



REPUBLIC OF KENYA
COUNTY GOVERNMENT OF MACHAKOS
COUNTY ASSEMBLY OF MACHAKOS



County Hall
Along Mwatu wa Ngoma Rd
P O Box 1168 - 90100
MACHAKOS - KENYA

Email: assemblymks@gmail.com

12TH MARCH, 2024

RESPONSE TO A STATEMENT SOUGHT ON SAFETY OF WORKERS AT GOLDEN AFRICA COMPANY

Honorable Speaker, on Tuesday 25th July, 2023 during the morning plenary sitting, a statement was sought on safety of workers at Golden Africa company (K) Ltd (Annexure 1). The statement was referred to the Labour, Public Service and ICT Committee to inquire on what the County Government of Machakos has done to ensure adherence of safety requirements of employees while in the said factory noting that on 23rd December, 2022, three Workers of Golden Africa (K) Ltd in Mavoko Sub-county died while cleaning the Plant's septic tank which had a surge.

Honorable Speaker, the committee engaged the Chief Officer, Department of Public Service and Performance Management on the sought statement on 25th September, 2023 vide a letter Ref: MKSCA/PCS/LPSICT/VOL.4/48 (Annexure 2). The committee intended to gather any relevant laws, regulations, and policies pertaining to Occupational Health and Safety within Machakos County, including any specific county-level regulations that private companies are required to adhere to as well as details of the government agencies responsible for overseeing and enforcing Occupational Health and Safety regulations at both the county and national levels.

The Department of Public Service and Performance Management responded on 26th October, 2023 through a letter Ref. MCG/PSPM/MKSCA/VOL.1/11 by informing the committee that the department was not aware of the incidence and would enquire and provide feedback from Directorate of Occupational Safety and Health Services (Annexure 3).

Honorable Speaker, on 27th September, 2023 through letter Ref MCG/PSPM/DOSHS/Vol.1/01 the Department of Public Service and Performance Management sought for guidance on the matter from the Directorate Occupational Safety and Health Services (Annexure 4)

Honorable Speaker, the guidance from Directorate Occupational Safety and Health Services was forwarded by the Chief Officer, Public Service and Performance Management to the Assembly on 4th December, 2023 through a letter Ref. MCG/PSPM/MKSCA/VOL.1/13 which stated as follows;

1. That the Directorate of Occupational Safety and Health Services is a department in the Ministry of labour and Social Protection. The mandate of the departments is drawn from two acts of parliament namely:

1. The Occupational Safety and Health Act 2007;
2. The work injury Benefit Act 2007

2. The Objectives of the Department are:

- (i) Promotion of Occupational safety and health in the workplace through trainings
- (ii) Ensure safety and Health at workplace by carrying out systematic inspections
- (iii) To ensure compliance with Occupational Safety and Health Act(OSHA) 2007
- (iv) To ensure compliance with work injury benefit Act (WIBA) 2007
- (v) Ensure workers health through occupational medical examinations
- (vi) Ensure just compensation for occupational injuries and diseases
- (vii) Ensure workplace machines and plants safety through examinations and testing
- (viii) To ensure coordinate of Occupational Safety and Health(OSH) system, activity and services
- (ix) To investigate occupational accidents and incidences
- (x) To provide research and training in Occupational Safety and Health
- (xi) Monitoring workplace conditions and ensuring control through hygiene measurements

The hierarchy of safety and health at Golden Africa Kenya Limited is as highlighted below:

1. Engineering controls

After the accident that happened on 23rd December 2022, the top cover of manhole was redesigned in a manner that manhole cover is no longer made of flat iron sheet but instead it's a spaced iron plates which allows air circulation.

The manhole is at a raised platform above the ground hence the wall that is exposed to the environment has a vertical dimension on which the vents have been created on its higher part just before the flat surface of the manhole to allow in air circulation.

The company has also showed continually improvement by purchasing the air quality measurements meter. This offers the readings of the levels of the following gases; Oxygen, Carbon Monoxide, Carbon Dioxide, Sulfer Dioxide, and Ammonia present in the specific workplaces. This is to avoid workers to suffer from asphyxiant.

2. Administration;

The safety and health committee is in existence and has been trained on their functions and safety precautions within that company.

The safety and health audit has been carried out

The work procedure has changed to an extent that no employed persons/worker is to enter that confined space. For any operation to take place at the confined space there must be permit to work system deployed.

3. Personal Protective Equipment-PPE

The PPEs have been provided however the Engineering control and administration procedures must be put in place first, this is in their company safety and health policy

Conclusion by the Directorate of Occupational Safety and Health Services:

1. According to the hierarchy of safety and health measures and the current prevailing safety precautions that are in place at Golden Africa Kenya Limited, the workplace meets requirements of the Occupational Safety and Health Act (OSHA 2007).
2. Acknowledged that there is a valid claim for work injury benefits payment for employees of Golden Africa Kenya Limited namely James Nyongesa Wanjala, Stephen Okoth Otieno and Matthew Kiprotich who lost their lives in a fatal accident that happened on 23rd December 2022.

Thank you Madam Speaker.

HON. JOSHUA MWONGA
CHAIRPERSON, LABOUR, PUBLIC SERVICE & ICT COMMITTEE

ANEXXURES

1. Statement sought on Tuesday 25th July, 2023 during the morning plenary sitting.
2. Letter to the Chief Officer, Department of Public Service and Performance Management on the sought statement on 25th September, 2023 vide a letter Ref: MKSCA/PCS/LPSICT/VOL.4/48.
3. Response to the Assembly by the Department of Public Service and Performance Management through letter dated 26th October, 2023 Ref. No. MCG/PSPM/MKSCA/VOL.1/11
4. Request for guidance from to the Directorate of Occupational Safety and Health Services by the department of Public Service and Performance Management on 27th September, 2023 through letter Ref MCG/PSPM/DOSHS/Vol.1/01.
5. Letter to the Assembly on 4th December, 2023 through a letter Ref. MCG/PSPM/MKSCA/VOL.1/13 forwarding response by the department of Public Service and Performance Management as guided by the Directorate of Occupational Safety and Health Services

Annexure 1.

Statement on safety of workers at Golden African Company- Hon. Dominic Maitha, MCA Muthwani Ward

Honorable Speaker, Article 41(2)(b) of Constitution of Kenya, provides that every worker has the right to reasonable working conditions;

Section 13(1) (a) of the Occupational Safety and Health Act, 2007 provides that every employee shall, while at the workplace ensure his own safety and health and that of other persons who may be affected by his act or omissions at the workplace. Further, Section 13 (1) (c) states that every employee shall, while at the workplace at all times wear or use any protective equipment or clothing provided by the employer for the purpose of preventing risks to his safety and health;

Section 6(1) of the Occupational Safety and Health Act, 2007 states that every occupier shall ensure the safety, health and welfare at work of all persons working in his workplace;

Honorable Speaker, on 23rd December, 2022, three Workers of Golden Africa (K) Ltd in Mavoko Sub-county died while cleaning the Plant's septic tank which had a surge;


Noting that the Company did not provide the Officers with needed equipment and failed to adhere to the requirements that the surge should be opened at least 24 hours before anyone is allowed in;

Honorable Speaker, I wish to seek a statement on what the County Government of Machakos has done to ensure adherence of safety requirements of employees while in the said factory.


HON. DOMINIC MAITHA
MCA, MUTHWANI WARD

Annexure 2.

Letter to the Chief Officer department of Public Service and Performance Management on the sought statement on 25th September, 2023 vide a letter Ref: MKSCA/PCS/LPSICT/VOL.4/48.


County Hall
Along Mwatungirima Rd
P O Box 1368 - 90100
MACHAKOS - KENYA

**REPUBLIC OF KENYA
COUNTY GOVERNMENT OF MACHAKOS
COUNTY ASSEMBLY OF MACHAKOS**



OFFICE OF THE CLERK
OUR REF: MKSCA/PCS/LPSICT/VOL.4/048
Date: 19th September, 2023

**CHIEF OFFICER
COUNTY GOVERNMENT OF MACHAKOS**
20 SEP 2023
Sign:.....
DEPARTMENT OF PUBLIC SERVICE
AND PERFORMANCE MANAGEMENT

The Chief Officer,
Department of Public Service and Performance Management,
County Government of Machakos,
PO Box 1996,
Machakos.

RE: INVITATION TO A COMMITTEE MEETING
Article 183 (3) of the Constitution of Kenya, provides that the County Executive Committee shall provide the County Assembly with full and regular reports on matters relating to the County.


Pursuant to this provision as read together with Section 39 (2) of the County Governments Act 2012, Sections 18 and 19 of the County Assemblies Powers and Privileges Act 2017 and Standing Order No. 190 of the County Assembly of Machakos Standing Orders; The Labour, Public Service and ICT Committee invites you to a meeting on Monday 25th September, 2023 from 11.00 a.m. at Boardroom 4A.

The agenda of the meeting is to discuss a statement (copy attached) sought in the House on Tuesday 25th July, 2023 regarding what the County Government of Machakos has done to ensure adherence of safety requirements of employees working in factories within Machakos County.

The committee requests you to prepare and provide the following information for ease of discussion:

1. A comprehensive list of all relevant laws, regulations, and policies pertaining to Occupational Health and Safety within Machakos County, including any specific county-level regulations that private companies are required to adhere to.
2. Details of the government agencies responsible for overseeing and enforcing Occupational Health and Safety regulations at both the county and national levels. This may include contact information for key personnel in these agencies.

The committee believes that a clear understanding of these regulatory and compliance requirements will enable it to better assess and address occupational health and safety concerns within private companies operating in our county.


J.L. MUTISYA
CLERK OF COUNTY ASSEMBLY

Cc
County Secretary
County Government of Machakos

Annexure 3.

S6



REPUBLIC OF KENYA
COUNTY GOVERNMENT OF MACHAKOS
DEPARTMENT OF PUBLIC SERVICE & PERFORMANCE MANAGEMENT
Office of the Chief Officer

Telephone: +254202004086
Email: publicservice@machakosgovernment.co.ke

Machakos Headquarters
P.O Box 1996-90100
Machakos.

Our Ref: MCG/PSPM/MKSCA/ VOL1/11



26th October, 2023

The Clerk,
County Assembly,
Machakos County

Dear Sir,

RE: OCCUPATIONAL HEALTH AND SAFETY REGULATIONS.

Reference is made to a letters Ref: MKSCA/PCS/LPSICT/VOL.4/048 dated 19th September, 2023 and MKSCA/PCS/LPSICT/4/55 dated 23rd October, 2023 on the above subject.

Attached please find a letter send to the Directorate of Occupational Safety and Health Services Machakos County requesting information and appointment to brainstorm way forward. The response will be forwarded to you soonest.

Regards,

Winfred Mackenzie
WINFRED MACKENZIE
FOR
CHIEF OFFICER DEPARTMENT OF PUBLIC SERVICE & PERFORMANCE MANAGEMENT.

Cc: County Secretary and Head of Public Service
CECM Devolution



S/P Proceeds
Note Et copy to the relevant committee
30/10/23

Annexure 4.

Request for guidance from the Directorate of Occupational Safety and Health Services by the department of Public Service and Performance Management



REPUBLIC OF KENYA
COUNTY GOVERNMENT OF MACHAKOS
DEPARTMENT OF PUBLIC SERVICE & PERFORMANCE MANAGEMENT

Office of the Chief Officer

Telephone: +254202004086

Email: publicservice@machakosgovernment.co.ke

Machakos Headquarters

P.O Box 1996-90100

Machakos.

27th September, 2023

Our Ref: MCG/PSPM/DOSHS/ VOL1/01

Directorate of Occupational Safety and Health Services
Machakos County

Dear Sir,

RE: OCCUPATIONAL HEALTH AND SEFETY REGULATIONS.

Reference is made to a letter dated 19th September, 2023 Ref: MKSCA/PCS/LPSICT/VOL.4/048 from the Clerk of County Assembly of Machakos requesting information on matters OSHA act 2007.

Please find the attached aforementioned letter above and lead questioner shared by the County Assembly in that regard.

This was as a result of an incident where three employees working in Golden Africa (k) Ltd lost their lives on 23rd December, 2022. In regard to the above, we declare interest as a County Government in the matters of OSHA ACT 2007, within the borders of Machakos county as witnessed in this particular accident that many others might be happening or happened and gone unjustified.

We seek to enjoin efforts to protect our people together, in your most convenient time but urgently kindly provide us with an appointment to brainstorm way forward.

Thankyou.

29 SEP 2023

LAWRENCE M. MWANZA

CHIEF OFFICER, PUBLIC SERVICE & PERFORMANCE MANAGEMENT.

Cc: County Secretary and Head of Public Service
CECM Devolution

Annexure 5.

1. Letter forwarding response to the Assembly by the department of Public Service and Performance Management as guided by the Directorate of Occupational Safety and Health Services



*J.D. Mwachuru
Machakos
07/12/2023*

*The Clerk ASST - Labour
Deval
15/12/23*

SC



REPUBLIC OF KENYA
COUNTY GOVERNMENT OF MACHAKOS
DEPARTMENT OF PUBLIC SERVICE & PERFORMANCE MANAGEMENT
Office of the Chief Officer

Telephone: +254202004086
Email: publicservice@machakosgovernment.co.ke

Machakos Headquarters
P.O Box 1996-90100
Machakos.

when replying please quote:
Our Ref: MCG/PSPM/MKSCA/ VOL.1/13

4th December 2023

The Clerk,
County Assembly,
Machakos County



Dear Sir,

RE: STATEMENT ON SAFETY OF WORKERS IN GOLDEN AFRICA (K) LTD

I trust this finds you well.

Attached find a letter from the Directorate of Occupational Safety and Health Services Machakos County, where they replied on the statement on safety of workers in Golden Africa (K) LTD.

Thankyou.

CHIEF OFFICER
COUNTY GOVERNMENT OF MACHAKOS
[Signature]
-4 DEC 2023

LAWRENCE M. MWANZA
CHIEF OFFICER, PUBLIC SERVICE & PERFORMANCE MANAGEMENT.

Cc: County Secretary and Head of Public Service

REPUBLIC OF KENYA



CHIEF OFFICER
COUNTY GOVERNMENT OF MACHAKOS

- 4 DEC 2023

DEPARTMENT OF PUBLIC SERVICE
AND PERFORMANCE MANAGEMENT

MINISTRY OF LABOUR AND SOCIAL PROTECTION
DIRECTORATE OF OCCUPATIONAL SAFETY AND HEALTH SERVICES

MINISTRY OF LABOUR BUILDING
OPPOSITE MACHAKOS LAW COURT

Telephone: 0722388886/0112000108
email: doshmachakos@gmail.com/awmatogo@yahoo.com
When replying please quote RE: ML/DOSH/WBA/MIS-MKN / AFA/4/2023

COUNTY OCCUPATIONAL
HEALTH AND SAFETY OFFICER
P.O. BOX 127-90100 MACHAKOS
9th November 2023

COUNTY GOVERNMENT OF MACHAKOS
DEPARTMENT OF PUBLIC SERVICE AND PERFORMANCE MANAGEMENT
1296-90100 MACHAKOS

Dear Sir,

RE: DIRECTORATE OCCUPATIONAL SAFETY AND HEALTH SERVICES

Your letter referenced MCG/PSPM/DOSHS/VOL.1/01 and dated 27th September 2023 please refers:

Directorate of occupational safety and health services is one of the departments in the Ministry of labour and social Protection. The mandate of the department is drawn from two acts of parliament namely:

1. The Occupational Safety and Health Act 2007;
2. The Work Injury Benefit Act 2007.

The Objectives of the Department are:

- Promotion of occupational safety and health in the workplace through trainings;
- Ensure safety and health at workplaces by carrying out systematic inspections;
- To ensure compliance with Occupational Safety and Health Act (OSHA) 2007;
- To ensure compliance with Work Injury Benefit Act (WIBA) 2007;
- Ensure workers health through occupational medical examinations;
- Ensure just compensation for occupational injuries and diseases;
- Ensure workplace machines and plants safety through examinations and testing;
- To ensure coordinate of Occupational Safety and Health (OSH) System, activities and services;
- To investigate occupational accidents and incidences;
- To provide research and training in Occupational Safety and Health;
- Monitoring workplace conditions and ensuring controls through hygiene measurements;

pg. 1 All pages are signed


COUNTY OCCUPATIONAL SAFETY AND HEALTH OFFICER
DIRECTORATE OF OCCUPATIONAL SAFETY AND HEALTH SERVICES
MACHAKOS / MACHAKOS COUNTY
P. O. Box 127 - 90100, MACHAKOS

OLDEN AFRICA KENYA LIMITED OCCUPATIONAL FATAL ACCIDENT

The hierarchy of safety and health is as highlighted below:

1. The first in hierarchy consideration when it comes to safety and health is Engineering controls:
 - After the accident that happened on 23rd December 2022, the top cover of manhole was redesigned in a manner that manhole cover is no longer made of flat iron sheet but instead it's a spaced iron plates which allows air circulation.
 - The manhole is at a raised platform above the ground hence the wall that is exposed to the environment has a vertical dimension on which the vents have been created on it's higher part just before the flat surface of the manhole to allow in air circulation.

 - The company has also showed continually improvement by purchasing the air quality measurement meter. This offers the readings of the levels of the following gases O₂, CO, CO₂, SO₂ and NH₃ present in the specific workplaces. This is to avoid workers to suffer from asphyxiant.

2. The second one in hierarchy is Administration;
 - The safety and health committee is in existence and has been trained on their functions and safety precautions within that company.

 - The safety and health audit has been carried out.

 - The work procedure have changed to an extent that no employed persons/worker is to enter that confined space. For any operation to take place at the confined space there must be permit to work system deployed.

3. The third one in hierarchy is Personal Protective Equipment-PPE;
 - The PPEs have been provided however the Engineering control and administration procedures must be put in place first, this is in their company safety and health policy.

NOTE: Given the hierarchy of safety and health and the current prevailing safety precautions put in place make this workplace to meet the requirements of The Occupational Safety and Health Act (OSHA 2007)

The work injury benefit payment for the three occupational fatal accident:

On 23rd December 2022, there was fatal occupational accident at the above premise and three workers lost their life. These workers by names are:
James Nyongesa Wanjala, Stephen Okoth Otieno and Mathew Kiprotich.