

Health, Safety and Welfare at Work Act, 1999

Principal Act

Act. No. 1999-32

Commencement (LN.2007/017)
Assent

25.1.2007
4.11.1999

ARRANGEMENT OF SECTIONS

Section

1. Title and commencement.
2. Approval of codes of practice by the Minister for Employment.
3. Use of approved code of practice in criminal proceedings.
4. Administration.

AN ACT TO MAKE PROVISION FOR THE APPROVAL AND ISSUE OF CODES OF PRACTICE FOR THE PURPOSE OF PROVIDING PRACTICAL GUIDANCE WITH RESPECT TO THE NEED TO SECURE THE HEALTH, SAFETY AND WELFARE OF PERSONS AT WORK AND MEMBERS OF THE PUBLIC.

Title and commencement.

1. This Act may be cited as the Health, Safety and Welfare at Work Act, 1999 and shall come into force on such date as the Minister for Employment may by notice in the Gazette appoint.

Approval of codes of practice by the Minister for Employment.

2.(1) For the purpose of providing practical guidance with respect to the need to secure the health, safety and welfare of persons at work and members of the public under the Gibraltar's legislation, the Minister for Employment (hereinafter referred to as "the Minister"), may, subject to the following subsection—

- (a) approve and issue such codes of practice (whether prepared by him or not), as in his opinion are suitable for that purpose;
- (b) approve such codes of practice issued or proposed to be issued otherwise than by him as in his opinion are suitable for that purpose.

(2) The Minister shall not approve a code of practice under subsection (1) above without having first consulted any Government Department or other body that appears to him to be appropriate.

(3) Where a code of practice is approved by him under subsection (1) above, the Minister shall issue a notice in writing—

- (a) identifying the code in question and stating the date on which his approval is to take effect; and
- (b) specifying for which provision in Gibraltar's legislation referred to in subsection (1) above, the code is approved.

(4) The Minister may—

- (a) from time to time revise the whole or any part of any code of practice prepared by him in pursuance of this section;
- (b) approve any revision or proposed revision of the whole or any part of any code of practice for the time being approved under this section;

and the provisions of subsections (2) and (3) above shall, with the necessary modifications, apply in relation to the approval of any revision under this subsection as they apply in relation to the approval of a code of practice under subsection (1) above.

(5) The Minister may at any time withdraw his approval from any code of practice approved under this section, but before doing so shall consult the same Government Departments and other bodies as he would be required to consult under subsection (2) above if he were proposing to approve the code.

(6) Where under the preceding subsection the Minister withdraws his approval from a code of practice approved under this section, he shall issue a notice in writing identifying the code in question and stating the date on which his approval of it is to cease to have effect.

(7) References in this Act to an approved code of practice are references to that code as it has effect for the time being by virtue of any revision of the whole or any part of it approved under this section.

(8) The power of the Minister under subsection (1)(b) to approve a code of practice issued or proposed to be issued otherwise than by him shall include power to approve part of such a code of practice; and accordingly in this Act “code of practice” may be read as including a part of such a code of practice.

Use of approved code of practice in criminal proceedings.

3.(1) Failure on the part of any person to observe any provision of an approved code of practice shall not of itself render him liable to any civil or criminal proceedings; but where in any criminal proceedings a party is alleged to have committed an offence by reason of a contravention of any requirement or prohibition imposed by or under any provision of Gibraltar’s legislation, being a provision for which there was an approved code of practice at the time of the alleged contravention, the following subsection shall have effect with respect to that code in relation to those proceedings.

(2) A provision of the code of practice which appears to the court to be relevant to the requirement or prohibition alleged to have been contravened shall be admissible in evidence in the proceedings. If it is proved that there was at any material time a failure to observe any provision of the code which appears to the court to be relevant to any matter which it is necessary for the prosecution to prove in order to establish a contravention of that requirement or prohibition, that matter shall be taken as proved unless the court is satisfied that the requirement or prohibition was in respect of that matter complied with otherwise than by way of observance of that provision of the code.

(3) In any criminal proceedings—

(a) a document purporting to be a notice issued by the Minister under section 2 shall be taken to be such a notice unless the contrary is proved;

- (b) a code of practice which appears to the court to be the subject of such a notice shall be taken to be the subject of that notice unless the contrary is proved.

Administration.

4. The provisions of Part XI of the Factories Act shall apply in regard to the administration of this Act.