

DOMINICA
ACCIDENTS AND OCCUPATIONAL DISEASES
(NOTIFICATION) ACT

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AN ACT to provide for the notification of accidents and occupational diseases.

Commencement: 11th February 1952

Short title.

1. This Act may be cited as the Accidents and occupational diseases (notification) Act.

Interpretation.

2. In this Act-

“employer” includes any body of persons corporate or incorporate and the legal personal representative of a deceased employer and where the services of a worker are temporarily lent or let on hire to another person by the person with

whom the worker has entered into a contract of service or apprenticeship, the latter shall, for the purposes of this Act, be deemed to be the employer of the worker whilst he is working for that other person; and in relation to –

- (a) a person who is a member of a registered co-operative society and engaged in work carried out by that co-operative society, the co-operative society shall, for the purposes of this Act, be deemed to be the employer notwithstanding that such person is remunerated in whole or in part by shares in the profits or gross earnings of the co-operative society;
- (b) a person plying for hire with any vehicle or vessel the use of which is obtained by that person under a service contract of bailment, the person from whom the use of the vessel or vehicle is so obtained shall, for the purposes of this Act, be deemed to be the employer;
- (c) a person employed for the purposes of any game or recreation and engaged or paid through a club, the manager or members of the managing committee of the club shall, for the purpose of this Act be deemed to be the employer;

“Labour Commissioner” means the person holding the public office of Labour Commissioner;

“occupational disease” means any disease mentioned in the **Third Schedule**;

“outworker” means a person to whom articles or materials are given out to be made up, cleaned, washed, altered, ornamented, finished or repaired, or adapted for sale in his own home or on other premises not under the control or management of the person who gave out the materials or articles;

“worker” means any person who has entered into or works under a contract of service or apprenticeship with an employer, whether by way of manual labour, clerical work or otherwise, and whether the contract is expressed or implied, is oral or in writing, and includes a person who is a member of a registered co-operative society notwithstanding that such person is remunerated in whole or in part by shares in the profits or gross earnings of the co-operative society, but does not include-

- (a) an outworker;
- (b) a person whose employment is of a casual nature and who is employed otherwise than for the purposes of the employer’s trade, occupation or business; or
- (c) a domestic servant employed in a private house.

Notification of accidents.

3. (1) Where any accident arising out of and in the course of the employment of any worker occurs and –

- (a) causes loss of life to the worker; or
- (b) disables the worker for more than three days from earning full wages at the work at which he was employed at the time of the accident or, in the case of a worker who is a member of and employed by a registered co-operative society and who does not work for wages but is remunerated in whole or in part by shares in the profits or gross earnings of the co-operative society, disables the worker for more than three days from performing the work at which he was employed at the time of the accident,

written notice of the accident, in the form, and accompanied by the particulars set out in the First Labour Schedule shall forthwith be sent by the employer to the Labour Commissioner.

3. (2) Where any accident causing disablement has been notified under this section and, after the notification, the accident results in the death of the person disabled, notice in writing of the death shall be sent by the employer to the Labour Commissioner as soon as the fact of the death comes to the knowledge of the employer.

3. (3) Any employer who fails to comply with the requirements of subsection (1) or subsection (2) is guilty of an offence.

3. (4) Where any accident to which this section applies occurs to a worker whose services are for the time being temporarily lent or let on hire to another person to the employer, such other person is, if he fails to report the accident to the employer immediately, guilty of an offence, and the employer is not liable under subsection (3) unless it is established that he knew of the accident.

Power to extend to dangerous occurrences provisions as to notification of accidents.

4. If the Minister considers that by reason of the risk of serious bodily injury to workers, it is expedient that notice should be given in every case of any special class of explosion, fire, collapse of buildings, accidents to machinery or plant, or other occurrences in places where workers are employed, he may, by Regulations made under this Act, extend the provisions of section 3 with such adaptations as may be specified in the Regulations to any such class of occurrences, whether death or disablement is caused or not, and may by any such Regulations allow the required notice of any occurrences to which the Regulations relate, instead of being sent forthwith, to be sent within the time limited by the Regulations.

Notification of occupational diseases and other diseases.

5. (1) Every qualified medical practitioner attending on or called in to visit a patient whom he believes to be suffering from any occupational disease contracted in the course of his employment as a worker shall, unless such a notice has been previously sent, forthwith send a notice addressed to the Labour Commissioner stating the name and full postage address of the patient and the disease from which, in the opinion of the medical practitioner, the patient is suffering, and the name and address of the place at which, and of the employer by whom, he is or was last employed.

5. (2) If any qualified medical practitioner fails to send any notice in accordance with the requirements of this section, he is guilty of an offence and liable on summary conviction to a fine of one hundred dollars.

Second Schedule.

5. (3) Any employer who believes or suspects, or has reasonable grounds for believing or suspecting, that a case of occupational disease has occurred among the workers employed by him, shall forthwith send written notice of the case, in the form, and accompanied by the particulars set out in the Second Schedule, to the Labour Commissioner and to the Medical Officer for the Department of Health for the district within which the place of employment of the workers is situated, and the provisions of this Act with respect to the notification of accident as is mentioned in those provisions.

5. (4) The Minister may, as respects any class or description of place where workers are employed, by Regulations made under this Act, apply the provisions of this section to any disease other than an occupational disease.

Inquest in case of death by accident or occupational disease.

6. (1) Where a coroner holds an inquest on the body of any person whose death may have been caused by any accident or disease of which notice is required by this Act to be given, the coroner shall adjourn the inquest unless the Labour Commissioner or some person authorised on his behalf is present to watch the proceedings and shall, at least four days before holding the adjourned inquest, send to the Labour Commissioner notice in writing of the time and place of holding the adjourned inquest; and the coroner, before the adjournment, may take evidence to identify the body, and may order the interment thereof.

6. (2) With respect to any inquest as aforesaid the following persons, that is to say-

- (a) the Labour Commissioner;

(b) any relation of the person in respect of whose death the inquest is being held;

(c) the employer in whose employment the accident or disease occurred or was contracted;

(d) any person appointed in writing by the majority of the workers employed in the place of employment in which the deceased was employed;

(e) any person appointed in writing by any organisation of workers or other association of persons to which the deceased at the time of his death belonged or to which any worker employed in the said place of employment belongs;

(f) any association of employers to which the said employer is a member,

shall, subject to the power of the coroner to disallow any question which in his opinion is not relevant or is otherwise not a proper question, be entitled to examine any witness either in person or by a solicitor or agent.

6. (3) Where at any such inquest at which the Labour Commissioner is not present evidence is given of any neglect as having caused or contributed to the accident or disease or of any defect in or about the place of employment appearing to the coroner to require a remedy, the coroner shall send to the Labour Commissioner notice in writing of the neglect or defect.

6. (4) The provisions of this section shall be in addition to, and not in derogation of, the provisions of the Coroners Act.

Power of Minister to direct formal investigation of accidents and cases of occupational disease.

7. (1) The Minister may, where he considers it expedient to do so, direct a formal investigation to be held into any accident arising out of and in the course of the employment of any worker, or into any case of occupational disease contracted or suspected to have been contracted in the course of the employment of any worker, and of its causes and circumstances, and with respect to any investigation the following provisions shall have effect;

(a) the Minister may appoint a competent person to hold the investigation, and may appoint any person possessing legal or special knowledge to act as assessor in holding the investigation;

(b) the person or persons so appointed (hereafter in this section referred to as "the Court") shall hold the investigation in open Court in

such a manner and under such conditions as the Court may think most effectual for ascertaining the causes and circumstances of the accident or case of occupational disease, and for enabling the Court to make the report mentioned in this section;

(c) the Court shall have for the purposes of the investigation, all powers of a Magistrate's Court when exercising criminal jurisdiction and, in addition, power-

(i) to enter and inspect any place or building the entry or inspection whereof appears to the Court requisite for the said purposes;

(ii) by summons signed by the Court to require the attendance of all such persons as it thinks fit to call before it and examine for the said purposes, and to require answers or returns to such inquiries as it thinks fit to make;

(iii) to require the production of all books, papers and documents which it considers relevant;

(iv) to administer an oath and require any person examined to make and sign a declaration of the truth of the statements made in his examination;

(d) persons attending as witnesses before the Court shall be allowed such allowances as would be allowed under the High Court (Witnesses' Allowances) Rules, and in case of dispute as to the amount to be allowed the dispute shall be referred by the Court to the Registrar of the High Court, who, on request signed by the Court, shall ascertain and certify the proper amount of such allowances;

(e) the Court shall make a report to the Minister stating the causes and circumstances of the accident or case of occupational disease and adding any observations which the Court thinks right to make;

(f) the Court may require the expenses incurred in and about an investigating under this section (including the remuneration of any person appointed to act as assessor) to be paid in whole or part by any person summoned before it who appears to the Court to be, by reason of any act or default on his part or on the part of any servant or agent of his, responsible in any degree for the occurrence of the accident or case of occupational disease, but any such expenses not required to be so paid shall be deemed to be part of the expenses of the Labour Commissioner in the administration of this Act;

(g) any person who without reasonable excuse (proof whereof shall lie on him), after having had the allowances, traveling expenses and fees (if any) to which he is entitled tendered to him, fails to comply with any summons or requisition of the Court, or prevents or impedes the Court in the execution of its duty, is guilty of an offence and liable on summary conviction to a fine of five hundred dollars and to imprisonment for one month and, in the case of a failure to comply with the requisition for making any return or producing any document, if the failure in respect of which a person was so convicted is continued after the conviction, he is guilty of a further offence and liable on summary conviction to a fine of five hundred dollars for every day on which the failure was so continued.

7. (2) The Minister may cause the report of the Court to be made public at such time and in such manner as he thinks fit.

Penalties.

8. (1) Any person guilty of an offence against this Act or any Rules made thereunder for which no special penalty is provided by this Act is liable on summary conviction to a fine of one thousand dollars and to imprisonment for three months.

8. (2) Where an offence against this Act or any Rules thereunder committed by a company, co-operative society or other body of persons is proved to have been committed with the consent or connivance of, or to have been facilitated by any neglect on the part of any director, president, chairman, manager, secretary or other officer of the company, co-operative society or body of persons, he, as well as the company, co-operative society or body of persons shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Power of Minister to make Regulations.

9. (1) The Minister may make Regulations generally for carrying into effect the provisos of this Act.

Third Schedule.

9. (2) Without prejudice to the generality of the preceding subsection, the Minister may by Regulations made under this section amend the **Third Schedule**. The Third Schedule, as thus amended, shall be deemed to have been enacted by and to form part of this Act.

Application of Act to Government, etc.

10. Without prejudice to the generality of this Act, it is hereby declared that this Act shall apply in the case of accidents, occupational diseases specified in Regulations made under section 5 of this Act, occurring to persons employed by or under-

- (a) any department of the Government of Dominica other than members of the police service; or
- (b) any department of Government other than-
 - (i) members of the armed forces of the State; and
 - (ii) such persons or class of persons (not including members of the armed forces of the State) employed by or under any department of Government as may be specified by the Minister by Order,

and in such cases the notice to be given under this Act by the employer shall be given by such person as the head of the department of the Government of Dominica shall by written instructions direct.

Administration of Act.

11. The Labour Commissioner shall be responsible for the administration of this Act.

FIRST SCHEDULE

ACCIDENTS AND OCCUPATIONAL DISEASES (NOTIFICATION ACT)

NOTICE OF ACCIDENT OR DANGEROUS OCCURRENCE

1. Name of employer.....
2. Address of works or place where accident or dangerous occurrence happened.....
3. Nature of industry, occupation or business.....
4. Branch or department and exact place where accident or dangerous occurrence happened.....
5. Injured person's
 - (a) surname
 - (b) other names
 - (c) address
 - (d) sex

- (e) age last birthday
- (f) precise occupation

(avoid the term "labourer" where possible)

- 6. Date and hour of accident or dangerous occurrence.....
.....
- 7. Hour at which injured person started work on day of accident.....
.....
- 8. Cause or nature of accident or dangerous occurrence.....
.....
 - (a) give name of machine and part causing death.....
.....
 - (b) state whether machine was moved by mechanical power at time of the accident
.....
- 9. Nature, location and extent of injuries
- 10. If accident was not fatal, state whether injured person was disabled for more than three days from earning full wages at work at which he was employed at the time of the accident.

Date:
.....
(Signature of employer)



SECOND SCHEDULE

ACCIDENTS AND OCCUPATIONAL DISEASES (NOTIFICATION) ACT

NOTICE OF OCCUPATIONAL DISEASE

(To be sent to the Labour Commissioner and to the Medical Officer of the Department of Health for the district within which the place of employment is situated.)

- 1. Name of employer.....

2. Address and place of employment
3. Address of office.....
(if work on the place of employment is only temporary)
4. Nature of industry, occupation, or business.....
5. Nature of occupational disease.....
6. (a) surname
 (b) other names
7. Address (permanent)
8. Temporary address (if any)
9. Sex, and age last birthday.....
10. Precise occupation.....
(avoid the term "labourer" where possible)

Date:

.....
(Signature of employer)

THIRD SCHEDULE

1. Anthrax
2. Arsenical poisoning
3. Chrome ulceration, that is to say, ulceration due to chromic acid or bichromate of potassium, sodium or ammonium or any preparation of those substances.
4. Dermatitis
5. Epitheliomatous ulceration due to tar, pitch, bitumen, mineral oil or paraffin, or any compound, product or residue of any of those substances.

6. Lead poisoning
7. Toxic jaundice, that is to say, jaundice due to tetrachlorethane or nitro or amino –derivatives or benzene or other poisonous substance.
8. Glanders
9. Telegraphists's cramp
10. Ulceration of the corneal surface of the eye.