

Medical Examination of Young Persons (Underground Work) Act, Cap 216

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CHAPTER 216 THE MEDICAL EXAMINATION OF YOUNG PERSONS (UNDERGROUND WORK) ACT

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ARRANGEMENT OF SECTIONS

Section

1. Short title
2. Interpretation
3. Convention to have the force of law
4. Initial medical examination
5. Periodical medical examination
6. Inspection
7. Registers
8. Penalties
9. Regulations

SCHEDULE-Convention No. 124

CHAPTER 216

MEDICAL EXAMINATION OF YOUNG PERSONS
(UNDERGROUND WORK)

Act No.
20 of 1973
13 of 1994

An Act to provide for the implementation in Zambia of the International Labour Organisation's Convention Number 124 concerning medical examination of young persons for fitness for employment underground in mines; and to provide for matters ancillary to or connected with the foregoing.

[23rd March, 1973]

1. This Act may be cited as the Medical Examination of Young Persons (Underground Work) Act.

Short title

2. In this Act, unless the context otherwise requires-

Interpretation

"approved physician" means any physician approved for the purposes of this Act by

the Director of the Bureau or by the Deputy Director or any other member of the Bureau authorised by the Director in writing in that behalf;

"Bureau" means the Pneumoconiosis Medical and Research Bureau established under section *twenty* of the Pneumoconiosis Act; Cap. 217

"Convention" means the International Labour Organisation Convention Number 124 concerning medical examination of young persons for fitness for employment underground in mines, reproduced in the Schedule to this Act;

"employee" means an employee within the meaning of section *three* of the Employment Act who is less than twenty-one years of age; Cap. 268

"employer" means the owner of a mine or any person who, under any agreement whatever, works a mine and includes the manager, secretary, agent or other person authorised by the owner or by the person who, under any agreement, works the mine to engage workers;

"mine" has the meaning assigned to it under Article 1 of the Convention;

"thorough medical examination" includes clinical and radiological examinations.

3. Subject to the provisions of this Act, the Convention shall have the force of law in the Republic. Convention to have the force of law

4. (1) No employer shall employ or require to work underground in a mine any person under the age of twenty-one years unless, after a thorough medical examination carried out by or under the supervision of an approved physician, such person is certified by the physician to be in every way physically fit for such employment or work. Initial medical examination

(2) Nothing in this Act shall be construed as authorising the employment of any person whose employment is prohibited under any other written law.

5. In addition to the medical examination mentioned in section *four*, an employer shall cause every employee to be medically examined by or under the supervision of an approved physician at least once in every twelve months, and no employee who has been, as a result of such examination, declared by the approved physician to be unfit for employment or work underground in a mine shall be allowed to continue such in employment or work. Periodical medical examination

6. (1) The Director of the Bureau may at any time, in writing, authorise any person (hereinafter referred to as "an inspector") to inspect the registers and certificates of health of the employees kept and maintained by any employer in pursuance of the provisions of this Act. Inspection

(2) An employer shall, whenever so required by an inspector, produce to him for inspection, the registers and certificates mentioned in subsection (1).

(3) Whenever an inspector inspects the registers and certificates of health kept and maintained by an employer, he shall submit a report of his inspection to the Director of the Bureau, and the Director shall transmit the same together with his comments thereon to the Minister.

7. (1) An employer shall in respect of every employee keep and maintain, in such form as may be prescribed under this Act, a register which shall *inter alia* contain the following information, that is to say: Registers

(a) name;

(b) date of birth;

(c) nature of employment;

(d) date of agreement; and

(e) particulars of the certificate which evidences the fitness of an employee.

8. Any employer who fails to comply with the provisions of this Act shall be guilty of an offence and shall on conviction be liable to a fine not exceeding one thousand five hundred penalty units or to imprisonment for a term not exceeding six months, or to both. Penalties

(As amended by Act No. 13 1994)

9. (1) The Minister may, by statutory instrument, make regulations for the carrying into effect of the provisions of this Act. Regulations

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may-

(a) prescribe the time, place, nature and procedure of the thorough medical examination to be made under section *four*;

(b) prescribe the nature of and procedure in connection with the periodical medical examination to be made under section *five*;

(c) prescribe the forms to be used for certificates to be issued under this Act; and

(d) prescribe the form of the register to be kept by an employer under this Act.

SCHEDULE

(Section 2)

CONVENTION NO. 124

THE MEDICAL EXAMINATION OF YOUNG PERSONS (UNDERGROUND WORK) CONVENTION, 1965

CONVENTION CONCERNING MEDICAL EXAMINATION OF YOUNG PERSONS FOR FITNESS FOR EMPLOYMENT UNDERGROUND IN MINES

Article 1

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1. For the purpose of this Convention, the term "mine" means any undertaking, whether public or private, for the extraction of any substance from under the surface of the earth by means involving the employment of persons underground.
 2. The provisions of this Convention concerning employment or work underground in mines include employment or work underground in quarries.

Article 2

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1. A thorough medical examination, and periodic re-examinations at intervals of not more than one year, for fitness for employment shall be required for the employment or work underground in mines of persons under 21 years of age.
 2. Alternative arrangements for medical supervision of young persons aged between 18 and 21 years shall be permitted where the competent authority is satisfied on medical advice that such arrangements are equivalent to or more effective than those required under paragraph 1 of this Article and has consulted and reached agreement with the most representative organisations of employers and workers concerned.

Article 3

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1. The medical examinations provided for in Article 2-
 - (a) shall be carried out under the responsibility and supervision of a qualified physician approved by the competent authority; and
 - (b) shall be certified in an appropriate manner.

2. An X-ray film of the lungs shall be required on the occasion of the initial medical examination and, when regarded as medically necessary, on the occasion of subsequent re-examinations.
3. The medical examinations required by this Convention shall not involve the young person, or his parents or guardians, in any expense.

Article 4

1. All necessary measures, including the provision of appropriate penalties, shall be taken by the competent authority to ensure the effective enforcement of the provisions of this Convention.
2. Each Member which ratifies this Convention undertakes either to maintain an appropriate inspection service for the purpose of supervising the application of the provisions of the Convention or to satisfy itself that appropriate inspection is carried out.
3. National laws or regulations shall define the persons responsible for compliance with the provisions of this Convention.
4. The employer shall keep, and make available to inspectors, records containing, in respect of persons under 21 years of age who are employed or work underground-
 - (a) the date of birth, duly certified wherever possible;
 - (b) an indication of the nature of their occupation; and
 - (c) a certificate which attests fitness for employment but does not contain medical data.
5. The employer shall make available to the workers' representatives, at their request, the information mentioned in paragraph 4 of this Article.

Article 5

The competent authority in each country shall consult the most representative organisations of employers and workers concerned before determining general policies of implementation and before adopting regulations in pursuance of the terms of this Convention.

Article 6

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

Article 7

1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.
2. It shall come into force twelve months after the date on which the ratification of two Members have been registered with the Director-General.
3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratification has been registered.

Article 8

1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered.
2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

Article 9

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organisation of the registration of all ratifications and denunciations communicated to him by the Members of the Organisation.
2. When notifying the Members of the Organisation of the registration of the second ratification communicated to him, the Director-General shall draw the attention of the Members of the Organisation to the date upon which the Convention will come into force.

Article 10

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations full particulars of all ratifications and acts of denunciation registered by him in accordance with the provisions of the preceding Articles.

Article 11

At such times as it may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 12

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides-
 - (a) the ratification by a Member of the new revising Convention shall *ipso jure* involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 8 above, if and when the new revising Convention shall have come into force;
 - (b) as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Article 13

The English and French versions of the text of this Convention are equally authoritative.

The foregoing is the authentic text of the Convention duly adopted by the General Conference of the International Labour Organisation during its Forty-ninth Session which was held at Geneva and declared closed the twenty-third day of June, 1965.