occupational diseases.

### **1.3.2 Specific Objectives**

The specific objectives of this policy are:

- a) To guide the development of laws, regulations and any other instruments on occupational safety and health.
- b) To recommend establishment and strengthening of responsible and accountable institutions for management of occupational safety and health.
- c) To recommend an enforcement and compliance mechanisms for occupational safety and health laws and regulations.
- d) To create mechanisms for cooperation between employers, workers and their representatives at workplaces in the promotion of occupational safety and health.
- e) To strengthen capacities of state and non-state actors in occupational safety and health
- f) To create a resource mobilization mechanism for the implementation of this Policy

- g) To initiate programmes to disseminate occupational safety and health information and advisory services.
- h) To put in place programmes for publicity and awareness creation on occupational safety and health issues.
- i) To strengthen research capacity in Occupational Safety and Health.
- j) To develop a comprehensive information system for collection, analysis, storage, retrieval and dissemination of data on work-related accidents, diseases and work injury benefits.
- k) To initiate support programmes for continued improvement of occupational safety and health practices and conditions in Micro and Small Enterprises and the informal sector of the economy.
- l) To establish programmes for collaboration with relevant insurance or social security schemes in compensation for work related injuries and diseases, and rehabilitation of injured workers.
- m) To mainstream occupational safety and health in learning institutions and communities.
- n) To institutionalize social dialogue and partnership on occupational safety and health.
- o) To mainstream occupational safety and health in all sectoral and cross-sectoral development issues.

#### **1.4. Scope**

This Policy shall apply to all workplaces in all sectors of the economy and all forms of work guided by the existing laws on Occupational Safety and Health, Work Injury Benefits and other relevant regional and International Labour Standards without any exemption. The main focus shall be the prevention and control of work-related accidents, injuries and diseases, compensation and rehabilitation of workers injured in the course of work and those who contract occupational diseases. This will be carried out in consultation and participation of the social partners and all other stakeholders under the direction of the Minister responsible for labour matters.

#### **1.5. Guiding Principles**

The principles that shall guide the Policy are; existing national laws and policies, International Labour Organization (ILO) Conventions, codes of practice and guidelines in occupational safety and health, and World Health Organization (WHO) and ILO Action Plans. These principles are:

- a) The occupational safety and health laws shall cover all workers and employers in all sectors of the economy and all forms of employment;
- b) The occupational safety and health laws shall spell out the core rights and duties of employers, workers and all other stakeholders, including universal application;
- c) All occupational accidents and health incidents are preventable;
- d) Integration of preventive and rehabilitative health services into the health care system;

- e) The appropriation of fair compensation and rehabilitation benefits by providing meaningful, accessible and equitable compensation and rehabilitation to workers in all sectors of the economy and in all forms of employment;
- f) The employers bear the cost of accidents and diseases to their employees, including the cost of medical treatment, compensation and rehabilitation.
- g) Occupational safety and health shall be managed like any other organizational function.
- h) Recognition for compliance and good performance in occupational safety and health at enterprise and national levels.

## **PART II: SITUATIONAL ANALYSIS AND CHALLENGES**

### **2.1. Situational Analysis**

In 1950, it was found necessary to have a legal instrument to provide for safety, health and welfare of employed persons in factories. By then, Kenya was a British Colony and the colonial government therefore adopted the British Factories Act of 1937 with effect from 1<sup>st</sup> September 1951. To administer the Act, a division of factory inspectorate was formed within the Ministry of Labour headed by the Chief Inspector of Factories. In 1990, the Factories Act was amended to Factories and Other Places of Work Act, 1990 for the purpose of increasing the scope of coverage. In the same year the division was elevated to a fully fledged department and named the Directorate of Occupational Health and Safety Services headed by a Director.

In the year 2000, the Government formed a task force to review the Labour Laws which culminated in the enactment of the Occupational Safety and Health Act and the Work Injury Benefits Act in 2007. The two Acts, OSHA and WIBA cover both formal and informal sectors. Apart from these two there are other legislations that touch on occupational safety and health namely Public Health Act, Environmental Management and Coordination Act, Radiation Protection Act, The Pest Control Products Act among others. An estimated 140,000 workplaces are in the formal sector (KNBS, 2007). The total workforce in Kenya is estimated at 10.3 million in both formal and informal sectors.

In order to empower employees to deal with hazards at enterprise level, the government has approved training institutions to train workplace safety and health committees in Occupational Safety and Health (OSH). The training institutions also offer basic training courses in First Aid and Fire Safety. In addition, technical capacity is being developed at university level through the introduction of safety and health courses at postgraduate diploma and masters' degree level. The Kenya Medical Training College (KMTTC) is also offering a post-basic diploma in occupational safety and health. Further, some technical training institutions have incorporated safety and health aspects of plant, machinery and equipment operations in their curricular. These efforts are however, insignificant to address the occupational safety and health training needs of the country.

Currently the Directorate has 57 Occupational Safety and Health Officers, 4 nurses and 10 medical doctors. In the financial year 2008/09 the DOSHS managed to inspect only 4117 workplaces, carried out 9839 medical examinations on workers and examined 4918 industrial plants. During the same year 3,099 accidents were reported.

To address the inadequacies in technical human resource capacity, the Directorate of Occupational Safety and Health Services (DOSHS) has implemented the concept of approval of qualified persons and institutions to carry out safety and health activities in all economic sectors in the country. In the Financial Year 2009/2010, the government approved 41 plant inspectors/examiners to examine and test plants and

ensure their safety, 2 air quality monitors to evaluate and control workplace pollutants, 35 Designated Health Practitioners who carry out medical examination of workers, 44 Safety and Health Advisors who carry out safety and health audits in workplaces and 16 Fire Safety Auditors.

## **2.2. Challenges**

In the delivery of occupational safety and health services, the country faces several challenges that include:

- i. Inadequate institutional and legal arrangements to minimize overlaps, gaps and duplications in the delivery of services.
- ii. Inadequate skilled human resource in both public and private sectors of the economy.
- iii. Low financial resources to finance enforcement and prevention agencies.
- iv. Low occupational safety and health awareness amongst employers, workers and other stakeholders
- v. Weak systems for inculcating safety and health preventative culture.
- vi. Inadequate systems for occupational injury data management.
- vii. Overemphasis on formal sector at the expense of the informal sector, including Micro and Small Enterprises (MSEs), vulnerable workers and those in marginal employment.
- viii. Inadequate workplace programs on HIV and AIDS prevention, care and support.
- ix. Inadequate integration of occupational health services into all levels of healthcare system.
- x. Inadequate research to address both emerging and traditional occupational risks arising from fast technological developments and globalization.

## **PART III: POLICY ISSUES AND STATEMENTS**

### **3.1 Policy Issue: OSH Legal Framework**

Apart from the Occupational Safety and Health Act (OSHA), 2007 which provides for safety, health and welfare of persons at places of work, occupational safety and health (OSH) issues are covered in other pieces of legislations. These disjointed laws on occupational safety and health create disharmony, overlap and duplication of enforcement efforts. In addition, the use of the ordinary court system for prosecution of cases on OSH is a challenge in that it is time consuming since the cases compete with other criminal cases.

#### **Policy Statement**

- a) The Government in collaboration with other stakeholders will harmonise legislations on occupational safety and health.
  
- b) The Government will designate specialized criminal courts to handle occupational safety and health matters.

### **3.2 Policy Issue: Work Injury Benefits Legal Framework**

Arising from the nullification of some key sections of the Work Injury Benefits Act (WIBA), 2007, the government cannot effectively enforce the Act. The current Act does not provide for the rehabilitation of injured workers.

#### **Policy Statement**

- a) The work injury benefits legislation will be reviewed and strengthened with due regard to the relevant ILO Conventions and international best practices, so as to establish clear guidelines and mechanisms for adequate compensation of workers following occupational accidents and diseases.
  
- b) The Government in collaboration with other stakeholders will develop a mechanism for the rehabilitation of injured workers.

### **3.3 Policy Issue: Institutional Framework**

1. The National Council for Occupational Safety and Health (NACOSH), as currently constituted, only plays an advisory role on occupational safety and health issues. It lacks the mandate and mechanisms to direct implementation of key OSH policy issues and decisions. In addition, the Council has no financial capacity and suffers from inadequate human resource capacity to acquire information required for it to play an effective advisory role.
  
2. Occupational safety and health services are multi-sectoral and multi-disciplinary requiring full participation of all stakeholders and an overall National Authority or body to manage and coordinate all OSH issues in the country. There is inadequate capacity of the institution dealing with OSH matters in terms of finance, infrastructure and human resource to be able to coordinate all other institutions that have some aspects of OSH issues in their

functions. At the moment the services offered by the Directorate of Occupational Safety and Health Services (DOSHS) are skewed towards OSH which deals primarily in prevention of occupational accidents and diseases. Compensation for persons injured at work and/or those who contract occupational diseases is managed with inadequate infrastructure such that its effectiveness is seriously compromised. There is therefore, need to establish an authority or body to oversee prevention, compensation and rehabilitation issues.

3. There is no coordination of occupational safety and health research and training in the country and hence no comprehensive OSH data is available for comparison and monitoring of progress, if any, in the implementation of programmes.
4. There is no systematic collaboration between players involved in occupational safety and health programmes and issues in the country.

### **Policy statement**

- a) The National Council for Occupational Safety and Health will be converted into a Commission and its mandate expanded beyond the current advisory role to enable it direct implementation of OSH policy decisions. The Commission's financial and human resource capacity will be enhanced to enable it effectively deliver on the expanded mandate.
- b) The government will establish an Authority which will be the overall institution responsible for all occupational safety and health issues in the country. The Authority will manage and coordinate OSH issues in the areas of prevention of accidents and diseases, compensation, rehabilitation of injured persons, and research and training in the country. It will also carry out awareness creation and publicity on OSH issues and programmes in the country. Aggressive financial, human resource and infrastructural capacity development will be carried out to enable the Authority to carry out its mandate.
- c) The government shall establish systematic collaboration mechanisms for all stakeholders, both in the public and private sectors, in the field of occupational safety and health.
- d) The government, in collaboration with other stakeholders, will facilitate formation of a professional body or association for OSH practitioners in the country.

### **3.4 Policy Issue: Mechanisms for ensuring Compliance**

1. Enforcement of laws on OSH is hampered by inadequate resources in terms of personnel (71 enforcement officers against 10.3 million workers), equipment, mobility and expansive geographical coverage.

2. Most equipment for safety and for monitoring working environment for compliance are not available locally and are expensive.

#### **Policy statement**

- a) The government will put in place mechanisms to ensure adequate personnel for monitoring compliance with the national occupational safety and health laws and regulations taking cognizance of ILO guidelines on the number, nature, size and situation of the workplaces liable for inspection.
- b) The traditional mechanism of ensuring compliance through inspections and prosecutions will be supplemented by streamlining self regulation through workplace safety and health committees and improvement of OSH services by approved persons and institutions.
- c) The government will establish a system of tax waiver or exemption on safety equipment and machinery.
- d) The government, in collaboration with stakeholders, will establish an award system for best performing individuals and organizations and sanctions for poor performance.

### **3.5 Policy Issue: Framework to enhance commitment of stakeholders**

Many employers and employees, including those in the public service, are not cooperating on occupational safety and health issues effectively, hence the need to establish and strengthen the bipartite system at the enterprise level. In addition, the law excludes representation of key stakeholders such as Micro and Small Enterprises (MSEs) in the National Council for Occupational Safety and Health.

#### **Policy statement**

- a) The government in collaboration with stakeholders will establish and strengthen occupational safety and health committee at the enterprise level.
- b) The Occupational Safety and Health Act (OSHA), 2007 shall be amended to review representation of membership at the National Council for Occupational Safety and Health (NACOSH) and include MSEs, among others. This will strengthen the Council and facilitate it to carry out its mandate effectively.

### **3.6 Policy Issue: Information and advisory services on OSH**

There is no reliable system of collecting, compiling and notifying of occupational accidents and diseases hence limited occupational safety and health information to enable necessary intervention. The country also lacks comprehensive and synchronized research strategies to provide information and solutions on OSH problems.

#### **Policy Statement**

- a) The government, in collaboration with the stakeholders, will develop a comprehensive and reliable system for reporting, collection, recording, analysis, storage, retrieval and dissemination of information in occupational safety and health.
- b) The government will collaborate with ILO's International Centre for Information on Occupational Safety and Health and other international and local institutions for the purpose of sharing information on occupational safety and health.

### **3.7 Policy Issue: Education and training**

- 1. Currently, OSH is not integrated into the Kenyan education curricula. Labour market entrants in the country therefore lack basic knowledge and skills in occupational safety and health.
- 2. There is a general lack of awareness on OSH among the general populace.
- 3. There is shortage of OSH skills both in the public and private sectors. In addition, there has been little investment in the education and training of health and safety representatives.

#### **Policy statements:**

- a) The government, in collaboration with stakeholders, will mainstream safety and health in education curricula at all levels of learning including employee in-service training.
- b) The government, in collaboration with stakeholders, will create awareness on safety and health with the key aim of developing a safety and health culture in the country. This will be carried out mainly through dissemination of information through electronic and print media and other campaigns.
- c) The government will set up an institute within the Authority to be established under 3.3b for training and specialised skills development in OSH. In addition, other institutions of higher learning will be encouraged to offer training in OSH.

### **3.8 Policy Issue: Occupational Health Services**

Occupational health services are not adequately integrated into all levels of the country's health care system. Therefore, occupational related conditions and diseases and ill health are not well recognized and managed.

#### **Policy Statements**

The government in collaboration with stakeholders will:-

- a) Integrate occupational health in the curricula of all medical training programmes.

- b) Establish programmes to impart skills for recognition and management of occupational health diseases and conditions to all practicing health providers.

### **3.9 Policy issue: Research on OSH**

The introduction of new technologies, chemicals, processes and work organizations have brought about emerging occupational safety and health risks. These need to be thoroughly researched upon to provide preventive measures. Currently research in occupational safety and health in Kenya is very minimal.

#### **Policy Statements**

- a) The institute established under 3.7c will also carry out specialized applied research in occupational safety and health.
- b) The government, in collaboration with research institutions and individuals, will carry out research to seek specific solutions to emerging OSH issues.

### **3.10 Policy Issue: Compensation**

1. There is a challenge of identifying the employer who is liable for payment of compensation in cases where an employee has contracted an occupational disease but has worked for several employers.
2. Most occupational diseases have long latent periods and may be diagnosed long after exiting work.
3. The country lacks human and other necessary resource capacities to comprehensively cover compensation and rehabilitation of the working populations in all forms of work and economic activities.
4. Employers who do not have insurance cover for work injury benefits liabilities find it difficult to settle compensation cases.

#### **Policy Statements**

- a) The government, in collaboration with other stakeholders, will create a mechanism to establish a fund to cater for compensation of workers with occupational diseases.
- b) The government will build the capacity of the authority in charge of the administration and enforcement of work injury benefits in the country..
- c) The government will pass legislation on compulsory insurance against occupational accidents.

### **3.11 Policy Issue: MSE Support Mechanism on OSH**

The occupational safety and health standards in Micro and Small Scale Enterprises (MSEs) are very low. Due to the temporary nature, high mobility and the small

capital base of the enterprises, the conventional methods of enforcement of OSH standards cannot be effectively applied.

### **Policy statements**

- a) The government, in collaboration with other stakeholders, will support awareness creation and advisory services programmes for MSEs.
- b) The government will support the formation and effective functioning of joint safety and health committees for MSEs

### **3.12 Policy Issue: Financing**

1. The financing of occupational safety and health services has largely been from Government budgetary allocations which have proven inadequate.
2. Apart from increasing the coverage of the law on occupational safety and health issues, the enactment of the Occupational Safety and Health Act (OSHA), 2007, has created more functions which include research, training, awareness creation, advisory services to stakeholders, development of codes of practice and guidelines, provision of outreach services to the community at large and other OSH promotional activities. In addition the transfer of the responsibility for work injuries benefits to DOSHS without additional financial allocation has aggravated the department's financial burden.

### **Policy Statements**

- a) The government will increase budgetary allocation to the authority or body overseeing OSH and work injury compensation matters in the country, taking cognizance of the added mandate of the organization.
- b) The government will establish and operationalize an Occupational Safety and Health Fund into which stakeholders will make a contribution.

### **3.13 Policy Issue: Sectoral and Cross-Sectoral issues**

#### **3.13.1 Gender**

##### **Policy issue**

1. Most employers are not adequately aware of the need to have gender responsive workplaces.
2. Women are more vulnerable to certain exposures in the work environment due to their biological make-up. There can also be systemic barriers in human resource and safety and health policies that create bias against women. These barriers need to be identified and eliminated.

### **Policy Statements**

- a) The government, in collaboration with stakeholders, will institute affirmative action initiatives aimed at addressing workplace gender biases in occupational safety and health.
- b) Awareness creation among workers, employers and the community at large on the occupational safety and health gender issues will be enhanced.

### **3.13.2 HIV and AIDS**

#### **Policy issue**

1. About 30 million people globally have been infected with HIV and AIDS in the age range of 15-49 considered to be the prime productive life and is increasing at the rate of 7,500 daily [UNAIDS 2008 Report on global AIDS epidemic] The severity of the impact caused on businesses, national economies, individuals and their families is likely to have a significant negative impact on economic growth if left unchecked.
2. In Kenya, about 1.3 million people in the age range of 15-64 are living with HIV and AIDS [KAIS 2007]. Most of these are workers who are more vulnerable to occupational hazards due to their reduced body immunity. This has resulted in reduced productivity and even deaths amongst the working population and further continues to threaten the source supply of working personnel.

#### **Policy Statement**

The government in collaboration with stakeholders will develop and implement workplace programmes and a code of practice on HIV and AIDS at work addressing prevention, care and support for those infected and affected.

### **3.13.3 People with disabilities and other special needs<sup>1</sup>**

#### **Policy issue**

Workers with special needs including persons with disabilities and other special needs have not been given adequate and convenient facilities at workplaces.

#### **Policy Statement**

The government in collaboration with stakeholders will develop and implement appropriate regulations and guidelines for provision of facilities for persons with disabilities and other special needs at workplaces.

### **3.13.4 Environmental Pollution**

#### **Policy issue**

Hazardous wastes and emissions from production processes and work activities may pollute and degrade the environment and have adverse impact to the workers and community living close to the boundaries of the workplaces.

**Policy statement**

The government, in collaboration with other stakeholders, will develop and implement strategies for prevention of environmental pollution.

**3.13.5 Drugs and Substance Abuse****Policy issue**

An increasing number of workers are using drugs and substances in workplaces including tobacco, alcohol, prescription drugs, and narcotic that can lead to ill health and accidents in the workplaces.

**Policy statement**

The government in collaboration with stakeholders will support programmes to create awareness of the dangers of drug and substance abuse at the work place.

## **PART IV: IMPLEMENTATION OF THE POLICY**

### **4.1 Framework for Implementation**

The government, in collaboration with stakeholders, shall implement this Policy in consistence with national, regional and international legislations, and standards. At the national level, the policy shall take cognisance of the Constitution of Kenya; the Occupational Safety and Health Act; the Work Injury Benefits Act; the Environment Management and Coordination Act; the Public Health Act; the Quarries and Mines Act; the Bio-safety Act; the Standards Act; the Pest Control Products Act; the Radiation Protection Act and all other relevant national laws, rules and regulations. Regionally, the policy will incorporate the economic laws and protocols spelling out rules and the spirit of cooperation with trade blocks while at the international level the policy will require the domestication of the relevant ILO conventions, and WHO and ISO standards.

A National Plan of Action will be developed to guide actual implementation of this Policy. All public and private sector institutions involved in the implementation will therefore be expected to align occupational safety and health programmes in their plans to the National Plan.

### **4.2 Monitoring and Evaluation**

The overall responsibility of monitoring and evaluation of the National Occupational Safety and Health Policy will be with the Ministry in charge of occupational safety and health matters. This will be done in collaboration with other Government Ministries and organizations. Monitoring and evaluation will involve routine data collection and analysis on progress made in the implementation of the policy, and will inform future planning especially in resource allocation for various programmes. The exercise will be aligned to the National Integrated Monitoring and Evaluation System through regular submission of data to the Monitoring and Evaluation Directorate. This will be used to assess the contribution of implementing the policy to the country's development agenda as outlined in the Kenya Vision 2030. To strengthen this, the Government will facilitate capacity building to undertake monitoring and evaluation of the policy.

To establish an effective and all inclusive Monitoring and evaluation system, the government shall:

- a) Develop strategies to implement the Policy objectives. Towards this, a focused, systematic and well defined Monitoring and Evaluation (M&E) system will be established to measure outputs of programmes. Clear performance indicators, targets, timelines, responsibility persons and institutions and costs will be incorporated in the system to facilitate tracking of progress made in the implementation of programmes.
- b) Develop mechanisms for participation by all relevant stakeholders, from private and public sectors, and encourage production of M&E reports which will be part of an information exchange forum for occupational safety and health.

- c) Develop both human and financial capacities in public and private sectors of the economy to undertake monitoring and evaluation..
- d) Conduct regular surveys to determine the impact of programmes outlined in this policy.

### **4.3 Roles of Stakeholders.**

In the implementation of this policy, the government, employers, workers and other stakeholders shall have the following roles:-

#### **4.3.1 Government**

The government shall create enabling environment for the implementation of the National Occupational Safety and Health Policy. In particular, the government will put in place regulatory and legal framework and facilitate resource mobilization for provision of effective occupational safety and health services.

#### **4.3.2 Employers**

Employers will ensure safety and health at workplace, establishment of safety and health committees at workplaces, conduct training on occupational safety and health and report accidents, diseases and other dangerous occurrences to relevant authorities.

#### **4.3.3 Workers**

Workers will form and participate in Workplace Occupational Health and Safety Committees, report any hazardous situation to respective authorities and comply with occupational safety and health requirements at workplace.

#### **4.3.4 Local Government**

Local government will complement efforts of central government and other stakeholders in the promotion of occupational safety and health.

#### **4.3.5 Development Partners**

Development partners will collaborate and complement government efforts in the promotion of occupational safety and health.

#### **4.3.6 Private Sector**

The private sector will compliment the efforts of the government in the promotion and provision of occupational safety and health services.

#### **4.3.7 Civil Organizations**

Community-based organizations, non-governmental organizations and religious institutions among others will collaborate and compliment government efforts in sensitization and awareness creation on issues of occupational safety and health.

### **4.4 Review of the Policy**

Due to the dynamic nature of working environment, this Policy document shall be reviewed after every five years or as the need arises.

IMPLEMENTATION MATRIX OF THE NATIONAL OSH POLICY

	Strategies	Programmes	Resource Requirements (Million KShs)	Time frame	Expected Output	Responsibility Centres	Output Indicators
1	LEGISLATIVE, POLICY AND INSTITUTIONAL REFORMS	Review all laws relating to Occupational Safety and Health (OSH) to ensure they are in harmony with OSHA, 2007.	20	2011-13	All laws touching on OSH issues harmonized	MoL, COTU, FKE, AG, Institutions implementing other OSH laws, Legislature	Reviewed and harmonized laws on OSH
		Establishment of OSH institute	680	2010-2015	OSH institute established	MoL, MoF, MoHETT	1. Certificate of registration for institute 2. Infrastructure
		Establishment of OSH Fund	200	2008-2012	OSH Fund established	MoL, MoF	1. Operational Fund 2. Bank account 3. Code Fund rules
		Conversion of NACOSH to a Commission	50	2012-2018	A Commission established	AG, MoL, FKE, COTU	Gazette notice
		Establishment of an Authority to oversee OSH, compensation and rehabilitation	450	2012-2015	National OSH Authority established	AG, MoL, FKE, COTU, IRA	1. An operational National OSH Authority 2. Number of new staff in the Authority 3. Budget allocation for the Authority
		Establishment of an	5	2012-2016	Occupational	MoL, FKE,	1. Operational Fund

	<b>Strategies</b>	<b>Programmes</b>	<b>Resource Requirements (Million KShs)</b>	<b>Time frame</b>	<b>Expected Output</b>	<b>Responsibility Centres</b>	<b>Output Indicators</b>
		occupational disease compensation Fund			disease compensation fund established	COTU, MoF	2. Bank account code 3. Fund rules
		Development of an OSH data management system	4	2011-2013	OSH data Management system developed	MoL, MoF	OSH data base
		Formation of a professional body for OSH practitioners	10	2013-2015	<ul style="list-style-type: none"> <li>Act establishing professional body</li> <li>Professional body for OSH practitioners formed</li> </ul>	MoL, AG	Registration certificate for the professional Body.
		Designation of special criminal court for OSH matters	0	2011-2013	Designated OSH Court	MoL, AG, CJ	Operational OSH designated court
		Review of Work Injury Benefits Act	10	2011-2014	Reviewed and strengthened WIBA	MoL, FKE, COTU, AG, AKI, IRA	Ammended Work Injury Benefits Act
		Rehabilitation of injured workers	500	2012-2018	Regional Rehabilitation centres established	MoL, MMS, MOEducation, IRA,	Rehabilitation programme
2	INCREASE HUMAN RESOURCE CAPACITY TO	Recruitment and capacity building of OSOs	125	2011-2016	OSOs recruited and trained	MoL, PSC, MSPS, MoF	Number of recruited and trained officers.

	<b>Strategies</b>	<b>Programmes</b>	<b>Resource Requirements (Million KShs)</b>	<b>Time frame</b>	<b>Expected Output</b>	<b>Responsibility Centres</b>	<b>Output Indicators</b>
	ENHANCE COMPLIANCE WITH OSHA AND WIBA, 2007						
		Enhancement of budgetary allocation on OSH	2	2011-2012	Budgetary allocation on OSH increased	MoL, MoF	1. Printed estimates 2. Authority to Incur Expenditure(AIE)
3	PROMOTION OF OSH CULTURE	Establishment of OSH award and sanction system	2	2011-2012	An award and sanction system established	MoL, FKE, COTU, MoF	Documented awards and sanctions schemes
		Mainstreaming OSH into the education system and employee in-service training	100	2012-2018	OSH curricula developed	MoL, MoE, MoHETT, FKE, KIE, TSC	Curricula on OSH
		Awareness creation on OSH	20	2011-2015	OSH information disseminated and publicized.	MoL, FKE, COTU, Media, other Stakeholders	1. Articles, supplements, electronic media documentaries, guidelines, codes of practice
		Capacity building for workplace Safety and Health Committees	0	Continuous	Effective and efficient Safety and Health committees	MoL, Employers, Workers	Number of committees trained in safety and health
		Creation of awareness on OSH and establishment	50	2011-2016	Well informed MSEs	MoL, MSE Stakeholders	1. No of documented training

	<b>Strategies</b>	<b>Programmes</b>	<b>Resource Requirements (Million KShs)</b>	<b>Time frame</b>	<b>Expected Output</b>	<b>Responsibility Centres</b>	<b>Output Indicators</b>
		of advisory services to MSE sector					programmes 2. courses undertaken for MSEs on OSH 3. Training certificates.
		Integration of occupational health in the curricula of medical training programmes	20	2011-2014	Occupational health integrated into medical training programmes	MoL, MMS, MoE, MPH&S, MMS	Curricula on OSH.
4	RESEARCH INTO OSH	Undertaking Research in all issues of OSH	72	2011-2015	Research on OSH undertaken	MoL, Research Institutions, Universities, MoHETT, NCST	Research Papers, Survey reports.
5	PROMOTION OF INTEGRATED WORKERS' WELLBEING	Mainstreaming OSH gender issues in workplaces	0.5	2011-2012	Gender issues mainstreamed in workplace	MoL, FKE, COTU	Workplace OSH Gender code of practice
		Development of programmes and codes of practice on HIV and AIDS at workplaces	10	2011-2016	Programmes and codes of practice on HIV and AIDS developed	MoL, FKE, COTU, NACC	1. HIV an AIDS Programmes 2. codes of practice on HIV and AIDS at workplaces
		Development of regulations and guidelines for facilities for people with disabilities	10	2011-2016	Regulations and guidelines for facilities for people with disabilities	MoL, AG, Ministry of Gender	Rules , regulations and guidelines

	<b>Strategies</b>	<b>Programmes</b>	<b>Resource Requirements (Million KShs)</b>	<b>Time frame</b>	<b>Expected Output</b>	<b>Responsibility Centres</b>	<b>Output Indicators</b>
					developed		
		Elimination of hazardous wastes and emissions from production processes	50	2012-2018	A clean environment	MoL, NEMA	1. Codes of practices, 2. Enforcement Guidelines
		Development of code of practice and guidelines on drug and substance abuse at workplace	20	2012-2018	Enhanced awareness on drug and substance abuse at workplace	MoL, NACADA	1. Code of practice, 2. Enforcement Guidelines
		Establishment of a collaboration mechanisms for all OSH players	5	2012-2013	MoUs	All OSH Stakeholders	Cooperation document
		<b>TOTAL RESOURCE REQUIREMENTS</b>	<b>2415.5</b>				