



THE NATIONAL OCCUPATIONAL SAFETY AND HEALTH POLICY

ESWATINI

MINISTRY OF LABOUR AND SOCIAL SECURITY

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ABBREVIATIONS / ACRONYMS

AGOA	:	The African Growth and Opportunity Act
BE	:	Business Eswatini
ENUW	:	Eswatini National Union Workers
EILFS	:	Eswatini Integrated Labour Force Survey
FESWATU	:	Federation of Swaziland Trade Unions
FHS	:	Faculty of Health Sciences
FPRW	:	Fundamental Principles and Rights at Work
HMCS	:	His Majesty Correctional Service
ILC	:	International Labour Conference
ILO	:	International Labour Organisation
KPI	:	Key Performance Indicators
M & E	:	Monitoring and Evaluation
MoH	:	Ministry of Health
MoHUD	:	Ministry of Housing and Urban Development
MoLSS	:	Ministry of Labour and Social Security
MoNRE	:	Ministry of Natural Resources and Energy
NCDs	:	Non-Communicable Diseases
OHS	:	Occupational Health Services
OPM	:	Office of the Prime Minister
OSH	:	Occupational Safety and Health
PPE	:	Personal Protective Equipment
RFM	:	Raleigh Fitkin Memorial
REPS	:	Royal Eswatini Police Service
SOGI	:	Sexual Orientation and Gender Identity
SSA	:	Sub-Saharan Africa
TIMS	:	TB in the Mining Sector Southern Africa
TCOSH	:	Technical Committee for Occupational Safety & Health
TUCOSWA	:	Trade Union Confederation of Swaziland
UNESWA	:	University of Eswatini
USA	:	United States of America
EUDF	:	Eswatini Umbutfo Defence Force

DEFINITIONS OF TERMS

Competent Authority: Denotes the minister(s), government department(s) or other authority having power to issue and enforce regulations, orders or other instructions having force or law in respect of the subject matter dealt with.

Employee Wellness Programme: Proactive and preventative programme designed to promote healthy life style and support healthy behaviour in the workplace.

Gender equity: Fairness and justice in the distribution of benefits and responsibilities. A gender equity approach ensures that women have a fair share of the benefits and responsibilities in society, as well as equal treatment before the law, equal access to social services, including education, and equal pay for work of equal value.

International Labour Organisation (ILO) Recommendation: A non-binding legal instrument drawn up by the International Labour Organization's constituents (governments, employers and workers), setting out basic principles and rights at work and serve as guideline.

Informal employment: All remunerative work (i.e. both self-employment and wage employment) that is not registered, regulated or protected by existing legal or regulatory frameworks, as well as non-remunerative work undertaken in an income-producing enterprise.

Informal sector: The informal sector is broadly characterised as consisting of units engaged in the production of goods or services with the primary objective of generating employment and incomes to the persons concerned. These units typically operate at a low level of organisation, with little or no division between labour and capital as factors of production and on a small scale. Labour relations - where they exist - are based mostly on casual employment, kinship or personal and social relations rather than contractual arrangements with formal guarantees.

ILO Convention: A binding legal instrument drawn up by the International Labour Organization's constituents (governments, employers and workers), setting out basic principles and rights at work and open for ratification by member states.

Occupational accident: An occurrence arising out of, or in the course of, work which results in fatal or non-fatal injury.

Occupational disease: Any disease contracted as a result of an exposure to risk factors arising from work activity.

Occupational Health Services (OHS): These are services entrusted with essentially preventive functions and responsible for advising the employer, the workers and their representatives in the undertaking on the requirements for establishing and maintaining a safe and healthy working environment which will facilitate optimal physical and mental health in relation to work and the adaptation of work to the capabilities of workers in the light of their state of physical and mental health.

Occupational safety and health (OSH): “the science of the anticipation, recognition, evaluation and control of hazards arising in or from the workplace that could impair the health and well-being of workers, taking into account the possible impact on the surrounding communities and the general environment”.

Occupational Safety and Health Data: Statistic of occupational safety and health related information like inspections, compliance and non-compliance rates, accident rates, occupational diseases and dangerous occurrences at workplaces.

Occupational Safety and Health Programmes: National programmes that includes objectives to be achieved in a predetermined time frame-priorities and means of action formulated to improve occupational safety and health, and means to assess progress

Occupational Safety and Health System: National infrastructure which provides the main framework for implementing the national policy and national programmes on occupational safety and health.

Occupational Safety and Health: The protection and promotion of the safety and health of all employed persons and exposed people through prevention and control of work-related hazards and risks.

Social partners: A tripartite group made up of government, workers’ and employers’ organizations that cooperates for the purpose of negotiation, consultation or exchange of information on issues of common interest relating to economic and social policy.

Stakeholder: Specific to this document, an individual, organization or a group of individuals or organizations, who has a direct or indirect interest in development, implementation and evaluation of national OSH strategies and interventions.

Worker: Is any person who is employed by or works for or assists an employer, in or at any workplace or any other premises.

Workplace: Any place where the employees of an employer work, and if an employer carries on or conducts two or more operations that are independent of one another by reason of their size, function or organization, each of those operations constitutes a separate workplace.

Work-related Incidents: Unsafe occurrence arising out of or in the course of work and has potential to cause injury, disease or death.

FOREWORD

The Kingdom of Eswatini prides itself in the development of the National OSH Policy and views this as a great stride towards realising the strategic interventions of the Ministry in achieving its mandate. Our goal is to align our policies and programmes with relevant international instruments with the aim to promote inclusive and sustainable economic growth, full and productive employment, and decent work. In line with this commitment the country has recently launched the Eswatini Decent Work Country Programme (EDWCP) 2022-2025. Part of the outcomes of EDWCP is promotion of sustainable economic growth which can be accomplished through decent jobs offered in a safe and healthy work environment.



The ILO Promotional Framework for Occupational Safety Convention No.187, provide for the creation of a National Policy; National System; National Programme; and National Preventive safety and health culture in which the right to a healthy and safe work environment is respected at all levels. The National Occupational Safety and Health (OSH) profile for the Kingdom of Eswatini (2019), recognizes the need for the country to have a National Policy on OSH. The country has therefore, timeously developed this National OSH Policy to address the impediments to safety and health identified by the National OSH profile as well as conforming to the ILO Promotional Framework.

The promotion of occupational safety and health, as part of an overall improvement in working conditions, represents an important strategy, not only to ensure the well-being of workers but also to contribute positively to productivity. Healthy workers are more likely to be better motivated, enjoy greater job satisfaction and contribute to better-quality products and services, thereby enhancing the overall quality of life of individuals and society. The health, safety and well-being of working people are thus prerequisites for improvements in quality and productivity, and are of the utmost importance for equitable and sustainable socio-economic development. As a country, we therefore look forward to the successful implementation of this policy.

Honorable Phila Buthelezi (MP)

Minister, Ministry of Labour and Social Security

ACKNOWLEDGEMENTS

The Ministry of Labour and Social Security (MoLSS) extends hearty gratitude to the International Labour Organization (ILO) for assistance in profiling Eswatini Occupational Safety and Health (OSH) Policy. The MoLSS wishes to express its sincere appreciation to the social partners and other key stakeholders for their extensive participation and valuable contributions to the development of this Policy, which are, inter alia, the following:

- Government Ministries and Departments
- Business Eswatini and the Federation of Eswatini Business Community
- Trade Union Confederation of Swaziland (TUCOSWA) and Federation of Swaziland Trade Unions (FESWATU)
- Academia
- Municipalities, Town Councils and Town Boards
- Eswatini Safety Health Environment Risk & Quality Forum
- Civil Society

We are so grateful for the support and proficiency provided which has occasioned the successful formulation of this document. We also remain committed to ensuring the successful implementation of the policy by the various stakeholders.

S.M. Mndawe
Principal Secretary
Ministry of Labour & Social Security

1. EXECUTIVE SUMMARY

The concern for occupational safety and health (OSH) is legitimate in every context of human beings. A safe and healthy work environment enhances productivity and economic growth. Safe and healthy working environments abate the risk of occupational accidents, diseases and disasters that upsurge socio-economic burdens at enterprise, individual and national level. The Government of Eswatini has a primary responsibility of safeguarding the population against risks to safety and health.

In 2019, with the support of the International Labour Organization (ILO) a situational analysis into the national OSH system was conducted. This analysis highlighted the strengths, weaknesses, opportunities and threats within the current OSH infrastructure and practices. Findings from the situational analysis revealed that there is lack of a national policy on OSH; inadequate elaboration for gender-responsive OSH application; inadequate enforcement capacity in OSH inspectorate to respond to existing and emerging risks; lack of mechanisms aimed at addressing OSH issues in the informal sector; and lack of consistency in generating occupational accident statistics, to mention, but a few. It is against these findings that the policy has been developed.

The primary objective is to prevent and minimise the number of work-related accidents and diseases and promote a safety and health culture. This Policy serves as a framework with set objectives and strategies aimed at improving the existing OSH situation. It comprises of seven specific objectives towards issues related to challenges , namely: strengthen the national OSH System and governance; improve the national OSH data collection and reporting system; improve coverage of all workers in situations of vulnerability by occupational safety and health interventions; develop OSH research capacity in the country; promote OSH awareness, advocacy and competence; facilitate mainstreaming of health promotion and wellness into OSH programme; establish sustainable OSH funding and Resource Mobilization mechanisms.

The Policy is meant to be applicable to all sectors of the economy including formal and informal employment. The successful implementation of this Policy rest on the active involvement of all social partners: the government, the employers, workers and other stakeholders. The MoLSS as the custodian of this Policy, will develop a coordination and implementation mechanism where the responsibilities of key stakeholders are clearly defined to ensure that implementation of the proposed strategies and activities are successful for the benefit of the country.

2. INTRODUCTION

The relationship between work and wellbeing undergirds occupational safety and health (OSH). Central to the interplay between work and wellbeing is that healthy workers are a prerequisite for the accomplishment of economic and social development. OSH is multidisciplinary, including occupational medicine, occupational hygiene, safety engineering, health physics, ergonomics, toxicology, epidemiology, sociology, psychology and general public health.

The 110th session of the International Labour Conference (ILC) of the International Labour Organization (ILO) that took place in June 2022, resolved to include safe and healthy working environment in the ILO's framework of fundamental principles and rights at work (FPRW). All Member States, regardless of ratification status of these two conventions, now have an obligation arising from the very fact of membership in the ILO to respect, to promote and to realize, in good faith and in accordance with the ILO Constitution, the principles concerning the fundamental right to a safe and healthy working environment.

This resolution declares that the Occupational Safety and Health Convention, 1981 (No. 155) and the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187) shall be considered as fundamental Conventions within the meaning of the ILO Declaration on Fundamental Principles and Rights at Work (1998), as amended in 2022. These two conventions describe the core principles and rights in the field of OSH and serve as the basis for the more advanced safety and health measures described in other OSH instruments.

As means towards achieving a balance between work and wellbeing, OSH is a set of systems that looks at how illnesses and injuries manifest among worker populations and set guidelines for implementation of interventions, including but not limited to strategies and regulations, to control them. It aims at improving conditions in the working environment to protect employees, employers, suppliers, customers, service providers and members of the public from negative impact of the working environment. In doing so, the OSH discipline requires insight of health risks associated with the world of work and to give advice on preventive strategies on how to avoid exposures that may lead to illness and injury. In many instances risks associated with hazards at workplaces do not show immediately but can cause illness in the long term from repeated low levels of exposure especially where appropriate control measures are wanting and or ineffective (Alli, 2008). Workers and managers need to have clear policy directives and practice standards to take appropriate action in managing risks and communicating the actions thereof to relevant stakeholders.

The Kingdom of Eswatini (Kingdom) is in the southern part of Africa bordered by Mozambique to the North East and South Africa to the North, South and West. The total surface area of the country is 17,364 km² covering approximately 193 km from North to South, and 145 km from East to West. The country's populace is estimated at 1.2 million. According to Eswatini Integrated Labour Force Survey (EILFS), 2021; 241 933 persons are employed and women account for 123 697 (51%) from the employed population and the youth (age 15-35) account for 106 247 (44%). Findings from the survey further revealed that out of 7 867 reported occupational injuries, males account for 5 504 (70%), while those in elementary occupations and craft related trades workers account for 21% and 16%, respectively.

The country is governed by the Constitution Act No.1 of 2005 which is the utmost law. Sections in the constitution tackle a number of matters regarding OSH. For instance; Chapter III of the Constitution entitled "Protection and Promotion of Fundamental Rights and Freedoms" Section 14 implicitly addresses OSH issues by providing for, among other things, protection from forced labour and respect for the rights of workers. Other sections that implicitly address the issue of OSH include Sections 17, 18, 28, 29 and 30. Section 32 of the Constitution, sub-titled "Rights of Workers", and overtly provides for OSH by stating that "Parliament shall enact laws to provide for the right of persons to work under satisfactory, safe and healthy conditions." Since 1975, Eswatini has been a member of the International Labour Organisation (ILO) and has since ratified a number of ILO Conventions providing for improvements in working conditions and environment. However, none of the core OSH Conventions is ratified. As such, the Ministry of Labour and Social Security (MoLSS); OSH Inspectorate and the Workmen's Compensation Units are mandated with the responsibility of collating, producing and publishing information on reportable occupational accidents and diseases.

While the afore-mentioned are desirable initiatives pertaining OSH; copious disparities exist within the OSH system. As a result; Government, in collaboration with ILO, social partners and other key stakeholders developed this Policy in order to harmonize and streamline the management of OSH. The policy entails the problem statement and rationale; overall policy goal and objectives; key issues and policy statement; roles of stakeholders; monitoring and evaluation; review of the policy and the implementation plan.

3. BACKGROUND

3.1 Problem Statement

According to ILO; more than 2 million people die from work-related causes each year, corresponding to over 6 000 deaths per day. Globally, it is estimated that there are 340 million occupational accidents and

160 million victims of work-related illnesses annually (ILO, 2021). The ILO further estimated that in 2018 more than 60 per cent of the world's employed population (3.3 billion), were categorized as informal workers. These workers are usually invisible from the point of view of OSH protection, regulation and control. Measures to improve safety and health at work for workers in the informal economy, such as working conditions improvement, and productivity enhancement for small and medium enterprises can help improve outcomes for informal workers, and highlight their contributions to national economies.

Reports from ILO state that by 2017, migrant workers accounted for 164 million of the world's approximately 277 million international migrants. Migrant workers often have poorer safety and health at work and suffer a lack of decent working conditions, frequently associated with employment in non-standard forms of employment, as most of them tend to be employed in dangerous, dirty and demeaning work in often informal and/or unregulated sectors such as agriculture, construction or domestic work with little respect for labour and other protections (ILO, 2019).

Recognising diversity, including gender differences, the workforce is inevitably important in ensuring the safety and health of both men and women workers. Earlier policies, legislation and practices failed to recognise gender differences for gender-responsive OSH risks assessment and management, as well as non-discriminatory work arrangements.

The ILO also notes that young workers experience significantly higher rates of occupational injury compared to older workers; and encourage targeted interventions to improve their OSH knowledge, attitude and behaviours; and to protect children from hazardous activities. The ILO further reported that the future of work will have more and emerging issues threatening the safety and health, and lessening protection of workers in situations of vulnerability, hence the need for human-centred approach to OSH.

Congruent to the observation made by ILO with regards to young workers; the Kingdom is no exception as child labour accounts for 30 207 (8.2%), whereby 26 004 (86%) in rural areas and 4203 (14%) in urban areas. Across regions of the country child labour is highest in the Lubombo region at 12 258 (41%) compared to other regions; Hhohho at 26%, Shiselweni 18% and Manzini 16%. The proportion of male child labour is higher than that of females at 16 749 (55%) and 13 458 (45%), respectively. Out of 123 281 informal employment, 31 726 (26%) is in the formal sector, 71 574 (62%) is the informal sector and 19 981 (16%) in households (Eswatini Integrated Labour Force Survey, 2021). Such daunting statistics on occupational related issues necessitate development of preventive and control measures fit for purpose and a policy guiding the generation of the statistics. Moreover, the country's data collection and

integrated medical surveillance systems on occupational diseases remains weak, posing a serious threat to the wellbeing of workers necessitating an OSH policy urgently.

In addition to the afore-mentioned, new developments in terms of technology, transport, communication, and patterns of employment, work changes and other factors lead to the generation of new types of hazards, exposures and risks (Alli B & ILO, 2008). It is against such, that a robust OSH management system comprising of planning and review, consultative arrangements and specified program elements that work together in an integrated way to improve health and safety performance is imperative.

The measures for the prevention and control of occupational hazards in the working environment should be based upon a clear, implementable and well-defined policy for all workers, which at present the Kingdom does not have. Lack of the policy underlay inadequacies in elaboration for comprehensive and gender-responsive OSH application; enforcement capacity in OSH inspectorate to respond to existing and emerging risks; mechanisms aimed at addressing OSH issues for all, including workers in the informal sector and workers in situations of vulnerability; as well as consistency in generating occupational accident statistics and periodic performance reports.

The primary aim of the national OSH policy is to bring about cutting-edge information on preventative and enforcement strategies necessary to prevent occupational injuries and diseases; achieve compliance in the work environment; and secure sustainable enterprises for better economic growth.

3.2 Situational Analysis

3.2.1 Legal framework

The country's Constitution provide for the right of persons to work under satisfactory, safe and healthy conditions. A number of legislative instruments that address various issues related to occupational safety and health have been enacted. The instruments include the Occupational Safety and Health Act, No. 9 of 2001; Factories, Machinery and Construction Works Act, No. 17 of 1972 and accompanying regulations; Workmen's Compensation Act, No.7 of 1983, and its accompanying regulations. Mines and Minerals Act, 2011; Mines, Works and Machinery Act, 1960, and accompanying regulations; as well as the Explosives Act, 1961, and accompanying regulations. The main piece of legislation providing for the preventive aspect of OSH in the Kingdom of Eswatini is the Occupational Safety and Health Act, No. 9 of 2001. The objective of the Occupational Safety and Health Act is to "provide for the safety and health of persons at work and at the workplace and for the protection of persons other than persons at the workplace

against hazards to safety and health arising out of or in connection with the activities of persons in the workplace and to provide for other matters incidental thereto.” The Occupational Safety and Health Act falls short in providing enforceable directives to deal with gender issues such as ergonomic designs of workstations and measures to prevent exposure to some chemicals which have adverse effects on expectant mothers and the unborn.

This policy will also, as appropriate, address OSH gaps in relation to the cross-cutting issues mainly regulated by other related legislation. These include hazardous activities for children, gender, disability inclusion, non-discrimination as well as safe working conditions for migrant workers and workers in informal sectors of the economy. The implementation, enforcement, review or, as appropriate, amendment of relevant national documents including Action Programme on Combating Child Labour, SMEs Policy, Labour Migration Policy, National Disability Policy, Employment Act No. 5 of 1980, the Child’s Protection and Welfare Act, etc. will shape the OSH promotion roles of Ministry of Labour and Social Security and relevant stakeholders.

3.2.2 Institutional Framework

Currently, OSH is administered by four competent authorities namely – the Ministry of Labour & Social Security (MoLSS), Ministry of Health (MoH), Ministry of Housing and Urban Development (MoHUD) and the Ministry of Natural Resources and Energy (MoNRE). However, there is poor coordination among these Ministries which is negatively affecting the administration of OSH. Competent Authorities are challenged by lack of resources to carry out their responsibilities and functions. There is a lack of skilled OSH professionals and experts and there is no capacity development plan within the OSH field. Most of the Divisions and Sections responsible for OSH at different Authorities are not sufficiently funded, and some do not have budgets to execute their functions.

The skills and professions to provide optimal occupational safety and health services include among others, occupational medicine and nursing, occupational hygiene, work physiology and physiotherapy, ergonomics, safety and psychology. There is need to create a professional body of occupational safety and health to register OSH practitioners as well as associate professions to then enable government to measure institutional response to national OSH response.

3.2.3 Occupational Health Services

Occupational health services to provide occupational safety and health advisory and “just-on-time” support at operational level, are not even at bare minimum level. The absence of such services compromises the effectiveness of legislation. Occupational Health Services (OHS) are entrusted with essentially preventive functions and advising the employer and workers on the requirements for establishing and maintaining a safe and healthy working environment. They are essential in facilitating optimal physical and mental health of workers and their adaptation to work environment. In the country we have two occupational medical units established in 2017 at the Raleigh Fitkin Memorial (RFM) Hospital, in Manzini, and at Hlathikhulu Government Hospital. The primary purpose of the units is to provide medical support and occupational health assessment (medical examinations, health promotion and counselling to patients, as well as referrals to other medical specialists) to miners and ex-miners who, till then, had to travel to South Africa to undergo occupational assessments for purposes of compensation.

3.2.4 Occupational accidents and diseases statistics

Under Article 11(c) of ILO Convention 155, the competent authority of each member state is progressively required to carry out “the establishment and application of procedures for the notification of occupational accidents and diseases, by employers and, when appropriate, insurance institutions and others directly concerned, and the production of annual statistics on occupational accidents and diseases”. However, the MoLSS has a challenge in regularly generating the statistics as expected because there is lack of a national OSH surveillance system. Currently the country conducts an Integrated Labour Force Survey (ILFS) on a yearly basis and recently published one in 2021. The ILFS intends to collect data that depicts the labour market status in the country well as trends of major labour market indicators.

3.2.5 Occupational accidents insurance

Eswatini does not have a workers’ compensation state insurance fund to provide insurance to employers against occupational injuries and diseases. The Workmen’s Compensation Act requires every employer, other than Government, who employs a worker to insure or keep himself insured in respect of all liability which the employer may incur under the Act. The ILO Conventions 155 and 187 requires that each member state promotes a safe and healthy working environment by formulating a national policy on OSH. This will be the first national policy on OSH to be developed in Eswatini.

3.2.6 OSH Research

There are no OSH laboratories and research facilities to assist in providing OSH information that is scientifically proven. This has created difficulties in the setting of standards such as occupational exposure levels and OSH enforcement processes.

3.2.7 OSH Code of Conduct

The obligations of occupational safety and health professionals include protecting the life and the health of workers, respecting human dignity and promoting the highest ethical principles. While implementing a strong, effective and sustainable occupational safety and health systems and foster a culture of integrity and high ethical standards with a view to enhancing transparency.

4. KEY POLICY ISSUES

4.1 Issues / Gaps

- a. Non-ratification of ILO Conventions on OSH
- b. Inadequate enforcement capacity (staffing, regulatory framework, operational resources, budget, competence, accessibility)
- c. Lack of OSH surveillance system
- d. Lack of coordination and collaboration among players/stakeholders
- e. Poor OSH awareness
- f. Inadequate mainstreaming of Gender in OSH
- g. Lack of professional development and coordination
- h. Poor coverage of SMEs and Informal Sector
- i. Limited OSH research infrastructure
- j. Inadequate OSH governance

4.2 Emerging/newly identified issues and/or threats

- a. Pandemics/Epidemics
- b. Inability to sustain risk or lose eligibility to trade benefits
- c. Inadequate protection of workers in vulnerabilities, including migrant workers.
- d. Limited capacity to prevent and manage violence and harassment and other psychological hazards
- e. New forms of work e.g., working from home
- f. Security Threats
- g. Sexual Orientation & Gender Identity (SOGI)

h. Corruption

5. GUIDING PRINCIPLES

5.1 Preventive OSH Services

The policy and programme shall develop, promote and maintain a national preventative safety and health culture, whereby right to safe and healthy work environment is respected and prioritized at all levels. OSH interventions at enterprise and national levels, including application and resources for information, awareness and training; risk assessment and management; incident reporting and investigation, will therefore be applied and availed on right basis and aim to prevent injuries and diseases or recurrence thereof.

5.2 Consultation and Participation

As emphasised in relevant ILO conventions, OSH requires effective and inclusive consultation, engagement and communication that afford workers, employers and government equitable involvement opportunities. Effective social dialogue, in form of joint safety and health committees at enterprise level, collective bargaining arrangements, and national tripartite advisory structures will be cornerstones for implementation of this policy. The policy will further aim to adequately involve and consult workers in informal economy and SMEs, workers with disability, migrant workers, women and other groups in situations of vulnerability, in context of OSH.

5.3 Continual Improvement

The OSH management system is one of the useful tools in ensuring continual improvement for effective and sustainable OSH programme at enterprise and national levels. The management of OSH will follow the cyclic execution of steps based on the principle of the “Plan-Do-Check-Act”. “Plan” involves the setting of an enterprise or national OSH policy, planning including the allocation of resources, provision of skills and organisation of the system, hazard identification and risk assessment. The “Do” step refers to actual implementation and operation of the OSH programme. The “Check” step is devoted to measuring both the active and reactive performance of the programme. The “Act” step involves the review of the system in the context of continual improvement and identification of priorities for the next cycle.

5.4 Gender Equality, Equity and Non-Discrimination

Historic international standards and national legislation attempted to protect women from certain hazards but in a long run perpetuated gender-inequality and discrimination in the world of work.

This policy is also premised on the principle that men and women are equal in all respect differentiated only by their physical traits and biological functions. It follows therefore that all forms of discrimination based on sex and gender should be eliminated. Today women entering non-traditional occupations are particularly at risk of discrimination, violence, different forms of harassment, and little protection from other safety and health hazards. The ILO has called for abrogation of Conventions impeding application of its values such as gender equality and non-discrimination, including Underground Work (Women) Convention, 1935 (No. 45), to which the Kingdom is signatory; and encourage ratification of more up-to-date conventions. Further to gender equality, this policy will seek to address a growing need for comprehensive and right-based approach to protection of reproductive health of both men and women, inclusion and integration of workers with disability, as well as prevention and control of psychosocial risks associated with stress and work-related violence and harassment in workplaces.

5.5 Good OSH Governance

The provisions and guidance by International Labour Standards (ILS) and tools are based on internationally agreed principles and best practice resulting from tripartite constituents' consultations. This policy will aim to have such provisions incorporated into the Kingdom high level aspirations and national agenda in order to achieve synergy and strengthen specific regulatory and institutional framework for delivery of OSH interventions, programme and outcomes.

6. VISION

To be a leading country in the region in providing a gender equitable safe and healthy working environment free from occupational injuries and diseases.

7. MISSION

Committed to providing and maintaining a safe and health working environment for all by aligning ourselves to the ILO standards.

8. SCOPE

The policy is applicable to workplaces in all sectors of the economy and all types of work activities.

9. POLICY STATEMENT

The National OSH Policy has been developed according to the National Constitution, National Development Strategy and International Labour Standards. The National Occupational Safety and Health Policy aims to prevent occupational injuries and diseases, including emerging issues in the world of work

and promote a preventive safety and health culture for all workers in the Kingdom for decent, productive and healthy employment with equity, security and human dignity. The national policy on OSH will recognize the contribution of all workers to the national economy.

10. RATIONALE

The National OSH Policy is a strategic approach that would govern processes for the prevention and management of occupational accidents and diseases and provide decent, healthy, productive and safe working environment. The policy will guide OSH promotion as part of an overall improvement in working conditions which is an important strategy towards well-being of workers and productivity. Investing in the safety and health of workers inherently possess the potential effect of workers being motivated. If workers are motivated, they are in a better space to experience job satisfaction, consequently, contributing to better-quality products and services, thereby enhancing the overall quality of life of individuals and society. Well-being of workers is fundamental to equitable and sustainable socio-economic development and requires a coherent national policy on OSH. The articulation of such a policy will reaffirm a government's commitment to the cause of a safe working environment and enable it to comply with its moral and international obligations. Furthermore, the National OSH policy would facilitate the integration and collaboration of effort by the different Competent Authorities which is required towards occupational safety and health management system.

11. POLICY ALIGNMENT

The Constitution for the Kingdom of Eswatini, particularly Chapter III on "Protection and Promotion of Fundamental Rights and Freedoms" and XV on "International Relations" provide for protection from forced labour and respect for the rights of workers, right of persons to work under satisfactory, safe and healthy conditions, child from engaging in work that constitutes a threat to the health, education or development, rights of the family, women, children, workers and persons with disabilities, and women's right to equal treatment with men as well as to facilities and opportunities necessary to enhance their welfare to enable them to realise their full potential and advancement, as well as ratification and enactment of international agreements. This policy is hence aligned to the following domestic and international legal instruments:

11.1 Domestic laws and policies

a. Draft National Workplace Wellness Policy

The National Workplace Wellness Policy complements the OSH policy by addressing the impact of communicable diseases and non-communicable (NCDs) in the world of work.

b. Draft National Labour Migration Policy (NLMP)

The overall objective of the NLMP is to provide a governance framework for the Kingdom to effectively manage labour migration so that it protects all workers as it develops the country's economy.

c. National Social Security Policy of 2021

This policy provides for financially sustainable social security coverage in Kingdom. It creates an employment injury scheme that is supportive to the OSH policy.

d. National Disability Policy of 2020

It purports to alleviate poverty, eradicate discrimination and foster an environment conducive for optimal attainment and realization of rights by persons living with disabilities inclusive of active participation in the socio-economic development of the country. The policy seeks to ensure that they enjoy the right to work and are free from discrimination in the labour market.

e. National Gender Policy of 2010

The policy provides guidelines, indicators and a framework to assist stakeholders to achieve gender equity as provided for in the Constitution of the Kingdom and other relevant international instruments that the country has adopted. The Gender Policy also provides the legal framework for institutionalizing gender mainstreaming, equal opportunities, decent work at all levels and in all sectors, including the allocation of adequate resources to achieve its goal.

f. Action Programme on Combating Child Labour

The ratification of ILO Convention 138 on Minimum age and ILO Convention 182 on Worst forms of child labour has given rise to the establishment of the Action Programme on Combating Child Labour.

g. Occupational Safety and Health Act, 2001

This Act provides for appointment, powers and duties of inspectors for OSH, duties of employers, self-employed persons, employees and other duty holders, consultation at national and enterprise levels, regulation of hazardous work and workplaces, as well as procedures for notification and investigation for occupational accidents and diseases.

h. Factories, Machinery and Construction Works Act, 1972 and its Regulations

These regulate the registration of factories, use of machinery at factories, construction works and other premises as hazardous workplaces, notification of accidents and industrial diseases, and investigation of industrial accidents, among others.

i. Workmen's Compensation Act, 1983 and its Regulations

These provide for the compensation and medical treatment of workers who suffer injury or contract disease in the course of their employment.

j. Mines and Minerals Act, 2011

This Act provides for matters related to safety and health in prospecting and mining operations.

k. Employment Act, 1980

This Act provides minimum terms and conditions of employment for all employees (excluding members of the REPS, HMCS and EUDF) and to protect them against any forms of unfair labour practices in the workplace. It also provides for the protection of children against child labour and further gives the Minister the authority to develop regulations to provide a list of hazardous activities prohibited for employed children.

l. Public Health Act, 1969

This Act provides for the prevention and management of occupational diseases, through promotional activities, occupational disease surveillance and provision of occupational health services.

m. Environmental Management Act, No. 5 of 2002

It provides for and promotes the enhancement, protection of environment where appropriate, the sustainable management of natural resources.

n. Child's Protection and Welfare Act 2012

An Act that provides for the protection and welfare of children, the care, protection and maintenance of children; and to provide for matters incidental thereto.

o. Industrial Relations Act 2000 and its Amendment

This Act regulates good relationships in workplaces.

p. Explosives Act and Regulations of 1961

The Act provides for safe use, transportation, storage and disposal of explosives.

q. Mines & Quarry (Safety) Regulations 1969

The regulations provide for the safety of equipment and machinery in the mining operations.

The policy implementation shall also recognize provisions of sector and risk specific regulations and national standards as adopted by relevant ministries and Eswatini Standards Authority (SWASA), respectively.

11.2 International instruments

a. Labour Inspection Convention, 1947 (No. 81)

This convention requires a country to secure the enforcement of the legal provisions relating to conditions of work through effective co-operation between the inspection services and other government services and public or private institutions collaboration between officials of the labour inspectorate and employers and workers or their organizations; and availability of duly qualified technical experts and specialists in the inspection and workplace effective' investigation systems.

b. Employment Injury Benefits Convention, 1964 (No. 121)

As per the requirements of this convention, the country shall prescribe a list of diseases which shall be regarded as occupational diseases under prescribed conditions; and provide the definition of occupational diseases in national legislation.

c. Occupational Safety and Health Convention, 1981 (No. 155)

This convention directs that a country to adopt a coherent national OSH policy through dialogue between government, workers' and employers' organizations, as well as action to be taken by governments and within enterprises to promote OSH and to improve working conditions. It further requires the establishment and application of procedures for the notification of occupational accidents and diseases and the production of annual statistics on occupational accidents and diseases.

d. Occupational Health Services Convention, 1985 (No. 161)

The convention promotes progressive development of occupational health services that are adequate and appropriate to specific risks and undertakings, for all workers, including those in the public sector and the members of production co-operatives, in all branches of economic activity.

e. Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187)

It provides a framework for coherent and systematic approach on OSH at national level, through establishing and implementing coherent national policies; and promoting a national preventive safety and health culture.

f. Violence and Harassment Convention, 2019 (No. 190)

This Convention requires member states to respect, promote and realize the right of everyone to a world of work free from violence and harassment, and urges them to take into account violence and harassment and associated psychosocial risks in the management of occupational safety and health.

g. ILO Recommendation concerning HIV and AIDS and the World of Work, 2010 (No. 200)

This Recommendation calls for a safe and healthy working environment, as well as prevention and control measures to prevent transmission of HIV in the workplace, considering the Occupational Safety and Health Convention, 1981, and Recommendation, 1981, the Promotional Framework for Occupational Safety and Health Convention, 2006, and Recommendation, 2006, and other relevant international instruments, such as joint International Labour Office and WHO guidance documents.

h. ILO's List of Occupational Diseases Recommendation, 2002 (No. 194)

A country is to develop and appropriately review a national list of occupational diseases for the purpose of prevention, recording, notification and compensation.

i. ILO Code of Practice: Recording and notification of occupational accidents and diseases (1996)

This Code gives practical recommendations for improving the recording and notification of occupational accidents and diseases to develop preventive measures, such as legal and administrative arrangements, enterprise level recording, the extension of provisions to the self-

employed, the compilation of statistics and the investigation of occupational accidents and diseases.

j. The United Nations 2030 Agenda for Sustainable Development Goals (SDG) Target 8.8

This emphasises the duty to protect labour rights and promote safe and secure working environments for all workers by 2030.

k. SADC Protocol on Health, 1999

The Protocol requires State Parties shall assist each other in the development and delivery of integrated occupational health services and co-operate in reducing the prevalence of occupational injuries and diseases.

l. SADC Protocol on Employment and Labour 2014

The Protocol requires State Parties to take all reasonable, practicable steps towards achieving progressively a safe and healthy working environment through a national system and national programmes on OSH, in accordance with ILO Conventions on occupational safety and health.

m. Africa Growth and Opportunity Act (AGOA)

The African Growth and Opportunity Act (AGOA) program is a non-reciprocal trade policy instrument whose long-term objective is to help foster economic growth and development in sub-Saharan Africa (SSA) through links with the multilateral trade system and, more specifically, the United States (US) market. AGOA's eligibility criteria cite the "Protection of internationally recognized worker rights, including the right of association, the right to organize and bargain collectively, a prohibition on the use of any form of forced or compulsory labour, a minimum age for the employment of children, and acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health". The KoE, through the AGOA Utilization Strategy and Implementation Plan, commits to build awareness and capacity of the Ministry of Labour to be conversant in its role in promoting and supporting AGOA, and also include officials of the Ministry in AGOA structures and committees.

The policy implementation shall also recognize provisions of sector specific Conventions, Recommendation and Codes of Practice of the ILO and other international or regional commitments.

12. OVERALL GOAL

The goal of the National OSH policy is to promote and advance the right for persons at work to a safe and healthy working environment at all levels and to protect any other persons from hazards arising out of workplace activities.

13. POLICY OBJECTIVES AND STRATEGIES

Objective 1: To strengthen the national OSH System and governance

A sound national OSH system and governance that is based on solid OSH preventive culture. The policy will seek to facilitate the prioritization of the right to safety and health of men and women at work in national agendas through synergy between OSH objectives and national development objectives as well as international agreements.

Strategies to facilitate achievement of this objective:

- a. Review the existing legal frameworks relating to OSH and bring them in line with the relevant International Labour Standards;
- b. Facilitate coordination through consultation and participation among stakeholders;
- c. Strengthen the OSH inspection system for effective enforcement of all applicable OSH laws and regulations in the working environment;
- d. Strengthen the provisions of Occupational Health services to cover all workers and to respond to all emerging issues; and
- e. Strengthen OSH governance through adherence to ILO standards on OSH and other related international agreements.

Objective 2: To improve the national OSH data collection and reporting system

This objective is critical to prevent the recurrence of occupational injuries and diseases. Interventions at enterprise and national levels shall be informed by up-to-date, accurate and reliable OSH data, as produced through harmonized systems for data collection as well as notification and recording of occupational accidents and diseases.

Strategies to facilitate achievement of this objective:

- a. Establish measures for accurate, comparable, retrievable and reportable OSH data; and
- b. Improve public's access to up-to-date OSH data.

Objective 3: To improve coverage of all workers in situations of vulnerability by occupational safety and health interventions

The evolution of the world of work brings new dynamics such as emerging sectors of economies, non-standard forms of employment, labour mobility and migration, new arrangements of work, etc. Enterprises and workers have been exposed to positive and negative effects such as reduced operation cost and emerging physical and psychosocial risks. This policy recognises the need to pay particular attention to groups of workers whose vulnerability is likely to be intensified by labour market changes; and enhance their protection from work-related risks and hazards.

Strategies to facilitate achievement of this objective:

- a. Establish appropriate and sustainable mechanisms to ensure OSH for workers in SMEs and Informal Economy;
- b. Establish appropriate and accessible mechanisms to ensure OSH for migrant workers;
- c. Establish fair and equitable mechanisms to ensure OSH for workers with disability;
- d. Facilitate the protection of young workers and children from activities deemed as hazardous; and
- e. Establish timely and responsive mechanisms for monitoring and identification of priority groups in OSH promotion.

Objective 4: To develop OSH research capacity in the country

The scientific and professional understandings of the nature of work and its relationship to the safety, health and well-being of workers is an important element in OSH systems. Fields such as occupational hygiene, the science of identifying, measuring and controlling potentially harmful workplace exposures, along with occupational medicine, toxicology and epidemiology are critical yet under-developed in Eswatini. Research institutions and their appetite for OSH would contribute to prevention of occupational injuries and diseases.

Strategies to facilitate achievement of this objective:

- a. Establish a mechanism and infrastructure to conduct research on particular priority subjects in OSH.

Objective 5: To promote OSH awareness, advocacy and competence

A broader focus on OSH requires the consideration and application of new skills sets in the field. Some changes creating new OSH challenges for prevention have also created new opportunities to improve prevention efforts. Recognition of multidisciplinary approach to OSH has been brought to the fore than before. For the government and social partners to raise to the challenge, they need to anticipate emerging issues, identify crucial disciplines and develop necessary awareness, capacity, competence and partnerships.

Strategies to facilitate achievement of this objective:

- a. Promote awareness and advocacy among workers, employers and key stakeholders on OSH challenges and emerging issues; and
- b. Develop OSH skills at all society levels.

Objective 6: To facilitate mainstreaming of health promotion and wellness into OSH programme

The concept of health promotion at workplace has existed over decades, however the health promotion policies need to evolve and be effective for both women and men by taking into account the evolving relationships between safety, health and well-being, and gender roles. Psychosocial risks, work-related stress and non-communicable diseases are also of growing concern for many workers nowadays. The spill over of OSH impacts and effects into general wellbeing necessitates the strong link between safety and health at work and the cause and prevention of psychosocial disorders and non-communicable diseases.

Strategies to facilitate achievement of this objective:

- a. Mainstream Wellness and disease management into OSH; and
- b. Promote prevention of violence and harassment in working environment.

Objective 7: To establish sustainable OSH funding and Resource Mobilization mechanisms

Like most developing countries we are faced with the challenge of limited financial resources in our fiscal budget making it difficult to fund developmental activities. In view of the fore-mentioned challenge additional funds shall be sought through development cooperation to speed up the policy implementation process.

Strategies to facilitate achievement of this objective:

- a. Develop proposals on OSH activities for possible funding by local, regional and international development partners; and
- b. Lobby central government agencies (Finance, Economic Planning and Public service) to provide adequate funding.

15. POLICY IMPLEMENTATION FRAMEWORK

15.1 Implementation arrangement

The formulation of this national OSH policy reflects the respective roles of stakeholders and responsibilities of public authorities, employers, workers and recognizes the complementary character of those responsibilities. Congruent to Convention No. 187, a functional and effective national OSH policy needs to address the needs of both employers and workers; and aim to promote basic principles such as assessing occupational risks or hazards; combat occupational risks or hazards at source; and

develop a national preventative safety and health culture that includes information, consultation and training.

Furthermore, the Ministry responsible for Labour shall, by implementation of the policy, promote the system approach by collaborating with those responsible for the following elements of OSH system:

- a. laws and regulations, collective agreements where appropriate, and any other relevant instruments on occupational safety and health;
- b. authority or body, or authorities or bodies, responsible for occupational safety and health, designated in accordance with national law and practice;
- c. mechanisms for ensuring compliance with national laws and regulations, including systems of inspection;
- d. arrangements to promote, at the level of the undertaking, cooperation between management, workers and their representatives as an essential element of workplace-related prevention measures
- e. a national tripartite advisory body, or bodies, addressing occupational safety and health issues;
- f. information and advisory services on occupational safety and health;
- g. the provision of occupational safety and health training;
- h. occupational health services in accordance with national law and practice;
- i. research on occupational safety and health;
- j. a mechanism for the collection and analysis of data on occupational injuries and diseases, taking into account relevant ILO instruments;
- k. provisions for collaboration with relevant insurance or social security schemes covering occupational injuries and diseases; and
- l. Support mechanisms for a progressive improvement of occupational safety and health conditions in micro-enterprises, in small and medium-sized enterprises and in the informal economy.

15.1.1 Roles of Key Stakeholders and Implementation Partners

#	Stakeholder	Key roles
1.	Ministry responsible for Labour, OSH, Workers Compensation	<p>To provide for the safety and health of persons at work and at workplace and for the protection of persons other than persons at the workplace against hazards to safety and health arising out of or in connection with the activities of persons in the workplace and to provide for other matters incidental thereto. Gather and make available OSH information and data.</p> <p>To provide for the compensation and medical treatment of workers who suffer injury or contract disease in the course of their employment. To provide for the protection of children against child labour and develop regulations to provide a list of hazardous activities prohibited for employed children.</p> <p>To lead and coordinate the implementation, monitoring and evaluation of the Policy and to facilitate resource mobilization provision of effective OSH services</p>
2.	Ministry responsible for Health	Has an important role in preventing and managing occupational diseases, through promotional activities, occupational disease surveillance and provision of occupational health services.
3.	Ministry responsible for Mines	To provide for the safety and health of workers; safe use, transportation, storage and disposal of explosives; and the safety of equipment and machinery in the mining operations.
4.	Ministry responsible for Environment	To provide and promote the enhancement, protection of human health and conservation of the environment, sustainable management of natural resources.
5.	Ministry responsible for Immigration	To provide a governance framework for the Kingdom to effectively manage labour migration so that all workers are protected as the country's economy develops.
6.	Ministry Responsible for Child Welfare	To provide for the protection, welfare, care, protection and maintenance of children.
7.	Ministry responsible for Gender	Provides guidelines, indicators and a framework to assist stakeholders to achieve gender equity.

8.	Ministry responsible for Trade	To provide an enabling environment and support for the development and growth of business and industry for the attainment of economic development in the KoE.
9.	Government office responsible for national statistics	Coordinate the National Statistical System, provide high quality statistical data and information required for evidence-based policy, planning and decision-making for national socio-economic development. Responsible to provide OSH data in the ILFS information.
10.	Government office responsible for Standards	Responsible to develop, adopt and publish national standards based on stakeholders needs.

15.1.1 Roles of Key Stakeholders and Implementation Partners Cont'd

#	Stakeholder	Key roles
11.	TCOSH	Collects OSH information, coordinate OSH legislation at national level and recommend formulation and review of the national policy.
12.	Employers' Organisations	Ensure safety and health at work Promote awareness and implementation of this policy among their members and ensure that their members comply with all OSH requirements at the work place. Participate in and provide inputs towards implementation and review of this policy through TCOSH Collect and avail OSH data from members.
13.	Workers' Organisations	Promote awareness and implementation of this policy among their members. Participate in and provide inputs towards implementation and review of this policy through TCOSH Collect and avail OSH data from members.
14.	Local Authorities	Has an important role in preventing and managing occupational diseases, through promotional activities, occupational disease surveillance and provision of occupational health services.
15.	Development Partners	Collaborate with Government in OSH promotion and resource mobilization

15.1.2 Roles of Other Stakeholders

#	Stakeholder	Key roles
1.	Other government offices/ministries/agencies	Cooperate with and support responsible Ministries to fulfil their OSH promotion and enforcement functions.
2.	Civil Society Organisations	Advocate, sensitize and create awareness on OSH issues. Assist with Monitoring and Evaluation
3.	Media	Advocate, communicate, sensitize and create awareness on OSH issues.
4.	Academia	Promote OSH knowledge and competence enhancement through need assessment, curricula development, etc.
5.	Professional Fora and Bodies	Promote OSH knowledge and competence enhancement through experience sharing, professional registration, quality monitoring, etc.
6.	Research Institutions	Collaborate with government and other stakeholders to conduct research and develop training material for OSH. Support research development in collaboration with government.

15.2 Advocacy, communication and dissemination

The Ministry responsible for Labour shall lead the advocacy, communication and dissemination of this policy via most accessible platforms and formats, and in collaboration with social partners and stakeholders, including the Media and Civil Society Organisations.

15.3 Resource Mobilization

Central government will provide support and resources for the implementation of this policy with the assistance of key local and international partners within the sector.

15.4 Implementation Plan and Programme

The Implementation plan as appended to this policy has been developed in consultation with representatives of employers and workers and shall serve as a national programme on occupational safety and health in accordance with Article 5 of Convention on Promotional Framework for Occupational Safety and Health, 2006 (NO.187). The programme shall be reviewed as needed and upon TCOSH advice.

16. POLICY MONITORING, EVALUATION AND REVIEW

16.1 Monitoring and Evaluation (M & E) of the policy

The MoLSS and TCOSH will coordinate the monitoring and evaluation of the policy through the following steps:

- Develop a M&E plan that will track short- and intermediate-term changes in the policy process to accurately assess attribution or contribution to longer-term change through policy implementation
- The allocation of dedicated resources (staff, time, money) to policy monitoring efforts
- Systems to collect, analyse, and synthesize data related to the policy process and use qualitative and quantitative data collection techniques to receive input from constituencies on their needs, priorities, and interests and how policies affect them
- Innovations and adaptation of approaches in response to the changing world of work , internally and externally
- Training on the policy process and monitoring and evaluation for government institutions, workers' and employers' organizations civil society, key populations, etc.
- Facilitate multi-sectoral workshops on the implementation of policy monitoring plans

- Systematically evaluate the effectiveness of different policy interventions (e.g., advocacy, policy dialogue, policy analysis, strategic planning) to determine contributions to policy outcomes and learn lessons to improve future activities
- Communicate findings of policy monitoring through various communication channels to workers and employers' organisation for decision making, advocacy, etc.

N.B Policy monitoring involves:

- Appraising the policy environment,
- Gauging the level and quality of stakeholder engagement,
- Documenting the progress of policy development and the legislative endorsement of policy,
- Putting policies into practice through financing and implementation planning, and
- Evaluating outcomes of implementation

16.2 Review of the Policy

The policy will be reviewed periodically because OSH is dynamic and long-term. Following the evolvement of OSH circumstances, policy reviews may be done triennial (every three years). Reviewing the policy would encompass an overall assessment of the policy and, or focus on particular areas. The intentions of reviewing the policy are:

- to identify major glitches
- to devise effective methods of dealing with glitches identified / experienced as the policy was implemented
- to formulate and establish priorities for action
- to evaluate the results

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