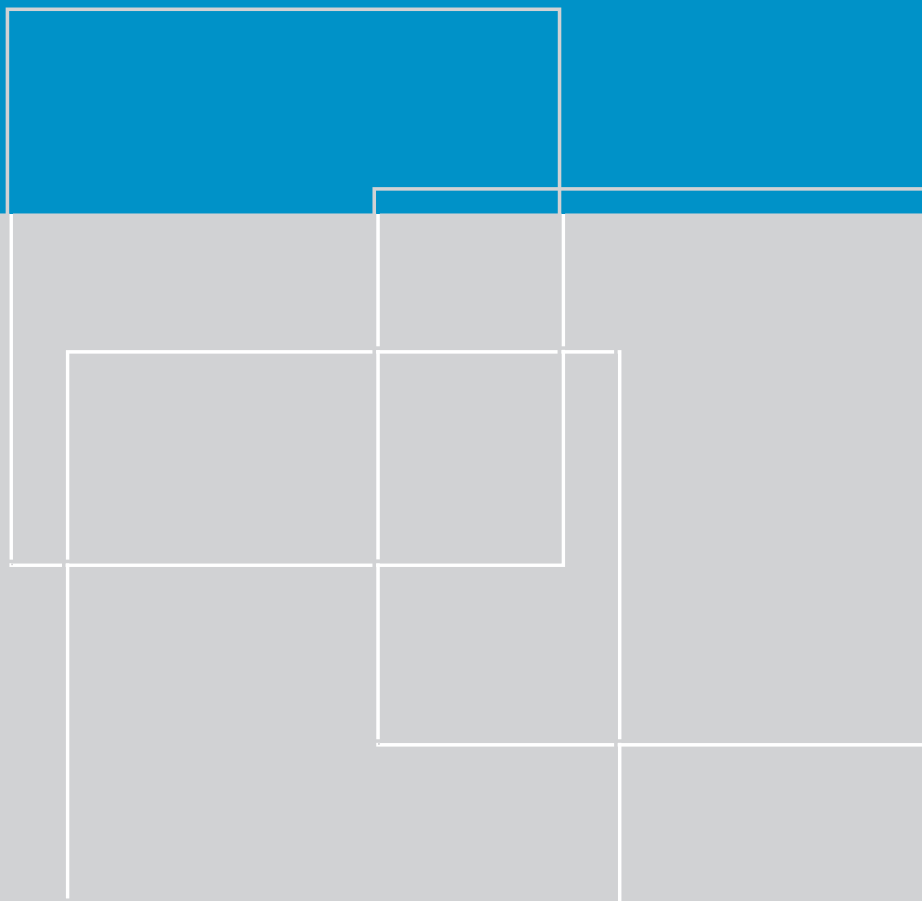




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RECORDING AND NOTIFICATION OF OCCUPATIONAL ACCIDENTS AND DISEASES IN MALAWI 2012



MALAWI GOVERNMENT

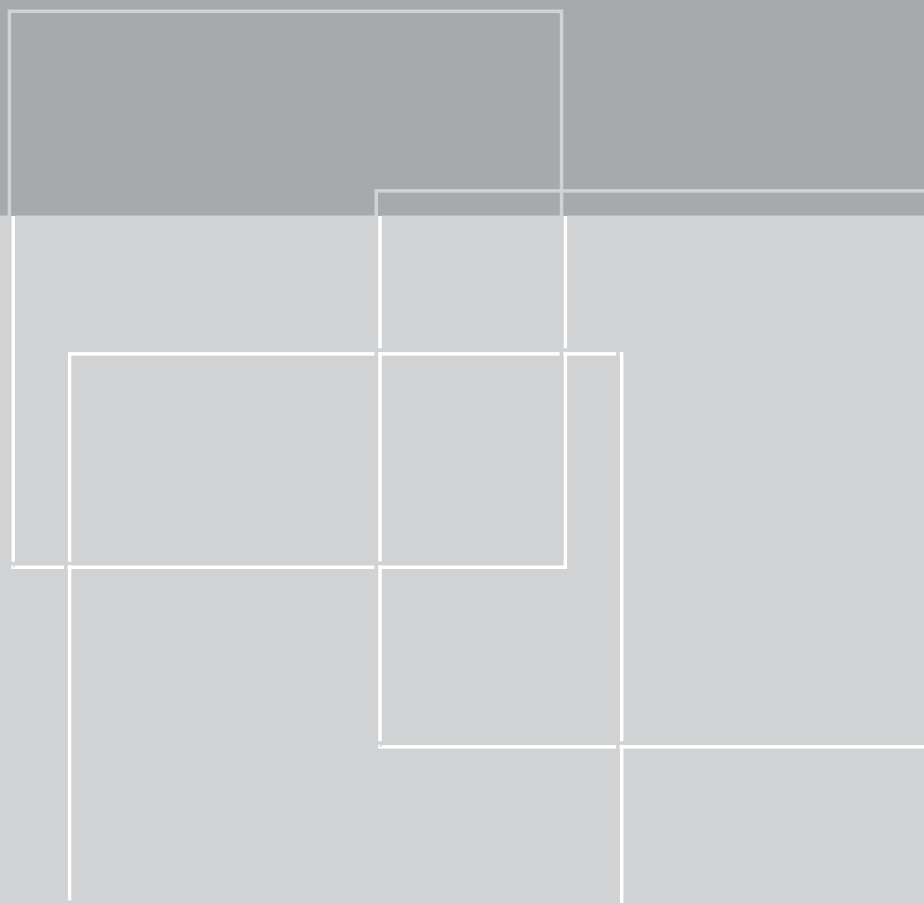




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RECORDING AND NOTIFICATION OF OCCUPATIONAL ACCIDENTS AND DISEASES IN MALAWI 2012

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ABBREVIATIONS

Co	Code of Practice
ECAM	Employers' Consultative Association of Malawi
GoM	Government of Malawi
ILO	International Labour Organisation
MCTU	Malawi Congress of Trade Union
MMA	Minerals and Mines Act
MoJ	Ministry of Justice
MoL	Ministry of Labour
NGO	Non-Governmental Organisation
OSH	Occupational Safety and Health
OSHWA	Occupational Safety, Health and Welfare Act
WCA	Workers Compensation Act

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Dr. Alister C. Munthali and Mr. James Milner, Co-Consultants for the ILO Project on Improving Safety and Health at Work through a Decent Work Agenda have compiled a report from the information provided by, among others, the following institutions: Directorate of Occupational Safety and Health, Ministry of Labour; Workers Compensation Division, Ministry of Labour; Department of Mines, Ministry of Natural Resources; Employers' Consultative Association of Malawi; and Malawi Congress of Trade Unions.

The draft profile was discussed by national stakeholders who approved the final version in July 2012.

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I would like to express my appreciation to all those who contributed to the development of the National Study on Recording and Notification of Occupational Accidents and Diseases in Malawi and I do believe that the Study will serve as a useful tool for improving occupational safety and health in Malawi.

Martin Clemensson

ILO Director for Zambia, Malawi and Mozambique

ILO Lusaka Office

1. INTRODUCTION: ABOUT THE STUDY

This study was commissioned by the Ministry of Labour (MoL) with support from the International Labour Organisation (ILO) through a project on ***Improving Safety and Health through the Decent Work Agenda*** funded by the European Union. The MoL, among other responsibilities, inspects workplaces in order to identify hazards to workers' health and welfare and to recommend measures to address them. The inspection of workplaces is done in order to prevent occupational accidents and diseases and to ensure that employees perform their work in a safe and healthy environment. In the event that occupational accidents and diseases occur in any workplace, it is a legal requirement that these have to be reported to the MoL so that its officers can investigate the cause of such events and make recommendations on how such accidents and diseases can be prevented in future and ensure that workers involved in accidents are duly compensated¹. Whenever there is violation of the law, the MoL recommends to the Ministry of Justice (MoJ) for prosecution of owners of the workplaces.

While the Occupational Safety, Health and Welfare Act (OSHWA) provides for the notification and reporting of accidents, there is a need to better understand the prevailing basic practices and procedures that are used at both the national and workplace level for the reporting and notification of occupational accidents, diseases and other dangerous occurrences. The MoL keeps records of occupational accidents and diseases from different workplaces. Likewise, workplaces are under statutory obligation to record and preserve records of occupational accidents and diseases. While acknowledging that occupational accidents and diseases occur in different workplaces in Malawi, not all these accidents and diseases are reported to appropriate authorities, namely the Directorate of Occupational Safety, Health and Welfare and the Workers' Compensation Division (WCD) both of the MoL. This study therefore explored awareness among different stakeholders, namely Directorate of Occupational Safety and Health, WCD, Department of Mines in the Ministry of Natural Resources, Employers' Consultative Association of Malawi (ECAM) and Malawi Congress of Trade Unions (MCTU) about the need to keep records and report to the MoL if occupational accidents and diseases occur in workplaces. The study also looked at the existing systems in workplaces for reporting and notification of accidents and diseases, procedures for compensation and the challenges that workplaces experience in recording and reporting such incidents.

At national level the study explored the existing systems for recording and notification of occupational accidents and diseases and mechanisms that the MoL has put in place in order to ensure that all workplaces in Malawi are aware of this need. The study further explored the challenges that the MoL experiences when compiling this data. The purpose of this study was to get the views of the social partners (namely Government, Employers and Workers) on recording and notification of occupational accidents and diseases. The social partners were requested to offer suggestions on what needs to be done in order to improve the recording and notification of occupational accidents and diseases. The ultimate aim was to provide practical solutions to promote the application of a coherent and harmonised system for collection, recording and notification of reliable data on occupational accidents, diseases and related statistics at the workplace and national levels.

1 Government of Malawi. (1997). *Occupational Safety, Health and Welfare Act*. Lilongwe: Government Printer

2. OBJECTIVES

2.1 Overall objective

The overall objective of this study was to improve the collection, recording and notification of occupational accidents and diseases with the overall goal of preventing occupational accidents and diseases in Malawi.

2.2 Specific objectives

The specific objectives were as follows:

- To determine the systems that the MoL and different workplaces have put in place for the recording and notification of occupational accidents and diseases in Malawi.
- To find out the existing legislative and policy framework that provide for the recording and notification of occupational accidents and diseases.
- To determine the challenges that the MoL, different workplaces and other stakeholders experience in recording and notification of occupational accidents and diseases.
- To make recommendations on how the recording and notification of occupational accidents and diseases can be improved.

3. METHODOLOGY

Initially a meeting was arranged with the Directorate of Occupational Safety and Health in the MoL. The purpose of this meeting was to discuss with them the existing legislation and policies that guide the collection and recording of occupational accidents and diseases and other dangerous occurrences in Malawi and if at all there were any weaknesses in such frameworks. Secondly the research team also discussed with the staff from the Directorate on how occupational accidents and diseases are reported to it, the existing systems for doing this and the challenges that the MoL experiences in ensuring that such events are properly recorded. The guide for discussions with officials from the Directorate of Occupational Safety and Health is in Annex 1.

In addition to the Directorate of Occupational Safety and Health, there are other stakeholders who play a role in the recording and notification of occupational accidents and diseases and these include Department of Mines, ECAM, MCTU and the WCD. Members of these organisations were asked about their awareness of the existing legislation relating to notification and recording of occupational accidents and diseases, the role that their organisations play, the procedures that are in place for notification and recording of occupational accidents and diseases and the challenges that exist in performing this activity at both national and workplace levels. Guides for discussions with these stakeholders are in Annexes 2-4.

All accidents are supposed to be reported to the MoL and as part of this study files in the Directorate of Occupational safety and Health and the Workers Compensation Division were reviewed in order to compile trends in the number of accidents happening in different workplaces over the period 2000-2011. Records from the Directorate of Occupational safety and Health were not properly organised; hence a decision was made to review records from WCD whose records were quite comprehensive. It was felt that the records from WCD would give a better picture because most employers report to this Department and not the Directorate of Occupational Safety and Health. The process of data collection for this study lasted one week from 23 January to 27 January 2012 (see Annex 5). In order to triangulate what was found out during the various meetings with stakeholders, a two-day workshop was held at Lilongwe Hotel on 25th and 26th July 2012. Participants had the opportunity to comment on the first draft and their comments were incorporated into the final draft. A list of participants to the workshop appears in Annex 9.

4. RESULTS

4.1 Legislative framework

The MoL's Directorate of Occupational Safety and Health is the designated national authority responsible for collection, maintenance of a database, analysis and investigation of occupational accidents and diseases and dangerous occurrences as contained in the OSHWA. Records on occupational accidents and diseases are also kept by the Workers' Compensation Division also of the MoL and the Department of Mines in the Ministry of Natural Resources. The MoL, as a national competent authority for collection and analysis of occupational accidents and diseases, has not delegated its responsibilities to any other organisation. It, however, works in collaboration with the MoJ and the Department of Mines. There are three main pieces of legislation that guide the reporting and notification of occupational accidents and diseases and other dangerous occurrences and these are the OSHWA, the Workers' Compensation Act (WCA) and the Mines and Minerals Act (MMA). This section describes the contents of these pieces of legislation.

4.1.1 Occupational Safety, Health and Welfare Act

The OSHWA was enacted in 1997 and it provides for the notification and recording of accidents. It says that if any accident occurring in any workplace causing loss of life to a person employed in that workplace or disables or is capable of disabling any person from carrying out normal duties at which he is employed, a written notice of the accident should be sent to the Director of the Directorate of Occupational Safety and Health in the MoL². Forms are available in the MoL which are supposed to be filled by management of a workplace should any accident occur. Details required in these forms include the name of the injured person, his age, the time the accident occurred and cause of injury among other pieces of information See Appendix 10.

In case of death or serious injury the Act calls on workplaces, in addition to written notices, to immediately report to the Director by phone or any other fastest available means of communication to facilitate immediate investigation. In addition to workplaces, the Act also applies to other places such as those specified in the first schedule of the OSHWA so long as there is death or serious injury³ and these occurrences are as follows:

- Bursting of a revolving vessel, wheel, grindstone or grind wheel, moved by mechanical power.
- Collapse or failure of a crane, derrick, winch, hoist or other appliance used in raising or lowering persons or goods, or any part thereof, or the overturning of a crane.
- Explosion of fire causing damage to the structure of any room or place in which persons are employed, or to any machine or plant contained therein, and resulting in the complete suspension of ordinary work in such room or place or stoppage of machinery or plant for not less than 24 hours.
- Electrical short circuit or failure of electrical machinery, plant or apparatus, attended by explosion or fire and causing structural damage thereto, and involving its stoppage or disuse for not less than 24 hours.
- Explosion from a steam boiler, steam receiver or air receiver.

2 Government of Malawi. (1997). *Occupational Safety, Health and Welfare Act 1997*. Lilongwe: Government of Malawi – section 66.

3 Government of Malawi. (1997). *Occupational Safety, Health and Welfare Act 1997*. Lilongwe: Government of Malawi – section 67.

Section 68 of the Act also calls on workplaces believing or suspecting cases of industrial diseases as detailed in the second schedule of the Act to report to the Director using a prescribed form. These occupational diseases include (i) lead poisoning, including poisoning by any preparation or compound of lead; (ii) Phosphorous poisoning by phosphorous or its compounds; (iii) mercurial poisoning; (iv) manganese poisoning; (v) arsenal poisoning by arsenic or its compounds; (vi) aniline poisoning; (vii) carbon bisulphide; (viii) Benzene poisoning, including poisoning by any of its homologous, or their intro or amido derivatives; (ix) anthrax; (x) silicosis; (xi) pathological manifestations due to (a) radium or other radioactive substances and (b) x-rays; (xiii) primary epitheliomatous ulceration of the skin, due to the handling or use of tar, pitch, bitumen, mineral oil or paraffin, or any compound, product or residue of any of these substances; (xiv) compressed air illness; (xv) asbestosis; (xvi) Byssinosis; (xvii) Bagassosis; and (xviii) Tobaccosis.

The list of occupational diseases as contained in the second schedule of the OSHWA is quite comprehensive and is in line with the diseases as contained in the ILO Code of Practice (CoP)⁴. Not all the occupational diseases as listed in the CoP are in the OSHWA; the OSHWA list is a subset of occupational diseases as contained in the CoP. It, however, contains almost all diseases that can occur in Malawian workplaces. While the OSHWA contained 18 occupational diseases the WCA on the other hand contains 23 occupational diseases including viral hepatitis B which is not in the OSHWA. The list in the WCA is longer possibly because it was developed later than the OSHWA and that it also covers workers who are not covered by the OSHWA. The OSHWA specifies the statutory requirement that occupiers of workplaces should report occupational accidents and diseases to the Director of the Directorate of Occupational Safety and Health in the MoL. However, do all workplaces know about these statutory requirements?

During discussions with officials from the Directorate of Occupational Safety and Health in the MoL, participants mentioned that most owners of workplaces are not aware of the statutory requirement to report occupational accidents to the Directorate of Occupational Safety and Health. Most of them however are aware of reporting to the MoL's WCD for purposes of compensation. Participants further pointed out that in most cases multinational companies such as ILLOVO Sugar Company, Southern Bottlers, Carlsberg Malawi Limited and the tobacco and tea industries do know and report accidents. These multinationals tend to follow international standards such as ISO and NOSA standards for business purposes.

The recording and notification of occupational accidents and diseases is a legal requirement. However, most workplaces do not comply with this obligation. This suggests that there are weaknesses in existing legislation and policies regarding recording and notification of accidents. Officials from the Directorate of Occupational safety and Health pointed out that there are tedious administrative procedures to punish offenders. The Directorate is supposed to recommend to the MoJ for any breach of the OSHWA including straight forward cases such as failure to report workplace accidents and dangerous occurrences. Usually, it takes too long before cases are concluded in the Courts. The other notable weakness in the OSHWA is the exclusion of certain areas of economic activities from the application of the Act. By definition of "workplace", some areas of economic activities where accidents occur are excluded and these include shops, offices, banks, educational institutions, health facilities and others.

It was also noted that collaboration and coordination amongst players involved in the recording and notification of occupational accidents and diseases is poor for example there is inadequate collaboration between the Directorate and the Workers' Compensation Division within the same MoL. These shortfalls need to be addressed in order to ensure that there is a conducive legislative environment for the reporting and recording of occupational accidents and diseases. Currently, Malawi does not have a policy on occupational safety and health which can provide guidance on implementation of occupational safety and health interventions including the recording and notification of occupational accidents and diseases. The OSHWA defines the mandate of the Ministry of Labour which is the designated national authority respon-

ILO. (year). *Code of practice on occupational safety and health*. Geneva: ILO

sible for collection, maintenance of a database, analysis and investigation of occupational accidents, diseases and other dangerous occurrences.

4.1.2 Workers' Compensation Act

Within the MoL, the Workers' Compensation Division has the responsibility of implementing the WCA enacted in 2000. Among other provisions, the Act provides for compensation for injuries suffered or diseases contracted by workers in the course of their employment or for death resulting from such injuries or diseases. To facilitate compensation of victims, the Act (Section 24) provides for employers to report every injury or disease arising out of and in the course of employment as follows:

24.-(1) Every injury arising out of and in the course of employment which results in-

- (a) the death of a worker or which may result in death to a worker;
- (b) or is likely to result in some degree of permanent incapacity to a worker; or
- (c) incapacitating a worker from following his normal employment for more than fourteen days,

And every injury or death of a worker from any cause whatsoever shall, within twenty one days of the date when the injury occurred or the death occurred, be reported by the employer in the prescribed form to the Board.

If an employer does not comply with this requirement of reporting the injury or death to the Board, where Board refers to the Workers' Compensation Trustee Board, he or she shall be guilty of an offence and will be fined. During the discussions with officials from the WCD, it was noted that not all accidents are reported to the Division. Among other reasons, some employers deliberately hide information so as to evade paying compensation. Others do not report because they claim not to be aware or indeed are ignorant of the reporting requirement while others find the process of compensation monotonous and that it interferes with their core business. On the part of the workers, mostly they tend not report on their own out of ignorance or fear of reprisal from the employer. The discussion, however, revealed that more accidents are reported to the WCD as opposed to the Directorate of Occupational Safety and Health.

The accidents that are reported to the WCD include commuting accidents and other accidents occurring in workplaces not covered by the OSHWA. Even the workplaces covered by the OSHWA report more to the WCD than to the Directorate for Occupational Safety and Health. Comparatively, more people are aware of the need to report accidents to the WCD than to Directorate of Occupational Safety and Health for the simple reason that at the end of the day there is monetary benefit for the victim. While it is an offence not to report accidents, employers are also aware that in one way or another the accident would be reported to WCD as such the level of compliance to report under the WCA is higher than under the OSHWA.

One of the challenges regarding recording and notification of occupational accidents and diseases is the current system of compensating victims of occupational injuries. The WCA does provide for the establishment of a Workers' Compensation Fund but the Fund is yet to be put in place. In the absence of the Fund, victims are paid through individual liability insurance system. Under this arrangement victims are paid through insurance companies or individual companies take care of compensation if their workers are not insured. Under the Workers' Compensation Scheme, employers are assessed based on risks and are obliged to contribute to the Fund with the view that the Fund will take care of compensation for all paid-

up members. It was noted that this is the practice in most countries and it works. One of the advantages is that compensation is paid without delays and it ensures systematic record keeping and eradicates the tendency of hiding accidents by employers for fear of paying compensation.

The WCD has a duty to inform all employers of the need to report occupational accidents and diseases for the purpose of compensating victims. However, the Division fails to undertake awareness campaigns due to resource constraints to engage the media houses or disseminate information through both the electronic and print media. In general, the WCD also has challenges including inadequate financial resources, inadequate expertise, inadequate human resources and mobility. During the discussions with officials from the WCD, it was mentioned that the MoL should: (i) provide the necessary support to the Division to establish the Workers' Compensation Fund; (ii) facilitate ratification and domestication of International Conventions on Social Security; (iii) build human resource capacity for the Division; and (iv) provide equipment such as computers and vehicles. Currently, the WCA has adequate provisions for recording and notification of occupational accidents and diseases but challenges exist that hamper the effective implementation of the WCA.

4.1.3 The Mines and Mineral Act

The Department of Mines is responsible for, among other things, the enforcement of the MMA. This piece of legislation regulates all mining activities including issuance of mining licenses. Small and medium scale mining licenses are issued and renewed annually. Large scale miners are usually licensed in accordance with the lifespan of the mine. Other licenses include exploration and exclusive rights. Apart from regulating activities to do with mining and exploration, the Act also provides for regulation of accidents and other dangerous occurrences occurring in the mining sector. During discussions with officials from the Department of Mines, they said that the MMA requires that any accident occurring in the mining sector should be reported to the Department of Mines within 24 hours. The Department has inspectors who deal with OSH matters including investigating accidents reported to the Department. In investigating accidents, the Department works closely with the Directorate of Occupational Safety and Health in the MoL and also with District Labour Officers at district level for purposes of compensation of injured persons. Once the investigations are concluded the final reports are sent to the Ministry of Natural Resources, Energy and the Environment and to the MoL for final determination and next course of action.

The officials from the Department of Mines said that every mining company submits monthly returns to the Department of Mines indicating the number of accidents that occurred in the Mine. This means the Department has information on accidents reported. The unfortunate part is that the information has not been computerized and analyzed. In other words national data for accidents in the mines is not organized. The data is scattered in many files. The other challenge is that most accidents are not reported to the Department, especially by the small and medium scale mining companies. Some of them are not even licensed to mine for example those mining gemstones. These small scale mining operations are characterized by poor working conditions whereby issues of safety and health are almost non-existent.

It was also learnt during the discussions that the mining sector constitutes one of the most hazardous occupations in Malawi. The major mining activities include coal mining, quarrying and lately uranium mining. Mining activities bring along a lot of health and environmental concerns or impacts. To mitigate the health aspects, the standard approach is to have programmes for monitoring the health of the workers through pre-employment medical examinations followed by periodic health checks. It was noted that such programmes are not well established within the mining sector in Malawi. The occupational health

services are not readily available and the public health facilities do not have the capacity to meet the demand for occupational health services against their primary responsibility of providing health services to the general population. The gap to undertake workers' health surveillance has resulted in having no data on occupational diseases.

The officials from the Department of Mines also said that there were also other challenges in the effective implementation of the MMA and these include for example (i) the fact that the legislation is weak and outdated as it was enacted at a time when the Malawi's mining sector was at its infant stage. However, it was noted that the MMA has been revised to take into account recent developments and is going through the necessary processes before it becomes law and the Department of Mines will collaborate with the Ministry of Labour to speed up the process; (ii) the enforcement of legislation is weak because of rudimentary Inspection system with little follow-ups; and that (iii) the Department has no Codes of Practice for recording and notification of accidents. The officials said that local companies are usually the ones that violate the MMA while international companies, in addition to following the prevailing local laws, also follow international standards. The other challenge is that as far as reporting is concerned individual companies use their own reporting systems.

In order to address the challenges being faced currently with regard to notification and reporting of accidents in the mining sector a number of recommendations were made namely (i) that the laws governing the mining sector including stringent penalties for non-compliance should be reviewed; (ii) that a mandatory health monitoring program for workers in the mining sector should be established and enforced; (iii) that there was a need to build stronger links with the MoL on recording and notification of accidents and occupational diseases; (iv) that there was also a need to strengthen collaboration with the international organizations and adopt or adapt international standards, guidelines and codes of practices; (v) that there was also a need to strengthen awareness raising OSH programmes targeting the small and medium scale enterprises and the local mining companies. Table 4.1 below shows the strengths and weaknesses of existing legislation on recording and notification of occupational accidents and diseases

Table 4.1: Strengths and weaknesses of existing legislation

LEGAL INSTRUMENT	STRENGTHS	WEAKNESSES
OSHWA	• Provides for the notification and recording of accidents. • List of occupational diseases is quite comprehensive and is in line with the diseases as contained in the ILO Code of Practice	• Most workplace owners not aware of the statutory requirement to report occupational accidents to the Directorate of Occupational Safety and Health • Most workplaces not complying with the Act • Tedious administrative procedures to punish offenders • Cases take too long to be completed in the courts • Exclusion of certain areas of economic activities from the application of the Act • Poor coordination of key players e.g. the WCD and DOSH. • No policy on occupational safety and health which can provide guidance on implementation of occupational safety and health interventions
WCA	• Provides for compensation for injuries suffered or diseases contracted by workers in the course of their employment or for death resulting from such injuries or diseases. • More accidents are reported to the WCD as opposed to the Directorate of Occupational Safety and Health. • More people are aware of the need to report accidents to the WCD than to Directorate of Occupational Safety and Health. • Wider list of occupational accidents and diseases than under the OSHWA. • Provides for the establishment of a Workers' Compensation Fund	• Not all accidents are reported to the WCD • Some employers deliberately hide information so as to evade paying compensation • Other employers claim not to be aware of the reporting requirement • Some workers tend not to report on their own out of ignorance or fear of reprisal from the employer. • The Workers' Compensation Fund is not yet in place. • The WCD fails to undertake awareness campaigns due to resource constraints.
MMA	• Provides for regulation of accidents and other dangerous occurrences occurring in the mining sector. • Every mining company submits monthly returns to the Department of Mines indicating the number of accidents that occurred in the Mine	• National data for accidents in the mines is not organized/computerised. • Legislation is weak and outdated as it was enacted at a time when the Malawi's mining sector was at its infant stage. • No Codes of Practice for recording and notification of accidents.

4.2 Reporting of accidents and injuries by workplaces

The MoL says that most workplaces do not report accidents and injuries to the Directorate of Occupational Safety and Health. This explains why there is currently very scanty data on occupational accidents, diseases and dangerous occurrences in the Directorate. While there is some data on injuries in the workplaces, mainly from multinational companies, no data is available on occupational diseases because mechanisms for monitoring the health of workers are not established and enforced. The OSHWA provides medical examination for the workers in hazardous occupations as contained in Section 34(1):

- (1) Where, in the opinion of the Director, the nature of any process, activity or occupation in a workplace or on structural work is such as to make it necessary, in the interest of health or safety, for any person employed therein to be examined by a medical practitioner, the Director may direct that such person shall be examined before he is engaged in the process, activity or occupation, and at such intervals thereafter as the Director may direct.**

The OSHWA further demands that cost for such medical examinations be borne by employers and medical doctors determining that an employee is suffering from effects of any dangerous substances in the workplace, he or she shall report to the Director. While these provisions are clear the major problem, according to the MoL, is enforcement. The major challenge for enforcement is the absence of occupational health services in Malawi. According to Malawi's Health Sector Strategic Plan for the period 2011-2016 there are 606 health facilities in Malawi and these are providing the Essential Health Package which addresses diseases that mostly affect poor people. The health system currently experiences gross shortage of health workers, funding to the sector is inadequate and that there is gross shortage of medicines⁵. The MoL therefore pointed out that while the delivery of occupational health services is a need for Malawi, health facilities are already overstretched to cater for these additional services. The MoL also felt that most of the local companies cannot afford to provide enterprise-based health care for their employees.

As has been mentioned earlier, the reporting of occupational accidents and diseases to the MoL's Directorate of Occupational Health and Safety is a statutory requirement. Reporting is important because it facilitates investigations of these accidents and diseases and helps to establish the cause and prescription of remedial measures to avoid recurrence of similar events in future. In addition to occupiers of workplaces failing to report, the Directorate also faces quite a number of challenges in fulfilling its mandate of investigating occupational accidents and diseases. The Directorate generally lacks human resources, expertise and skills, financial resources and material resources such as vehicles and monitoring equipment. There are 10 established positions in the Directorate of Occupational Safety and Health and these members of staff are supposed to implement the provisions in the Occupational Safety and Health Act including the collection, maintenance of a database, analysis and investigation of occupational accidents, diseases and dangerous occurrences. However currently there are only 7 members of staff; hence the staffing is inadequate for the Directorate of Occupational Safety and Health to effectively carry out its mandate. According to staff from the Directorate of Occupational Safety and Health, the prevailing situation also puts off occupiers of workplaces to report accidents as it does not respond timely to events such as occupational accidents if reported.

The MoL acknowledges the existence of the problem of occupational accidents, diseases and dangerous occurrences due to poor working conditions, particularly in the small and medium scale enterprises, the informal sector and among the self employed. Despite this, the magnitude of the problem still remains

5 Ministry of Health. (2011). *Health sector strategic plan 2011-2015*. Lilongwe: Ministry of Health.

unknown as there is currently no data on this. In a bid to improve the situation on the reporting and notification of accidents, the Ministry from time to time issues **press releases** to inform employers and their employees of the need to report accidents. The Ministry has also conducted awareness programmes through seminars, publications and commemoration of the World Day for Safety and Health. While the Directorate of Occupational Safety and Health would want to conduct these activities on a routine basis it is constrained by poor staffing levels and the lack of financial and other resources. The MoL has also produced an abstract of the OSHWA which is posted in most registered workplaces. The posting of the abstract of the OSHWA helps in ensuring that workers and their employers are aware of the requirements such as reporting of occupational accidents. Despite such initiatives, apparently the impact has not been made in the sector partly because of high illiteracy levels among the shop floor workers and lack of goodwill among some illicit employers.

During discussions with officials from MCTU, participants said that the Union does not maintain a database for occupational accidents, diseases and dangerous occurrences. The MCTU has no mechanisms for recording and reporting such events. The officials from MCTU however indicated that the OSHWA provides for the establishment of safety committees in the workplace:

21. It shall be the duty of every employer to establish a safety committee in a workplace employing more than fifty employees or, having regard to the nature of the undertaking at the workplace, where the Director so directs.

There has not been much progress with regard to establishment of safety committees as detailed in Section 21 of the OSHWA. The officials from MCTU said that the process of establishing safety committees in line with the requirement under the OSHWA has started. It is envisaged that functional safety committees will be responsible for recording and reporting accidents and will also serve as a link with the MoL to improve the recording and reporting systems. The MCTU acknowledged that, in general, matters of safety and health are a big challenge as such it is mainly dependent on the MoL for records of accidents and diseases. The MCTU, however, indicated that they have had some programmes on OSH and they use the OSHWA as the main reference document as far as OSH is concerned. Just as it was indicated by the officials from the Directorate of Occupational Safety and Health and the Department of Mines, MCTU officials also pointed out that individual companies, especially big multinational companies, do have programmes on OSH and maintain records and apparently this was an initiative by the employers. They gave an example of ILLOVO Sugar Company which was singled as one of the companies that follows the best practices on OSH.

While recognizing the shortfalls within the Union to play an important role in recording and notification of occupational accidents and diseases, it was noted that the OSHWA also had shortfalls as it did not cover some sectors. An example was given that the Act does not cover educational institutions and yet this sector is also prone to occupational accidents and diseases. Officials from MCTU also pointed out that the OSHWA does not fully protect the workers in the event that they are ill-treated by the employer for reporting accidents and diseases to relevant authorities. During the meeting with Union members, one participant from the Informal Workers Union said that the Malawi Decent Work Country Programme recognizes the informal sector and yet the sector does not have programmes to ensure that they graduate from the precarious to better working conditions. He noted that the informal sector does not have statistics on occupational accidents and diseases. The MoL therefore needs to ensure that workers in the informal sector are adequately covered and that the recording and notification of accidents should also be a priority in this sector.

4.3 Views of the Employers Consultative Association of Malawi

On the part of employers, they are organised in a number of associations for example the Employers Consultative Association of Malawi, whose objective is to address the following in the work-place:

- Gender
- Occupational health and safety
- Collective bargaining agreements and recognition agreements
- Social security
- Freedom of association and the right to organise
- HIV/AIDS in the work place
- Terms and conditions of service
- Child labour and youth development
- SME Development

There are over 200,000 members although there are over 500,000 employers in the country. Membership is governed by an Executive Council which is elected every 3 years together with its president. Membership comes from various sectors e.g. manufacturing, financial, agriculture, security services, parastatal, SMEs etc. ECAM is managed by a Secretariat which communicates with members and finances are mainly from annual subscriptions. It also gets finances from workshops and seminars for which non-members are charged higher fees and also from project money e.g. from the ILO. ECAM also conducts labour law clinics to sensitize employers.

Unlike in other countries, in Malawi not all employers are members of ECAM due to freedom of association as enshrined in the country's constitution. As a result some employers do not adhere to labour laws and they may deliberately avoid joining ECAM in order to avoid following the laws.

According to ECAM, when an occupational accident occurs, the employer is obliged to report to the Ministry of Labour but currently not to ECAM although ECAM would want to get a report so that they can be able to organize training in areas where accidents are occurring. Employers may not want to report in order to hide the occurrence of the accident but this is against the law. ECAM does not have any database of occupational accidents and diseases. However, ECAM feels that as social partners they need to have such a database.

Asked to explain if they experience occupational accidents and diseases in their workplaces, the representatives indicated that they do have accidents in their workplaces. The representatives from the banking sector indicated that they do have occasional accidents especially involving road accidents. In terms of reporting they reported that they only send a report to the Workers Compensation Commission for compensation purposes. They also indicated that they have records of accidents but not in any organized format. For Toyota Malawi, (a branch of an international corporation) it is a requirement to report to all relevant authorities. Within 5 days of an accident happening, a detailed report has to be made available to various hierarchies of the company including to the company's headquarters in Japan. Being a motor company most accidents happen on the road but they also have accidents/injuries happening in their workshops. They do have records of accidents and diseases but also not in an organized format.

The major challenge the employers cited is that it takes time for the Ministry of Labour to respond to claims. There are so many forms that need to be filled and suggested that the number of forms needs to be reduced in order to possibly speed up the process. They also suggested that employers should pay directly to the victim at the District Labour Office so that there should be no delays to pay the victim since when the money is paid through the Ministry of Labour, the money goes into the Treasury Account No. 1 and may be used for other government activities before the victim is compensated. They suggested that the Compensation Act should be reviewed to ensure that payment is made directly to the victim.

All employers reported that they do have copies of the necessary acts but many employees and even employers are not really aware of its contents. On the issue of compensation which requires a medical report, there were fears that the medical personnel may connive with victims to claim unrealistic compensation and suggested that the Ministry of Labour should have its own specialists for occupational accidents and diseases.

ECAM also suggested that every employer needs to be a member of ECAM and there was need for an Act to ensure that this would happen as in other countries. This way it would be easier to have all employers aware of the regulations and procedures. ECAM was also concerned that sometimes they just see Press Releases in the newspapers which are not officially sent to ECAM for the organization to send to its members. They suggested that any communication to employers has to go through them. ECAM was also willing to be a link between employers and the Ministry of Labour for distribution of any tools and regulations e.g. relevant reporting forms and regulations.

4.4 Scope of coverage and definition

As has been demonstrated there is a national system for recording and notification of occupational injuries and diseases in Malawi. This system is largely based on reporting of these events by the employers. The MoL does not actively go around workplaces investigating the occurrence of occupational accidents and diseases unless it is notified or learns about it from the press among other sources. In terms of economic activities the OSHWA in Section 3 defines what constitutes a workplace. It says that “workplace” means any premises in which, or within the close or cartilage or precincts of which, one or more persons are employed in any process for or incidental to any of the purposes mentioned in Section 3 for example the production, modification and adapting for sale of any article; the sorting, packaging or washing or filling of bottles or other containers of any article; the manufacturing including painting and repairing and breaking up of vehicles; printing and associated activities; and the production and storage of gas in a holder of more than 150m³ among other workplaces.

Section 3(2) further says that workplaces include any place where ships, boats or vessels are constructed or broken up; where aircrafts, locomotives, vehicles or other plant are constructed or repaired for use for transport purposes; where mechanical power is used in connection with the making of wood and metal products; where building operations and works of engineering is undertaken; where there is generation of electricity; laundries; making or mending of nets for the fishing industry; sewage works; quarries and mines; where agricultural activities such as chemical weeding, spraying and fumigation among others are carried out. The Act is further applied to workplaces as defined in the Act to government premises.

On the other hand the WCA defines a worker as any person who has, whether before or after the commencement of this Act, entered into, or works under, a contract of service or apprenticeship with an employer in any employment, whether the contract is expressed orally or in writing or is implied. The Act exempts some people from being called workers for example an outworker, a tributer, a member of the armed forces or a member of the employer’s family living in the employer’s house. With an exception of the people that are exempted from being called workers as detailed in the WCA, it is clear that all workers

are covered by the Act regardless of where they work and that the Occupational Safety and Health Act also defines the meaning of workplace. Hence employers are supposed to report any occupational injury or disease to the MoL. All injuries are covered by the Act and these two Acts also define occupational diseases.

4.5 Ratification and application of ILO Conventions and Tools

There are a number of OSH and related ILO conventions that have been adopted by the member states of the ILO since 1921. Table 4.2 below shows these conventions by name, years when they were adopted and the number of countries that had adopted these conventions by 2006:

Table 4.2: ILO OSH and related conventions⁶

CONVENTION NO.	NAME OF OSH CONVENTION (ABBREVIATED) ¹	YEAR OF ADOPTION	NO. OF COUNTRIES ²
13	White lead (painting)	1921	62
45	Underground work (women)	1935	97
115	Radiation protection	1960	47
119	Guarding of machinery	1963	50
120	Hygiene (commerce and offices)	1964	49
127	Maximum weight	1967	25
136	Benzene	1971	36
139	Occupational cancer	1974	35
148	Working environment (air pollution, noise and vibration)	1977	41
155	Occupational safety and health	1981	42
162	Asbestos	1986	27
167	Safety and health in construction	1988	17
170	Chemicals	1990	11
174	Prevention of major industrial accidents	1993	9
176	Safety and health in mines	1995	20
184	Safety and health in agriculture	2001	4

By 2006 the least adopted OSH and related convention was Convention 184 as only 4 countries had ratified it by that year. Convention 45 was the most ratified of the OSH Convention as 97 countries had ratified this convention by 2006. As far as OSH related conventions are concerned, Malawi has not ratified any of these conventions apart from C45 which is on women (underground work) which was ratified in 1965. Convention 155 has not yet been ratified in Malawi. On the other hand Malawi has ratified a number of other labour related conventions as contained in Annex 7. Even though Malawi has not ratified C155, it is important to note that some aspects of this convention have been domesticated especially those articles that relate to recording and notification of occupational accidents and diseases. For example Article 11 of the Convention calls for:

(c) the establishment and application of procedures for the notification of occupational accidents and dis-

⁶ See D.J. Wilson, K. Takahashi, D.R. Smith, M. Yoshino, C. Tanaka and J. Takala. (2006). *International Journal of Occupational Safety and Ergonomics* 12(3):255-266.

eases, by employers and, when appropriate, insurance institutions and others directly concerned, and the production of annual statistics on occupational accidents and diseases;

(d) the holding of inquiries, where cases of occupational accidents, occupational diseases or any other injuries to health which arise in the course of or in connection with work appear to reflect situations which are serious;

The Convention also calls for countries that have ratified this convention to effectively inspect workplaces in order to identify hazards to the health of the workers and put in place mechanisms to control such hazards. In 1997 the GoM developed an Occupational Safety and Health Act which essentially replaced the Factories Act. This new Act has provisions for the recording and notification of occupational accidents and diseases as discussed earlier on and in line with Article 11(d) of Convention 155 the OSHWA also has provisions for investigation of the occupational accidents.

The Promotional Framework for Occupational safety and Health Convention adopted (C187) in 2006 further provides for the establishment of a national system with the following provisions:

(f) a mechanism for the collection and analysis of data on occupational injuries and diseases, taking into account relevant ILO instruments;

(g) provisions for collaboration with relevant insurance or social security schemes covering occupational injuries and diseases;

As has been mentioned earlier Malawi has a system for collection and analysis of data on occupational injuries and diseases and within the WCA there is a provision of ensuring that workers are duly compensated in cases of occupational injuries and diseases. This system is based on reporting of accidents by owners of workplaces. The OSHWA has therefore domesticated some of the requirements in C185 and C155. The major problem however is the implementation of the provisions as contained in these pieces of legislation.

4.6 Production of annual statistics on occupational injuries and diseases

The Directorate of Occupational Safety and Health has a file for each of the registered workplaces. If an occupational accident, disease or dangerous occurrence occurs in any of these workplaces, the owner of the workplace is supposed to report to the Director. As has been pointed out earlier, there is gross underreporting of accidents and occupational injuries to the Directorate and most employers report such occurrences to the WCD for purposes of getting compensation for their injured workers. There is no annual report on occupational accidents and diseases produced by the Directorate of Occupational Safety and Health and the WCD in the MoL.

The research team had problems getting numbers of occupational accidents and diseases from both Departments in the MoL as well as the Department of Mines as records are scattered. We engaged officers from the WCD to compile annual statistics for the period 2000-2011 and this is what has been presented in this report. Records in all the Government of Malawi (GoM) departments responsible for compiling statistics on OSH including notification and recording of occupational accidents and diseases are not kept well and are all over and this is exacerbated by the fact that all these records have not been computerised. An electronic system would address most of the problems that are currently being experienced.

4.7 Systematic collection of data on occupational accidents and diseases at enterprise level

The OSHWA and WCA both have provisions for the need for owners of workplaces to report occupational accidents, diseases and any other dangerous occurrences and incidents. These pieces of legislation call for officials from the MoL to investigate these incidents and make recommendations on how future occurrences can be averted. These issues are very clearly detailed in the OSHWA. The Act also requires that every workplace keeps a general register which shall among other things show every certificate issued in respect of the workplace by the Director (Section 70(a)) and the prescribed particulars of every accident and case of industrial disease occurring in the workplace of which notice is required to be sent to the Director (section 70(c)). As far as occupational accidents and diseases are concerned every workplace is supposed to have records on this and other things as specified in the general register.

In addition to this every workplace is supposed to have a prescribed abstract of the OSHWA, a policy statement on occupational safety and health and printed copies of any regulations made under Part VII which deals with notification and investigation of accidents, dangerous occurrences and industrial diseases. The policy is supposed to guide the implementation of interventions in the workplace but currently there is no such policy in Malawi. All occupational accidents and diseases including other dangerous occurrences are supposed to be kept in the general register and that the Director is supposed to have access to them. However not many workplaces in Malawi have these general registers. The accident report forms contain details such as name of victim, age, sex, nature of accident and cause. The Act further says that the general register and every other register kept in accordance with OSHWA shall be preserved and shall be kept for at least two years after the date of last entry in the register or record for inspection by any inspector. All workplaces are therefore supposed to keep records as prescribed by the OSHWA.

4.8 Improving recording and notification of accidents and occupational diseases

The recording and notification of occupational accidents needs to be improved. The officials from the Directorate of Occupational Safety and Health made quite a number of recommendations on how this can best be done and these included:

- (i) The translation of the OSHWA and its abstract into vernacular language and subsequently making this readily available to the Employer, Employees and the General Public;
- (ii) The strengthening of the collaboration between the different agencies involved in the recording and notification of occupational accidents and diseases such as the Directorate of Occupational Safety and Health, Workers Compensation and the Ministry of Justice and various workplaces;
- (iii) The Occupational Safety and Health Act including the schedules needs to be reviewed to incorporate emerging issues;
- (iv) There is a need to introduce express penalties for breach of the law including failure to report accidents;
- (v) The MoL should ratify and domesticate ILO Conventions on Safety and Health including Protocol 2000 on recording and notification of accidents;
- (vi) The Directorate should make use of the ILO Code of Practice on recording and notification of occupational accidents and diseases.
- (vii) The Workers' Compensation Division has very valuable raw data on occupational accidents.

Records of all accidents reported are available. Unfortunately, the data is not computerized and not analyzed as a result the available information does not give a picture of the magnitude of the problem and the causes.

Just as the officials from the MoL recommended, those from MCTU also felt that the OSHWA should be revised to ensure that all workplaces which are currently excluded are covered by the Act. Other suggestions made by them with regard to recording and reporting of occupational accidents and diseases included:

- (i) That the Legislation should be reviewed in order to ensure that workers have adequate protection in the event that they face the wrath of employer for reporting accidents and diseases;
- (ii) That awareness campaigns should be strengthened to sensitize the workers on the need and importance to report occupational accidents and diseases under OSH as well as WCC;
- (iii) That the capacity of the MoL need to be strengthened to revamp OSH and WCC in general and recording and notification of accidents in particular.

4.9 SWOT Analysis

(A) STRENGTHS

The main strengths of the system for recording and notification of occupational accidents and diseases in Malawi are as follows:

- Existence of the Occupational Safety and Health Act, Workers' Compensation Act, Mines and Minerals Act, AND ENERGY LAWS
- A system for recording and notification of occupational accidents and diseases
- Political commitment
- Availability of resources
- Government commitment
- Social dialogue structures
- Existence of a list of occupational diseases
- Existence of safety and health committees in some workplaces

(B) WEAKNESSES

The main weaknesses include the following:

- Limited implementation and enforcement of legislation
- Shortage of adequate human resources
- Non-availability of occupational health services

- Limited funding
- Limited public-private partnerships
- Limited transportation
- Weak monitoring and evaluation system
- Absence of data for decision making.
- Lack of appropriate skills/training in OSH
- Lack of awareness about the need to report occupational accidents
- Limited coverage of OSH Act due to definition of “workplace”
- List of occupational diseases in the OSH Act is not in tandem with the list of occupational diseases in the ILO list
- Lack of coordination among stakeholders
- Non availability of occupational legal services
- Presence of gaps in current legislation
- Non compliance by some employers
- Non ratification of the OSH conventions
- Lack of coordination of the three key players on recording and notification of accidents
- Weak implementation of monitoring and evaluation systems
- Lack of policy on OSH
- Lack of awareness on labor rights
- Lack of workers’ compensation fund in different industries

(C) OPPORTUNITIES

The following are the opportunities which can be ebuilt upon to improve the situation:

- There is Government commitment
- Decentralization program will make available HR at district level for inspection
- Commitment by donors
- Availability of technicalsupport from ILO
- Generation of revenue by the DOSH
- Both Workers Compensation and OSH in same Ministry and working together
- Availability of regional structures and initiatives on OSH (SADC)
- Other organizations are also recording accidents e.g. Malawi Energy Regulatory Authority, Department of Mines etc.

- Availability of monitoring and evaluation systems
- Availability of international legal instruments
- Conducive environment e.g. tripartite plus arrangement of government and social partners
- Existence of the insurance sector

(D) THREATS

- Shortage of human resources.
- Illiteracy and poverty among workers.
- Lack of capacity to implement the decentralization
- Donor dependency.
- Inadequate funding
- Requirement of pre-employment and periodic medical examinations in the enterprises are under the discretion of the Director of OSH.
- Changes in political landscape
- Global climate changes which can affect disease trends

4.10 Some statistics on occupational accidents and diseases in Malawi

As has been demonstrated, systems do exist for recording and reporting occupational accidents and diseases in Malawi. The mandate to do this lies with three GoM departments namely the Directorate of Occupational Safety and Health and the Workers' Compensation Division both in the MoL and the Department of Mines in the Ministry of Natural Resources. Records in the Directorate of Occupational Safety and Health are not properly kept and even if they were to be properly kept the major problem is that most of the occupational accidents and diseases are not reported to them. Even if these records were reviewed, they would not have given us a complete picture of what is happening in Malawi. The team therefore opted to use records from the Workers' Compensation Division. Within the Division the records are available but the problem is that all the records are manual and that they are not being used to produce annual reports. It seems that they are only used for payment of compensation. The Department of Mines as is the case with the Directorate of Occupational safety and Health admitted that their record keeping was poor hence they could not provide any statistics on trends in occupational accidents and diseases in the mining sector. It should be noted that there were a total of 2,034 accidents reported to the Workers' Compensation Division between 2000 and 2011 and 93.4% occurred among males (1,899) and only 6.6% among women (135).

4.10.1 Number and trends in occupational accidents

The reporting of occupational accidents and diseases to the Directorate of Occupational Safety and Health is grossly underestimated. However the reporting to the Workers' Compensation Division is much better. As part of this study we reviewed numbers of accidents that were reported to the Workers' Compensation Division between 2000 and 2011. A total of 2,034 accidents were reported. Figure 4.1 below

shows the number of accidents reported each year between 2000 and 2011:



Over the period 2000 and 2011 on average 170 accidents were reported each year. In 2000 the highest number of accidents was reported at 195 and the lowest numbers of accidents were reported in 2011 at 152. The graph does not really show any particular trends in the number of accidents reported per year. It should be noted that the number of accidents reported in the Directorate of Occupational Health and safety is much lower than the figures reported here.

4.10.2 Reported accidents and diseases by Zone

The Workers' Compensation Division has divided the country into 7 zones for purposes of operations as can be seen in Table 4.2 below. Table 4.2 further shows the number of accidents reported in each zone between 2000 and 2011:

Table 4.2: Reported accidents by zone for the period 2000 and 2011

ZONE	NUMBER OF REPORTED ACCIDENTS/ DISEASES	PERCENT
Zone 1: Mulanje, Thyolo, Phalombe, Chikwawa, Nsanje	286	14.1
Zone 2: Nkhosokota, Dowa, Kasungu, Ntchisi	276	13.6
Zone 3: Balaka, Mangochi, Machinga, Zomba, Mwanza, Neno	275	13.5
Zone 4: Salima, Dedza, Mchinji, Ntcheu	281	13.8
Zone 5: Lilongwe	315	15.5
Zone 6: Blantyre, Chiradzulu	298	14.7
Zone 7: Northern Region	303	14.9
TOTAL	2034	100

Source: Workers Compensation Commission

Table 4.1 shows that there were no major differences among the different zones in terms of numbers of

accidents reported over the reference period. The lowest numbers of accidents were reported in Zone 3 while the highest was in Zone 5. It should be noted that most of the workplaces in Malawi are located in Blantyre (Zone 6) and Lilongwe (Zone 5). It is not surprising that Zones 5 and 6 reported about 30% of the total reported accidents over the period 2000-2011. While Zone 7 reported the second highest number of accidents it should be noted that it comprises of 6 districts while Zone 5 for example only had one district.

4.10.3 Nature and cause of accidents and diseases

The Workers Compensation Division has a way of classifying accidents and occupational disease. The nature of accident is reported according to the following categorisation: injury, cut, fracture, bruises, death and burnt wounds. Table 4.3 below shows the different types of accidents that the workers suffered from over the reference period.

Table 4.3: Nature of accident workers experienced

NATURE	NUMBER OF ACCIDENTS	PERCENT
Injury - Teeth, Chest, Head, arm, foot.	667	33.0
Cut - wound, cut fingers, toes, foot	641	31.7
Fracture	467	23.1
Bruises	149	7.4
Spleen	13	0.6
Death	53	2.6
Burnt wounds	32	1.6
Total	2022	100

Source: Workers Compensation Commission

A third of the workers who had accidents between 2000 and 2011 had injuries (teeth, chest, head, arm and foot) and this was followed by those who had cuts at 31.7% and those who suffered from fractures at 23.1%. This implies that nearly 90% had these types of accidents. The rest of the natures of accidents were experienced by quite a few workers. It might be important to note that over this period 53 people died due to occupational accidents and this constituted 2.6% of the total reported accidents. Records at the Workers' Compensation Division also look at the cause of accidents. Table 4.4 below shows the cause of accidents reported to the Workers' Compensation Division over the period 2000 and 2011:

Table 4.4: Cause of the accident

CAUSE	NUMBER OF ACCIDENTS	PERCENT
Factory Machine/Equipment/Tool	518	25.5
Cutting/pruning tea/ trees	101	5
Fell down	332	16.3
Road Traffic Accident	503	24.7
Driving	3	0.1
Splitting wood/firewood	6	0.3

Hit by an object e.g. log etc	217	10.7
Attacked by thugs	262	12.9
Electricity	9	0.4
Snake/Animal bite	34	1.7
Football	3	0.1
Heat - Hot water, Fire	43	2.1
Lightening	3	0.1
Total	2034	100

Source: Workers Compensation Commission

Table 4.4 above shows that the two most important causes of accidents were factory machines/equipment/tools (25.5%) and road traffic accidents (24.7%) and these two constitute 50% of the causes of accidents over this period. The other causes of accidents were falling down (16.3%), being attacked by thugs (12.9%) and being hit by an object (e.g. a log) at 10.7%. It should be noted that as far as the OSH-WA is concerned some of what the Workers' Compensations Division calls occupational accidents do not qualify when it comes to the OSHWA for example playing football and being injured in the process. Table 4.5 shows the type of industry where the accidents occurred:

Table 4.5: Type of industry where accidents occurred

INDUSTRY	NUMBER OF ACCIDENTS	PERCENT
Tea Estate	233	11.5
NGO/Private	437	21.5
Government	175	8.6
Sugar Estate	79	3.9
Construction	150	7.4
Security	51	2.5
Education	45	2.2
Health	46	2.3
Tourism - Hotels and Restaurants	48	2.4
Manufacturing	148	7.3
Electricity, Gas	16	0.8
Water Supply	15	0.7
Agriculture, Forestry	204	10.0
Other Social and personal service activities	207	10.2
Transport	90	4.4
Religious	18	0.9
Finance	34	1.7
Mining	38	1.9
Total	2034	100

Source: Workers Compensation Commission

According to the Workers' Compensation Division and as shown in Table 4.5, a fifth of the reported accidents occurred in the NGO/Private sector (21.5%). This classification of NGO/Private is not helpful

because it does not tell the reader much about type of industry. For example if it is the private sector what are they engaged in? This classification should have been expanded. Other major contributors of accidents during this period included the tea estates, agriculture/forestry, other social and personal service activities, construction and manufacturing industry. It should be noted that GoM premises are not excluded from reporting and that 8.6% of the accidents were reported from GoM premises. Again this classification by Workers' Compensation Division is not helpful because education and health can also belong to Government.

4.11 Priority Areas for improving the recording and notification of Accidents and Diseases in Malawi.

After looking at the situation of recording and notification of occupational accidents and diseases in Malawi, the following are the priority areas of what needs to be done in a move toward improving the situation:

1. There is need to improve the information system of OSH through various mechanisms including the establishment of a Documentation Centre.
2. There is need to address the knowledge gap of OSH issues through capacity building for data capturing and analysis.
3. There is need to harmonise legislation of OSH instruments through a review of all OSH laws and harmonise them with international instruments. The government should ratify and domesticate relevant ILO conventions including Protocol 2000.
4. There is need for advocacy promotion and awareness raising to ensure that all players including workers and employers are aware of OSH requirements and their legal instruments.
5. There is need to improve the coordination of different sectors involved in the recording and notification of occupational accidents and diseases.

5. CONCLUSION

The overall objective of this study was to improve the collection, recording and notification of occupational accidents and diseases with the overall goal of preventing occupational accidents and diseases in Malawi. This study found that there are three main pieces of legislation that govern the collection, recording and notification of occupational accidents and diseases in Malawi and these are the OSHWA, the WCA and the MMA. These pieces of legislation define the existing mechanisms for recording and notification of occupational accidents and diseases in Malawi. In all the Acts the major approach is that it is a legal requirement that all workplaces should report the occurrence of occupational accidents, diseases and any other dangerous occurrences to the Directorate of Occupational Safety and Health and the WCD and for the mining sector these accidents are supposed to be reported to the Department of Mines. The national system of recording and notification of occupational accidents and diseases is very much reliant on reporting by occupiers of workplaces. Such a system is however problematic as some workers may not report; hence under-reporting is quite common. The Directorate of Occupational Safety and Health and the WCD are supposed to compile national statistics on occupational accidents but this is not done. Currently there is no systematic storage of data on occupational accidents and diseases and the system is not computerised.

All the three GoM departments involved in the collection and analysis of data on occupational accidents and diseases experience a wide range of barriers to effectively carry out their mandates and these include shortage of human resource, inadequate funding, lack of requisite expertise and skills, lack of transport and there is poor collaboration among stakeholders. The other challenges especially experienced by the Directorate of Occupational Safety and Health, which is designated as a national authority responsible for recording and notification of accidents include long delays in concluding courts cases brought against employers, the fact that the definition of workplace excludes some workplaces where occupational accidents and diseases are quite prevalent, the absence of the policy on OSH to guide interventions and that the OSHWA is quite old. A number of recommendations can therefore be made in order to improve the collection and analysis of data on occupational accidents and diseases and these include the review of OSHWA to be in line with international standards, the development of a policy on OSH, improving collaboration with stakeholders such as Department of Mines, WCA and the MoJ, the MoL should ratify important OSH conventions such as 155, the Directorate should computerise its data on occupational accidents and diseases, providing funding to the Directorate for it to be actively engaged with workplaces and ensure that it creates awareness about the need to report occupational accidents and diseases. The implementation of these interventions would improve the availability of data on occupational accidents and diseases.

ANNEX 1: GUIDE FOR DISCUSSIONS WITH THE DIRECTORATE OF OCCUPATIONAL SAFETY AND HEALTH

1. The Directorate of Occupational Safety and Health is responsible for recording of occupational accidents and diseases. To what extent do workplaces know about the need to report accidents to the Directorate?
2. Is data available on occupational accidents and diseases?
 - If yes;**
 - 2.1 What is the magnitude of the problem of occupational accidents and disease?
 - 2.2 What are the major causes of Occupational Accidents and diseases?
 - If No;**
 - 2.3 What reasons can be given?
 - 2.4 What mechanisms have been put in place by the MoL to ensure that workplaces know about the need for them to report accidents and diseases?
3. What pieces of legislation or policy provide for reporting of accidents and diseases by workplaces?
4. What are the strengths and weaknesses in the existing legislation and policies regarding recording and notification of accidents?
5. How can the existing weakness be addressed?
6. Are you aware of Protocol 2000 to Convection 1981 on Occupational Safety and Health No. 155?
7. Has this Protocol been domesticated in Malawi? If not what is the reason?
8. Has Malawi ratified Convention 155? Apart from this Convention which other Convention on OSH has been ratified?
9. Are you aware of the ILO Code of Practice on recording and notification of occupational accidents and diseases?
10. How has this Code been used to improve the recording and notification of accidents in Malawi?

ANNEX 2: GUIDE FOR DISCUSSIONS WITH WCD OFFICIALS

1. The Workers Compensation Division is responsible for compensation for injuries suffered or disease contracted by workers in the course of their employment or death resulting from such injuries or disease. To what extent do workplaces know about the need to report accidents to the Division for purposes of compensation?
2. Is data available on occupational accidents and diseases?

If yes;

- 2.1 What is the magnitude of the problem of occupational accidents and disease?
- 2.2 What are the major causes of Occupational Accidents and diseases?

If No;

- 2.3 What reasons can be given?
- 2.4 What mechanisms have been put in place by the Division to ensure that workplaces know about the need for them to report accidents and diseases?
11. What pieces of legislation or policy provide for reporting of accidents and diseases by workplaces for purposes of Compensation?
12. What are the strengths and weaknesses in the existing legislation and policies regarding recording and notification of accidents?
13. How can the existing weakness be addressed?

ANNEX 3: GUIDE FOR DISCUSSIONS WITH ECAM OFFICIALS

1. For how long have you been working in your company?
2. Do officers from the MoL visit your premises?
3. From which Department do these officers come from?
4. What do they do when they come to your place of work?
5. Have you ever had occupational accidents in this workplace? What about occupational diseases?
6. When was the last accident you had in this place?
7. What was the latest accident? Latest occupational disease? What caused the accident? Disease?
8. Do you keep records of occupational accidents in your workplace? Are annual numbers of accidents/diseases available? [Get the statistics if available, look at age and gender of the people involved in accidents].
9. How many accidents have you had over the last one year? How many people have suffered from occupational diseases over the last one year?
10. What are the different things that you do when you have accidents in this workplace?
11. Are there systems in this workplace for workers to report if there is an accident? What systems exist?
12. Do you report these accidents?
13. To whom do you report these accidents?
14. Are there other organisations to which you report these accidents? Why do you report to these organisations?
15. Have you ever reported these accidents to the MoL?
16. Did the Ministry follow up on these accidents? What did it do?
17. What procedures do you follow when reporting accidents to the MoL?
18. Have you experienced any challenges in terms of reporting occupational accidents and diseases?
19. Do you have any suggestions on how occupational accidents and diseases can best be reported?
20. Are you aware of the Occupational Safety and Health Act? If yes, how did you know about this Act?
21. Who implements this Act?
22. Do you have copies of this Act?
23. What are the major issues contained in this Act?
24. Are you aware of Workers' Compensation Act? If yes, how did you know about this Act?
25. Who implements this Act?
26. Do you have copies of this Act?
27. What are the major issues contained in this Act?

ANNEX 4: GUIDE FOR INTERVIEWS WITH MCTU REPRESENTATIVES

1. For how long have you been working in your company?
2. Do officers from the MoL visit your premises?
3. From which Department do these officers come from?
4. What do they do when they come to your place of work?
5. Have you ever had occupational accidents in this workplace? What about occupational diseases?
6. When was the last accident you had in this place?
7. What was the latest accident? Latest occupational disease? What caused the accident? Disease?
8. Do you keep records of occupational accidents in your workplace? Are annual numbers of accidents/diseases available? [Get the statistics if available, look at age and gender of the people involved in accidents].
9. How many accidents have you had over the last one year? How many people have suffered from occupational diseases over the last one year?
10. What are the different things that you do when you have accidents in this workplace?
11. Are there systems in this workplace for workers to report if there is an accident? What systems exist?
12. Do you report these accidents?
13. To whom do you report these accidents?
14. Are there other organisations to which you report these accidents? Why do you report to these organisations?
15. Have you ever reported these accidents to the MoL?
16. Did the Ministry follow up on these accidents? What did it do?
17. What procedures do you follow when reporting accidents to the MoL?
18. Have you experienced any challenges in terms of reporting occupational accidents and diseases?
19. Do you have any suggestions on how occupational accidents and diseases can best be reported?
20. Are you aware of the Occupational Safety and Health Act? If yes, how did you know about this Act?
21. Who implements this Act?
22. Do you have copies of this Act?
23. What are the major issues contained in this Act?
24. Are you aware of Workers' Compensation Act? If yes, how did you know about this Act?
25. Who implements this Act?
26. Do you have copies of this Act?
27. What are the major issues contained in this Act?

ANNEX 5: SCHEDULE OF FOCUS GROUP DISCUSSIONS WITH STAKEHOLDERS

DATE	SOURCE OF INFORMATION AND LOCATION
23/01/2012	Focus Group Discussion with Employers, Blantyre
26/01/2012	Focus Group Discussion with Workers, Lilongwe
27/01/2012	Focus Group Discussion with Directorate Of Occupational Safety and Health Officials, Lilongwe
27/01/2012	Focus Group Discussion with Workers' Compensation Division, Employers Officials, Lilongwe

ANNEX 6: OCCUPATIONAL DISEASES AS DETAILED IN THE WCA

1. Anthrax
2. Byssinosis
3. Chronic ulceration
4. Compressed air illness or its sequelae
5. Glanders
6. (a) Infection by *leptopira icterohaemorrhagiae*
(b) Infection by *leptopira canicola*
7. Pathological manifestations due to radium or other radioactive substances or X-rays
8. Primary epithelio-matous cancer or ulceration of the skin
9. Tobaccosis
10. Toxic anaemia
11. Toxic jaundice
12. Tuberculosis
13. Any disease contracted as a result of poisoning by (a) aniline compounds of benzene and its homologues, (b) arsenic or the sequelae thereof; (c) Benzene or any of its monologues and the sequelae thereof or a nitro or amino derivative of benzene, and the sequelae thereof; (d) carbon sulphide, (e) Lead or the sequelae thereof (f) Manganese or a compound f manganese (g) Mercury of a compound of mercury (h) phosphorous or phosphine or poisoning due to the anticholinest-erase action of organic phosphorous compounds.
14. Birhazia
15. Bagassosis
16. Unconsciousness/death (carbon monoxide)
17. Chronic cadmium poisoning
18. Dermatoses
19. Noise induced hearing loss
20. Mesothelioma (cancer of the pleura and peritoneum)
21. Mineral dust pneumoconiosis (silicosis, asbestosis)
22. Undulent fever (Brucellosis)
23. Viral hepatitis B

ANNEX 7: CONVENTIONS THAT HAVE BEEN RATIFIED BY GOVERNMENT OF MALAWI

C11	Right of Association (Agriculture) Convention,	1921	1965
C19	Equality of treatment (accident compensation) convention	1925	1965
C26	Minimum wage-fixing Machinery convention	1928	1965
C29	Forced Labour Convention	1930	1999
C45	Underground work (Women) convention	1935	1965
C50	Recruiting of indigenous workers convention	1936	1966
C64	Contracts of employment (indigenous workers) Convention	1939	1966
C65	Penal sanctions (indigenous workers)	1939	1965
C81	Labour inspection convention	1947	1965
C86	Contracts of employment (Indigenous workers) Convention	1947	1965
C87	Freedom of association and protection of the Right to Organise Convention	1948	1999
C89	Night work (Women) Convention (Revised)	1948	1965
C97	Migration for employment convention (Revised)	1949	1965
C98	Right to Organise and Collective Bargaining Convention,	1949	1965
C99	Minimum Wage Fixing Machinery (Agriculture) Convention,	1951	1965
C100	Equal remuneration convention	1951	1965
C104	Abolition of penal sanctions (indigenous workers) Convention	1955	1965
C105	Abolition of forced labour convention	1957	1999
C107	Indigenous and tribal populations Convention	1957	1965
C111	Discrimination (Employment and Occupation) Convention	1958	1965
C129	Labour Inspection (Agriculture) Convention	1969	1971
C138	Minimum age convention	1973	1999
C144	Tripartite Consultation (International Labour Standards) Convention	1976	1986
C149	Nursing personnel convention	1977	1986
C150	Labour administration Convention	1978	1999
C158	Termination of Employment Convention	1982	1986

ANNEX 8 LIST OF PERSONS WHO CONTRIBUTED INFORMATION THROUGH FOCUS GROUP DISCUSSIONS

Directorate of Occupational Safety and Health (30th January 2012)

NAME	POSITION
Mr Hlale K.K. Nyangulu	Director, Occupational Safety and Health
Mr Gowelo	Chief Occupational Safety and Health Officer
Mrs Ntilatila	Principal Industrial Hygienist
Mr Minofu	Senior Occupational Safety and Health Officer
Mr Mhone	Industrial Hygienist

Workers Compensation Commission (30th January 2012)

NAME	POSITION
Mr J.H. Mawango	Workers Compensation Commissioner
Ms C.A.G. Mwambira	Assistant Claims Officer
R.L.C. Phiri	Assistant Claims Officer
J.A.G. Imedi	Assistant Claims Officer
E.C. Agabu	Assistant Claims Officer
E.E. Mzumara	Assistant Claims Officer
C. Chigongono	Assistant Claims Officer
R.C. Mbweza	Senior Claims Officer
H.G.W. Balamu	Principal Claims Officer

Department of Mines (31st January 2012)

NAME	POSITION
Mr Kaphwiyo	Director
Mr Hona	Deputy Director

Malawi Congress of Trade Unions (1st February 2012)

NAME	POSITION
Mrs Jessie Ching'oma	Deputy Director, MCTU
Raphael Sandramu	Representing Tobacco Workers Allied Union of Malawi
Wezi Shawa	Representing Teachers Union of Malawi
Emmanuel Pindani	Representing Hotel, Food Processing and Catering Workers Union
Emmanuel Katema	Representing Communication Workers Union of Malawi

Employers Consultative Association of Malawi (ECAM) (2nd February 2012)

NAME	POSITION
Mr G. Kayange	Occupational Safety and Health Officer, Ministry of Labour (in attendance)
Mr Allan Minofu	Senior Occupational Safety and Health Officer, Ministry of Labour
Mr L. Chitika	Safety Manager, Toyota Malawi
Mr P. Nkhata	Human Resources Manager, NBS Bank
Mr C. Ntenje	Employees Relations Manager, National Bank
Mr O.J. Khunga	Executive Director, ECAM

ANNEX 9: LIST OF PARTICIPANTS

WORKSHOP ON “RECORDING AND NOTIFICATION OF OCCUPATIONAL ACCIDENTS AND DISEASES”

SUNBIRD LILONGWE HOTEL, LILONGWE – MALAWI

25-26 JULY 2012

No.	NAME	ORGANISATION AND DESIGNATION	DUTY STATION	E-MAIL ADDRESS/PHONE
1.	Alexues CHIPENDO	Ministry of Labour	Lilongwe	alexueschipendo@gmail.com
2.	Richard N. CHIRWA	Ministry of Education, Science and Technology	Lilongwe	richardchirwa71@yahoo.com
3.	Paul GONDWE	Ministry of Labour	Lilongwe	paulmkupagondwe@yahoo.com
4.	Happy GOWERO	Ministry of Labour	Lilongwe	goweroh@yahoo.com
5.	Steve KAMULONI	Malawi Bureau of Standards	Blantyre	stevekamuloni@mbsmu.org
6.	Goodluck KAYANGE	Ministry of Labour	Blantyre	goodkanyange@yahoo.co.uk
7.	Buxton KAYUNI	ECAM	Blantyre	bkayuni@bnltioes.com
8.	Victor LUWAMBALA	TEVETA – Regional Manager	Lilongwe	vluwambala@tevetamw.com
9.	Joyce MAGANGA	Ministry of Labour	Lilongwe	joy_shamed@yahoo.com
10.	Luther MAMBALA	MCTU – President	Blantyre	lmambala@yahoo.co.uk
11.	John H. MAWANGO	Ministry of Labour (WCC)	Lilongwe	johnmawango@yahoo.com
12.	Bernard MBEWE	College of Medicine	Blantyre	bmbewe@medcol.mw
13.	Alfred MHANGO	Ministry of Labour	Lilongwe	alfred.mhango@yahoo.co.uk
14.	Elton MHONE	Ministry of Labour	Lilongwe	eltonmhone@hotmail.com
15.	James MILNER	Centre for Social Research	Zomba	jmilner@cc.ac.mw
16.	Robert MKWEZALAMBA	Secretary General – MTCU	Lilongwe	mctusecretariat@gmail.com cowuma@yahoo.co.uk
17.	Sinya MTAWALI	Labour – OSH	Lilongwe	csgmtawali@yahoo.co.uk
18.	Victoria MTILATILA	Ministry of Labour	Lilongwe	vamtila@yahoo.com
19.	Franklin MUCHIRI	Senior OSH Specialist – ILO	Pretoria	muchiru@ilo.org
20.	George M. MUKOSIKU	NPC – ILO	Lusaka	mukosiku@ilo.org
21.	Alister MUNTHALI	Centre for Social Research	Zomba	amunthali@cc.ac.mw
22.	Beyani MUNTHALI	ECAM	Blantyre	beyani.m@ecammw.com
23.	Clara MVULA	MICE	Lilongwe	mvulaclara@yahoo.com
24.	Michael P. S. MWASE	Malawi Energy Regulatory Authority (MERA)	Lilongwe	mmwase@meramalawi.mw
25.	Sanless B. MWESO	Ministry of Energy and Mining – Department of Mines	Lilongwe	smweso@gmail.com
26.	H. K. K. NYANGULU	Ministry of Labour	Lilongwe	nyanguluhkk@yahoo.com
27.	Sanless NYIRENDA	Ministry of Finance	Lilongwe	snyirenda@pfemmw.com

28.	Clement PHANGAPHANGA	MOIT – Department Director	Lilongwe	clementphangaphanga@yahoo.com
29.	Frank SITIMA	Ministry of Labour	Mzuzu	sitima@yahoo.com
30.	Levison W. UNDI	Ministry of Energy and Mining – Department of Mines	Lilongwe	levywesley@yahoo.com
31.	Memory ZIKAPANDA	Ministry of Labour	Lilongwe	memoryzikapanda@yahoo.com

APPENDIX 10: ACCIDENT REPORT FORM

Form LAB/W/7



GOVERNMENT OF MALAWI

OCCUPATIONAL SAFETY HEALTH AND WELFARE (NO. 21 OF 1997 ACT)

(SECTIONS 66 TO 68)

NOTICE OF ACCIDENT OR DANGEROUS OCCURRENCE

See Instructions Overleaf

1. Name of employer: _____
2. Address of works or place where accident or dangerous occurrence happened

3. Exact place where accident or dangerous occurrence happened

4. Nature of industry or business

5. Injured person's
 - (a) Surname: _____
 - (b) Other names: _____
 - (c) Sex (M or F) _____ (d) Age _____ (e) Precise occupation: _____
6. Date and hour of accident, or dangerous occurrence or industrial diseases

7. Cause or nature of accident, or dangerous occurrence or industrial diseases

If caused by machinery:

(a) Give name of machine and part causing accident

(b) State whether it was moved by mechanical power at the time

Whether caused by machinery or not

(c) State exactly what injured person was doing at the time

8. Nature and extent of injuries (e.g. fatal, loss of finger, scald, scratch followed by sepsis, etc.)

9. State whether injured person was disabled for more than _____ for official use only _____
three days from following his normal

Occupation

10. Has the accident been entered in the general register?

11. Name of a person reporting accident

for official use only

12. Signature _____ Rank _____

Date of receipt

Accident No

Causation No.

Sex (M.W.B. or G)

Other particulars (e.g. D.O. Exp

Fatal

INSTRUCTIONS FOR FILLING IN NOTICE OF ACCIDENT OR DANGEROUS OCCURRENCE OR INDUSTRIAL DISEASES

Notice on this form, should be sent to the director, at the address below in the following cases

1. Where an accident arising out of and in the course of employment of any worker
 - (a) causes loss of life to such worker, or
 - (b) disables such worker from earning full wages at the work at which he/she was normally employed for more than 3 days. (The criterion is not whether a worker was paid, but whether or not the injury prevented hi/her from working full time and normal efficiency, at his or usual job)
2. Where a dangerous occurrence, as defined in the first schedule of the occupational safety health and welfare act, occurs.
3. Where any accident causing dismemberment is notified, and after notification thereof results in the death of the person disabled, notice of the death should be sent by the employer to the director as soon as the fact of the death comes to the employers knowledge.

Every employer who fails to furnish this Notice is liable, on conviction to a fine not exceeding K10,000.00 (Section. 83),

In paragraph 5 (e) of this notice, occupation should be defined as precisely as possible, trying to avoid such general definitions as labourer.

In paragraph 7, give a full description of a circumstance of the accident or dangerous occurrence.

In paragraph 8, indicates precisely the nature of the injury and the part of the body affected, of example fracture of the left arm, lacerated wound of the left forearm, burns on the face and chest etc.
4. **This accident report form is quite distinct from any report which may have to be rendered under the Workers Compensation Act.**

THE DIRECTOR OF THE OCCUPATIONAL SAFETY AND HEALTH

MINISTRY OF LABOUR
PRIVATE BAG 344
LILONGWE 3.
Tel. No. : 01 773277
Fax: 01773805

(Footnotes)

- 1 OSH—occupational safety and health. *—number of countries that ratified the convention. The official full names of the conventions were shortened and appear in parentheses as abbreviated context.
- 2 No. of countries that ratified the convention

International Labour Organization

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