

# 1 Description of national OSH regulatory framework

## 1.1 Description of OSH regulatory framework

### Summary/citation

The legislative structure of OSH in Malaysia is led by the Constitution. The major OSH laws include the Occupational Safety and Health Act 1994, the Factories and Machinery Act 1967, the Petroleum Act (safety measures) 1984. There are also other laws with a strand on OSH, such as the Employment Act 1955, and Labor Ordinance Acts 2005. Besides, the regulations (especially the regulations under the three major OSH laws), Orders and Director General Circulars complete the legislative framework of OSH in Malaysia.

### References

Occupational Safety and Health Act 1994 (No. 514).

Occupational Safety And Health (Safety And Health Officer) Regulations 1997 [P.U.(A) 315/97].

Occupational Safety and Health (Safety and Health Committee) Regulations 1996 [P.U.(A) 616/96]

Occupational Safety and Health (Employers' Safety and General Policy Statements) (Exception) Regulations 1995 [P.U.(A) 78/95]

Occupational Safety And Health (Notification of Accident, Dangerous Occurrence, Occupational Poisoning and Occupational Disease) Regulations 1996 [P.U.(A) 39/96]

Occupational Safety and Health (Use and Standards of Exposure of Chemicals Hazardous to Health) Regulations 2000 (P.U. (A) 120/00)

Occupational Safety And Health (Control of Industrial Major Accident Hazards) Regulations 1996 [P.U.(A) 39/96].

Factories and Machinery Act 1967 [Act 139].

Pesticides Act 1974

Department of OSH, Ministry of Human Resources of Malaysia

Occupational safety and health country profile: Malaysia

## 2 Scope, coverage and exclusions

### 2.1 Health and safety covers physical and psychological health

#### Remarks / comments

Despite no explicit provisions about the coverage of mental health, the interpretation from Guidelines for prevention of stress and violence at the workplace indicates that both physical health and mental health are included in the OSH legislation.

### 2.2 Definition of worker

#### Summary/citation

"Employee" means a person who is employed for wages under a contract of service on or in connection with the work of an industry to which this Act applies and—

(a) who is directly employed by the principal employer on any work of, or incidental or preliminary to or connected with the work of, the industry, whether such work is done by the employee at the place of work or elsewhere;

(b) who is employed by or through an immediate employer at the place of work of the industry or under the supervision of the principal employer or his agent on work which is ordinarily part of the work of the industry or which is preliminary to the work carried on in or incidental to the purpose of the industry; or

(c) whose services are temporarily lent or let on hire to the principal employer by the person with whom the person whose services are so lent or let on hire has entered into a contract of service.

## References

Occupational Safety and Health Act 1994 (No. 514). (S 3(1))

### 2.2.1 Coverage of particular categories of workers

#### 2.2.1.1 Migrant workers

##### **Summary/citation**

"Foreign employee means an employee who is not a citizen".  
(Employment Act 1955, S 2(1))

"Employee means a person who is employed for wages under a contract of service on or in connection with the work of an industry to which this Act applies and—

(a) who is directly employed by the principal employer on any work of, or incidental or preliminary to or connected with the work of, the industry, whether such work is done by the employee at the place of work or elsewhere;

(b) who is employed by or through an immediate employer at the place of work of the industry or under the supervision of the principal employer or his agent on work which is ordinarily part of the work of the industry or which is preliminary to the work carried on in or incidental to the purpose of the industry; or

(c) whose services are temporarily lent or let on hire to the principal employer by the person with whom the person whose services are so lent or let on hire has entered into a contract of service."

(Occupational Safety and Health Act 1994, S 3(1))

##### **Remarks / comments**

The Employment Act defines foreign employees and contains a specific section with provisions relating to the employment of foreign employees. Migrant workers are not excluded from the definition of worker provided for in the Occupational Safety and Health Act. Therefore it might be deduced that migrant workers fall under the application of the Occupational Safety and Health Act.

## References

Occupational Safety and Health Act 1994 (No. 514). (S 3(1))

Employment Act 1955 (No. 265). (S 2(1))

#### 2.2.1.2 Domestic workers

##### **Summary/citation**

"Domestic servant means a person employed in connection with the work of a private dwelling-house and not in connection with any trade, business, or profession carried on by the employer in such dwelling-house and includes a cook, house-servant, butler, child's nurse, valet, footman, gardener, washerman or washerwoman, watchman, groom and driver or cleaner of any vehicle licensed for private use.  
(S 2(1))

The Minister may from time to time make such regulations as may be necessary or expedient for giving full effect to the provisions of this Act, or for the further, better or more convenient implementation of the provisions of this Act.

Without prejudice to the generality of the foregoing the Minister may make regulations prescribing the terms and conditions of service of a domestic servant.

(S 102(1)(2)(m))

**Remarks / comments**

It can be observed thus that domestic workers fall under the scope of application of the Employment Law. However no mention to domestic workers is made in the definition of employee in the Occupational Safety and Health Act. Therefore it is not clear if the latter applies to domestic workers as well.

**References**

Occupational Safety and Health Act 1994 (No. 514). (S 3(1))

Employment Act 1955 (No. 265). (SS 2(1), 102(1)(2)(m))

## 2.2.1.3 Home workers

**Summary/citation**

"Employee" means a person who is employed for wages under a contract of service on or in connection with the work of an industry to which this Act applies and who is directly employed by the principal employer on any work of, or incidental or preliminary to or connected with the work of, the industry, whether such work is done by the employee at the place of work or elsewhere (...).

**Remarks / comments**

Home workers are included within the definition of workers.

**References**

Occupational Safety and Health Act 1994 (No. 514). (S 3(1))

## 2.2.1.4 Self-employed persons

**Summary/citation**

"Self-employed person" is an individual who works for gain or reward otherwise than under a contract of employment, whether or not he himself employs others."

Part IV of the Occupational Safety and health Act 1994 lays down the general duties of self-employed persons.

**Remarks / comments**

Self-employed persons are included within the scope of OSH legislation.

**References**

Occupational Safety and Health Act 1994 (No. 514). (S 3(1))

**2.3 Definition of employer****Summary/citation**

"Employer means the immediate employer or the principal employer or both."

"Immediate employer, in relation to employees employed by or through him, means a person who has undertaken the execution at the place of work where the principal employer is carrying on his trade, business, profession, vocation, occupation or calling, or under the supervision of the principal employer or his agent, of the whole or any part of any work which is ordinarily part of the work of the trade, business, profession, vocation, occupation or calling of the principal employer or is preliminary to the work carried on in, or incidental to the purpose of, any such trade, business, profession, vocation, occupation or calling, and includes a person by whom the services of an employee who has entered into a contract of service with him are temporarily lent or let on hire to the principal employer."

(Occupational Safety and Health Act 1994, S 3(1))

"Employer means any person who has entered into a contract of service to employ any other person as an employee and includes the agent, manager or factor of such first mentioned person, and the word employ, with its grammatical variations and cognate expressions, shall be construed accordingly."

(Employment Act 1955, S 2(1))

#### References

Occupational Safety and Health Act 1994 (No. 514). (S 3(1))

Employment Act 1955 (No. 265). (S 2(1))

## 2.4 Exclusion of branches of economic activity

### 2.4.1 Agriculture

#### Summary/citation

The Occupational Safety and Health Act 1994 shall apply throughout Malaysia to the industries specified in the First Schedule which includes agriculture.

(Occupational Safety and Health Act 1994, S 1 (2))

"Agricultural undertaking means any work in which any employee is employed under a contract of service for the purposes of agriculture, horticulture or silviculture, the tending of domestic animals and poultry or the collection of the produce of any plants or trees.

(Employment Act, S 2(1))

The Minister may by order prohibit the employment, engagement or contracting of any person or class of persons to carry out work in any occupation in any agricultural or industrial undertaking, constructional work, statutory body, local government authority, trade, business or place of work other than under a contract of service entered into with

(a) the principal or owner of that agricultural or industrial undertaking, constructional work, trade, business or place of work; or

(b) that statutory body or that authority.

Upon the coming into force of any such order, the person or class of persons employed, engaged or contracted with to carry out the work shall be deemed to be an employee or employees and the principal or owner of the agricultural or industrial undertaking, constructional work, trade, business or place of work, shall be deemed to be the employer for the purposes of such provisions of this Act and any other written law as may be specified in the order.

(Employment Act

t, S 2A(1)(2))

#### References

Occupational Safety and Health Act 1994 (No. 514). (S 1 (2), First Schedule)

Employment Act 1955 (No. 265). (S 2(1), 2A(1)(2))

### 2.4.2 Construction

#### Summary/citation

The Occupational Safety and Health Act 1994 shall apply throughout Malaysia to the industries specified in the First Schedule which includes construction.

#### References

Occupational Safety and Health Act 1994 (No. 514). (S 1 (2), First Schedule)

#### 2.4.3 Services

##### **Summary/citation**

The Occupational Safety and Health Act 1994 shall apply throughout Malaysia to the industries specified in the First Schedule which includes:

- Manufacturing
- Utilities:
  - (a) Electricity;
  - (b) Gas;
  - (c) Water; and
  - (d) Sanitary Services
- Transport, Storage and Communication
- Wholesale and Retail Trades
- Hotels and Restaurants
- Finance, Insurance, Real Estate and Business Services
- Public Services and Statutory Authorities.

##### References

Occupational Safety and Health Act 1994 (No. 514). (S 1 (2), First Schedule)

#### 2.4.4 Public sector

##### **Summary/citation**

The Occupational Safety and Health Act 1994 shall apply throughout Malaysia to the industries specified in the First Schedule which includes Public Services and Statutory Authorities.

(S 1(2), First Schedule (10))

However, the OSH Act does not apply to the armed forces.

(S 1(3))

##### References

Occupational Safety and Health Act 1994 (No. 514). (S S 1(2), First Schedule (10), 1(3))

#### 2.4.5 Other

##### **Summary/citation**

The OSH Act does not apply to work on board ships governed by the Merchant Shipping Ordinance 1952 [Ord. No. 70 of 1952], the Merchant Shipping Ordinance 1960 of Sabah [Sabah Ord. No. 11 of 1960] or Sarawak [Sarawak Ord. No. 2 of 1960] and to the armed forces.

##### References

Occupational Safety and Health Act 1994 (No. 514). (S 1 (3))

### 2.5 Definition of occupational accident

##### **Summary/citation**

Accident means an occurrence arising out of or in connection with work which results in fatal injury or non-fatal injury.

##### References

Occupational Safety And Health (Notification of Accident, Dangerous Occurrence, Occupational Poisoning and Occupational Di

### 2.6 Definition of occupational disease

##### **Summary/citation**

Occupational poisoning and occupational disease means a poisoning or a disease arising out of or in connection with work and is of a class specified in Schedule 3.

#### References

Occupational Safety And Health (Notification of Accident, Dangerous Occurrence, Occupational Poisoning and Occupational Di

##### 2.6.1 List of occupational diseases

#### References

Factories and Machinery Act 1967 [Act 139]. (S 32 Third Schedule)

##### 2.6.2 Mechanism for compensating other diseases as occupational ones

### 3 Institutions and programmes relating to OSH administration and/or enforcement

#### 3.1 Competent national authority for safety and health at work

##### Summary/citation

The Minister shall appoint a public officer to be the Director General of Occupational Safety and Health, in this Act referred to as the "Director General.

#### References

Occupational Safety and Health Act 1994 (No. 514). (S 5(1))

##### 3.1.1 Objectives, roles and/or functions

##### Summary/citation

The OSH "Director General", shall be appointed for the purpose of exercising the powers, performing the functions and discharging the duties assigned to him under this Act.

#### References

Occupational Safety and Health Act 1994 (No. 514). (S 5(1))

##### 3.1.2 Chairperson and composition

##### Summary/citation

The Minister may appoint, from among public officers, such numbers of Deputy Directors General, Directors, Deputy Directors, Assistant Directors and other occupational safety and health officers as may be necessary for the purposes of this Act.

#### References

Occupational Safety and Health Act 1994 (No. 514). (S 5(2))

#### 3.2 National OSH research programme or institute

##### Summary/citation

There shall be established a council called the "National Council for Occupational Safety and Health".

#### References

Occupational Safety and Health Act 1994 (No. 514). (S 8(1))

##### 3.2.1 Objectives, roles and/or functions

##### Summary/citation

The Council shall have power to do all things expedient or reasonably necessary for or incidental to the carrying out of the objects of this Act.

(2) The Council may, and when requested by the Minister to do so shall, carry out investigations and make reports and recommendations to him with regard to any matter relating to the objects of this Act and, in particular, but without prejudice to the generality of the foregoing provisions, with regard to: (...)

(d) the special problems with respect to occupational safety, health and welfare of women, handicapped persons and other groups in the community;

(e) the establishment of adequate methods of control of industrial chemicals at a place of work;

(f) the statistical analysis of occupationally related deaths and injuries; (...)

#### References

Occupational Safety and Health Act 1994 (No. 514). (S 11(1)(2)(d)(e)(f))

#### 3.2.2 Governance board constitution and chairmanship

##### Summary/citation

(1) The Council shall consist of not less than twelve and not more than fifteen members who shall be appointed by the Minister, of whom —

(a) three persons shall be from organizations representing employers;

(b) three persons shall be from organizations representing employees;

(c) three or more persons shall be from Ministries or Departments whose responsibility is related to occupational safety and health; and

(d) three or more persons, of whom at least one shall be a woman, shall be from organizations or professional bodies the activities of whose members are related to occupational safety and health and who, in the opinion of the Minister, are able to contribute to the work of the Council.

(2) The Minister shall appoint from among the persons mentioned in subsection (1) a Chairman and a Deputy Chairman of the Council.

#### References

Occupational Safety and Health Act 1994 (No. 514). (S 9(1)(2))

#### 3.2.3 Source of funding

### 3.3 National OSH programme

##### Remarks / comments

The Occupational Safety and Health Master Plan 2015 (2010-2015) (OSH-MP 15) is essentially the middle stage of a series of three consecutive 5-year action plans that began in 2005 which will culminate in 2020 with achievement of the safety culture. The document contains the pledge by key partners to implement the Plan.

The first stage which ended in 2010 was targeted towards spreading out OSH ownership to all key stakeholders and social partners. OSH-MP 15, as the second stage, focuses on building and sustaining the culture of self-regulation. By end 2015, self-regulation would have been fully ingrained into the working culture of all workplaces.

The main aim of the OSH-MP 15 is to build a safe, healthy and productive pool of human capital by creating, cultivating and sustaining a safe and healthy work culture in all organisations throughout Malaysia.

To achieve this aim, four strategies are envisaged, namely:

- Fostering and enhancing Government leadership and practices;
- Inculcating preventative workplace culture;
- Industry leadership and business & community engagement; and
- Strong partnerships locally and internationally.

Specific programmes and activities are foreseen under the individual strategies.

The National Council of Occupational Safety and Health is the entrusted agency to monitor the status and progress of the respective programmes.

## References

Occupational Safety and Health Master Plan

3.3.1 Consultation on the national OSH programme

## 4 Employers' duties and responsibilities to protect the safety and health of workers and others

### 4.1 Duty to ensure the health and safety of employees

#### Summary/citation

"It shall be the duty of every employer and every self-employed person to ensure, so far as is practicable, the safety, care, and welfare at work of all his employees."

## References

Occupational Safety and Health Act 1994 (No. 514). (S 15 (1))

### 4.2 Duty to protect the health and safety of people other than their own employees

#### Summary/citation

It shall be the duty of every employer and every self-employed person to conduct his undertaking in such a manner as to ensure, so far as is practicable, that he and other persons, not being his employees, who may be affected thereby are not thereby exposed to risks to their safety or health.

## References

Occupational Safety and Health Act 1994 (No. 514). (S 17)

### 4.3 Collaboration among two or more employers at the same workplace

#### Summary/citation

An occupier of non-domestic premises which has been made available to persons, not being his employees, as a place of work, or as a place where they may use a plant or substance provided for their use there, shall take such measures as are practicable to ensure that the premises, all means of access thereto and egress therefrom available for use by persons using the premises, and any plant or substance in the premises or provided for use there, is or are safe and without risks to health.

## References

Occupational Safety and Health Act 1994 (No. 514). (S 17)

### 4.4 Surveillance of workers' health in relation to work



**Summary / Citation**

The employer shall carry out health surveillance when it is necessary for the protection of workers exposed to chemical hazards.

**Remarks / comments**

Where it appears to the Minister that in any of the industries or class or description of industries he may make regulations requiring such reasonable arrangements as may be specified in the regulations to be made for the medical surveillance and medical examination, not including medical treatment of a preventive character, of the persons or any class of persons employed in the industries or class or description of industries.

**References**

Occupational Safety and Health Act 1994 (No. 514). (S 28)

Occupational Safety and Health (Use and Standards of Exposure of Chemicals Hazardous to Health) Regulations 2000 (P.U. (

**4.4.1 Specific hazards for which surveillance is required****Summary / Citation**

Where it appears to the Minister that in any of the industries or class or description of industries— (d) there may be risk of injury to the health of persons employed in any of the occupations specified in the Third Schedule, or from any substance or material brought to the industries to be used or handled therein or from any change in the conditions in the industries, he may make regulations requiring such reasonable arrangements as may be specified in the regulations to be made for the medical surveillance and medical examination, not including medical treatment of a preventive character, of the persons or any class of persons employed in the industries or class or description of industries.

(S 28(1)(d))

1. Any occupation involving the use or handling of, or exposure to, the fumes, dust or vapour of silica, asbestos, raw cotton dust, lead, mercury, arsenic, phosphorus, carbon bisulphide, benzene, organic-phosphate, nitrous fumes, cadmium, beryllium or pesticides.
2. Any occupation involving the use or handling of, or exposure to, tar, pitch, bitumen, mineral oil including paraffin, chromate acid, chromate or bichromate of ammonium, potassium, zinc or sodium.
3. Any occupation involving exposure to x-rays, ionizing particles, radium or other radioactive substances or other forms of radiant energy.
4. Any occupation or process carried on in compressed air.

(Third Schedule)

**References**

Occupational Safety and Health Act 1994 (No. 514). (S 28(1)(d), Third Schedule)

**4.5 Surveillance of the working environment and working practices****Summary / Citation**

"It shall be the duty of every employer and every self-employed person to ensure, so far as is practicable, the safety, care, and welfare at work of all his employees. The duty extends include in particular:

- the provision and maintenance of plant and systems of work that are, so far as is practicable, safe and without risks to health;
- making arrangements for ensuring, so far as is practicable, safety and absence of risks to health in connection with the use or operation, handling, storage and transport of plant and substances."

## References

Occupational Safety and Health Act 1994 (No. 514). (S 15 (2))

### 4.6 Duty to provide personal protective equipment

#### Summary / Citation

The employers shall provide protective equipment for the workers.  
(Occupational Safety and Health Act, 1994, S 24 (1c))

Where in any factory persons are exposed to a wet or dusty process, to noise, to heat or to any poisonous, corrosive or other injurious substance which is liable to cause bodily injury to those persons the Minister may prescribe the provision and maintenance for use of those persons suitable and adequate personal protective clothing and appliances including where necessary goggles, gloves, leggings, caps, foot-wear and protective ointment or lotion.  
(Factories and Machinery Act 1967, S 24)

## References

Occupational Safety and Health Act 1994 (No. 514). (S 24 (1c))

Factories and Machinery Act 1967 [Act 139]. (S 24)

### 4.7 Duty to ensure the usage of personal protective equipment

#### Summary / Citation

"It shall be the duty of every employer and every self-employed person to ensure, so far as is practicable, the safety, care, and welfare at work of all his employees. The duty extends include in particular to:  
the provision of such information, instruction, training and supervision as is necessary to ensure, so far as is practicable, the safety and health at work of his employees."

## References

Occupational Safety and Health Act 1994 (No. 514). (S 15 (1c))

### 4.8 Duty to provide first-aid and welfare facilities

#### 4.8.1 Arrangements for first-aid

##### Summary / Citation

"In respect of any factory, the following provisions relating to welfare of persons shall apply: (...) there shall be provided and maintained so as to be readily accessible a first-aid box or cupboard of the prescribed standard and when more than one hundred and fifty persons are employed at any one time a suitable first-aid room of the prescribed standard shall also be provided and maintained."  
(S 25(1)(c))

"The Minister may for factories or for any class of factory or parts thereof prescribe standards for compliance in respect of all the provisions in the foregoing subsection relating to welfare of persons employed."  
(S 25(2))

## References

Factories and Machinery Act 1967 [Act 139]. (S 25(1)(c)(2))

#### 4.8.2 Sanitary installations

**Summary / Citation**

"Sanitary conveniences includes urinals, water-closets, earth closets, ash pits and any similar convenience."  
(S 3)

"Without prejudice to any law relating to public health, in respect of any factory the following provisions relating to health of persons shall apply: (...) sufficient and suitable sanitary conveniences, as may be prescribed, shall be provided and maintained for the use of persons in a factory."  
(S 22(1)(f))

"In respect of any factory, the following provisions relating to welfare of persons shall apply:  
(a) there shall be provided and maintained for the use of persons employed therein—  
(i) adequate and suitable accommodation for clothing not worn during working hours; and  
(ii) such arrangements as are reasonably practicable for drying that clothing."  
(S 25(1)(a))

"The Minister may for factories or for any class of factory or parts thereof prescribe standards for compliance in respect of all the provisions in the foregoing subsection relating to welfare of persons employed."  
(S 25(2))

**References**

Factories and Machinery Act 1967 [Act 139]. (SS 3, 22(1)(f), 25(1)(a))

**4.8.3 Drinking water****Summary / Citation**

"In respect of any factory, the following provisions relating to welfare of persons shall apply: (...) there shall be provided and maintained at suitable places reasonably accessible to all persons employed therein -  
(i) an adequate supply of safe and wholesome drinking water; and  
(ii) adequate and suitable facilities for washing which shall be kept in a clean condition."  
(S 25(1)(b))

"The Minister may for factories or for any class of factory or parts thereof prescribe standards for compliance in respect of all the provisions in the foregoing subsection relating to welfare of persons employed."  
(S 25(2))

**References**

Factories and Machinery Act 1967 [Act 139]. (S 25(1)(b)(2))

**4.8.4 Rest and eating areas****Summary / Citation**

"(1) The Minister may make regulations for or with respect to the safety, health and welfare of persons at work in order to achieve the objects of this Act.  
(2) In particular and without prejudice to the generality of subsection (1), such regulations may— (...) prescribe the requirements to abstain from eating, drinking or smoking in any circumstances involving risk of absorption of any substance or risk of injury or poisoning arising out of the use of any substance; (...)"

**References**

Occupational Safety and Health Act 1994 (No. 514). (S 66(1)(2)(d))

## 5 Employers' duty to organize prevention formally along generally accepted OSH management principles and practices

### 5.1 Elements of an OSH management system

#### 5.1.1 Policy or plan specifying responsibilities and arrangements for health and safety

##### **Summary/citation**

Duty to formulate safety and health policy

"Except in such cases as may be prescribed, it shall be the duty of every employer and every self-employed person to prepare and as often as may be appropriate revise a written statement of his general policy with respect to the safety and health at work of his employees and the organization and arrangements for the time being in force for carrying out that policy, and to bring the statement and any revision of it to the notice of all of his employees."

##### References

Occupational Safety and Health Act 1994 (No. 514). (S 16)

#### 5.1.2 Appointment of a person for health and safety

##### **Summary/citation**

In industries determined by the Minister, the employer shall employ a competent person to act as a safety and health officer at the place of work.

(3) The safety and health officer shall be employed exclusively for the purpose of ensuring the due observance at the place of work of the provisions of this Act and any regulation made thereunder and the promotion of a safe conduct of work at the place of work.

##### **Remarks / comments**

This shall apply to such class or description of industries as the Minister may, by order published in the Gazette, specify.

##### References

Occupational Safety and Health Act 1994 (No. 514). (S 29)

#### 5.1.3 Written risk assessment

##### **Summary/citation**

Duty to formulate safety and health policy

"Except in such cases as may be prescribed, it shall be the duty of every employer and every self-employed person to prepare and as often as may be appropriate revise a written statement of his general policy with respect to the safety and health at work of his employees and the organization and arrangements for the time being in force for carrying out that policy, and to bring the statement and any revision of it to the notice of all of his employees."

##### References

Occupational Safety and Health Act 1994 (No. 514). (S 16)

#### 5.1.4 Safe operating work systems and procedures

##### **Summary/citation**

- "(1) It shall be the duty of every employer and every self-employed person to ensure, so far as is practicable, the safety, care, and welfare at work of all his employees.
- (2) Without prejudice to the generality of subsection (1), the matters to which the duty extends include in particular -
- (d) so far as is practicable, as regards any place of work under the control of the employer or self-employed person, the maintenance of it in a condition that is safe and without risks to health and the provision and maintenance of the means of access to and egress from it that are safe and without such risks;
- (e) the provision and maintenance of a working environment for his employees that is, so far as is practicable, safe, without risks to health, and adequate as regards facilities for their welfare at work."

#### References

Occupational Safety and Health Act 1994 (No. 514). (S 15 (1)(2)(d)(e))

#### 5.1.5 Training and information on risks

##### **Summary/citation**

- "(1) It shall be the duty of every employer and every self-employed person to ensure, so far as is practicable, the safety, health and welfare at work of all his employees.
- (2) Without prejudice to the generality of subsection (1), the matters to which the duty extends include in particular - (...)
- (c) the provision of such information, instruction, training and supervision as is necessary to ensure, so far as is practicable, the safety and health at work of his employees; (...)"

#### References

Occupational Safety and Health Act 1994 (No. 514). (S 15(2)(c))

#### 5.1.6 Review or assessment of the results of preventive measures

##### **Summary/citation**

Duty to formulate safety and health policy

"Except in such cases as may be prescribed, it shall be the duty of every employer and every self-employed person to prepare and as often as may be appropriate revise a written statement of his general policy with respect to the safety and health at work of his employees and the organization and arrangements for the time being in force for carrying out that policy, and to bring the statement and any revision of it to the notice of all of his employees."

#### References

Occupational Safety and Health Act 1994 (No. 514). (S 16)

#### 5.1.7 Consultation with workers in health and safety

##### **Summary/citation**

Every employer shall consult the safety and health committee with a view to the making and maintenance of arrangements which will enable him and his employees to co-operate effectively in promoting and developing measures to ensure the safety and health at the place of work of the employees, and in checking the effectiveness of such measures.

##### **Restrictions / obligations**

Every employer shall establish a safety and health committee at the place of work in accordance with this section if—

- (a) there are forty or more persons employed at the place of work; or
- (b) the Director General directs the establishment of such a committee at the place of work.

#### References

Occupational Safety and Health Act 1994 (No. 514). (S 30 (1) (3))

## 5.2 Obligation to implement a specific OSH management system or standard

# 6 Employers' duty to ensure availability of expertise and competence in health and safety

### 6.1 OSH competence

#### 6.1.1 Requirement to access expert advice and/or support in health and safety

##### **Summary / Citation**

In industries determined by the Minister, the employer shall employ a competent person to act as a safety and health officer at the place of work.

(3) The safety and health officer shall be employed exclusively for the purpose of ensuring the due observance at the place of work of the provisions of this Act and any regulation made thereunder and the promotion of a safe conduct of work at the place of work.

##### **Remarks / comments**

This shall apply to such class or description of industries as the Minister may, by order published in the Gazette, specify.

#### References

Occupational Safety and Health Act 1994 (No. 514). (S 29(1)/2)(3))

#### 6.1.1.1 Qualifications of experts or professional services

##### **Summary / Citation**

The safety and health officer shall possess such qualifications or have received such training as the Minister may, by notification in the Gazette, from time to time prescribe.

#### References

Occupational Safety and Health Act 1994 (No. 514). (S 29 (4))

### 6.2 Appointment of an OSH practitioner

##### **Summary/citation**

In industries determined by the Minister, the employer shall employ a competent person to act as a safety and health officer at the place of work.

(3) The safety and health officer shall be employed exclusively for the purpose of ensuring the due observance at the place of work of the provisions of this Act and any regulation made thereunder and the promotion of a safe conduct of work at the place of work.

##### **Remarks / comments**

This shall apply to such class or description of industries as the Minister may, by order published in the Gazette, specify.

#### References

Occupational Safety and Health Act 1994 (No. 514). (s 29(1)(2)(3))

#### 6.2.1 Workforce size threshold for the appointment of OSH practitioners

##### **Summary/citation**

This shall apply to such class or description of industries as the Minister may, by order published in the Gazette, specify.

## References

Occupational Safety and Health Act 1994 (No. 514). (29(1))

## 7 Workers' rights and duties

### 7.1 Duty to take reasonable steps to protect their own safety and health

#### Summary / Citation

"It shall be the duty of every employee while at work—

(a) to take reasonable care for the safety and health of himself and of other persons who may be affected by his acts or omissions at work;

(b) to co-operate with his employer or any other person in the discharge of any duty or requirement imposed on the employer or that other person by this Act or any regulation made thereunder; (...)

(2) A person who contravenes the provisions of this section shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding one thousand ringgit or to imprisonment for a term not exceeding three months or to both."

## References

Occupational Safety and Health Act 1994 (No. 514). (S 24)

### 7.2 Duty to take reasonable steps to protect the safety and health of others

#### Summary / Citation

"It shall be the duty of every employee while at work—

(a) to take reasonable care for the safety and health of himself and of other persons who may be affected by his acts or omissions at work; (...)

(2) A person who contravenes the provisions of this section shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding one thousand ringgit or to imprisonment for a term not exceeding three months or to both."

## References

Occupational Safety and Health Act 1994 (No. 514). (S 24)

### 7.3 Supervisors' duty to take reasonable steps to protect the safety and health of others

### 7.4 Senior officers' duty to take reasonable steps to protect the safety and health of others

### 7.5 Self-employed persons' duty to take reasonable steps to protect their own and other people's health and safety

#### Summary / Citation

"It shall be the duty of every employer and every self-employed person to ensure, so far as is practicable, the safety, health and welfare at work of all his employees."

## References

Occupational Safety and Health Act 1994 (No. 514). (S 15 (1))

### 7.6 Duty to comply with OSH-related requirements

#### Summary / Citation

"(1) It shall be the duty of every employee while at work— (...)

(c) to wear or use at all times any protective equipment or clothing provided by the employer for the purpose of preventing risks to his safety and health; and

(d) to comply with any instruction or measure on occupational safety and health instituted by his employer or any other person by or under this Act or any regulation made thereunder.

(2) A person who contravenes the provisions of this section shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding one thousand ringgit or to imprisonment for a term not exceeding three months or to both."

#### References

Occupational Safety and Health Act 1994 (No. 514). (S 24(1)(c)(d)(2))

7.7 Right to enquire about risks and preventive measures

7.8 Right to remove themselves from a dangerous situation

7.9 Right to be reassigned to non-hazard work

7.9.1 Right to withdraw with compensation when workers are not reassigned to non-hazard work

## 8 Consultation, collaboration and co-operation with workers and their representatives

8.1 National OSH committee, commission, council or similar body

#### Summary / Citation

There shall be established a council called the "National Council for Occupational Safety and Health".

#### References

Occupational Safety and Health Act 1994 (No. 514). (S 8)

8.1.1 Objectives, roles and/or functions

#### Summary / Citation

"(1) The Council shall have power to do all things expedient or reasonably necessary for or incidental to the carrying out of the objects of this Act.

(2) The Council may, and when requested by the Minister to do so shall, carry out investigations and make reports and recommendations to him with regard to any matter relating to the objects of this Act and, in particular, but without prejudice to the generality of the foregoing provisions, with regard to—

(a) changes it considers desirable to occupational safety and health legislation;

(b) the improvement of the administration and enforcement of occupational safety and health legislation;

(c) the fostering of a co-operative consultative relationship between management and labour on the safety, health and welfare of persons at work;

(d) the special problems with respect to occupational safety, health and welfare of women, handicapped persons and other groups in the community;

(e) the establishment of adequate methods of control of industrial chemicals at a place of work;

(f) the statistical analysis of occupationally related deaths and injuries;

(g) the provision of health care facilities at a place of work;

(h) the fostering of the development and adoption by law of industry codes of practice related to occupational safety, health and welfare;

(i) the development of rehabilitation plans and facilities to assist persons injured at a place of work."

#### References

Occupational Safety and Health Act 1994 (No. 514). (S 11)

8.1.2 Constitution and chairmanship modalities

#### Summary / Citation



- "(1) The Council shall consist of not less than twelve and not more than fifteen members who shall be appointed by the Minister, of whom—
- (a) three persons shall be from organizations representing employers;
  - (b) three persons shall be from organizations representing employees;
  - (c) three or more persons shall be from Ministries or Departments whose responsibility is related to occupational safety and health; and
  - (d) three or more persons, of whom at least one shall be a woman, shall be from organizations or professional bodies the activities of whose members are related to occupational safety and health and who, in the opinion of the Minister, are able to contribute to the work of the Council.
- (2) The Minister shall appoint from among the persons mentioned in subsection (1) a Chairman and a Deputy Chairman of the Council."

#### References

Occupational Safety and Health Act 1994 (No. 514). (S 9(1)(2))

### 8.2 Employers' duty to consult workers on risks

#### Summary / Citation

"Every employer shall consult the safety and health committee with a view to the making and maintenance of arrangements which will enable him and his employees to co-operate effectively in promoting and developing measures to ensure the safety and health at the place of work of the employees, and in checking the effectiveness of such measures."

#### Remarks / comments

Every employer shall establish a safety and health committee at the place of work in accordance with this section if—

- (a) there are forty or more persons employed at the place of work; or
- (b) the Director General directs the establishment of such a committee at the place of work.

#### References

Occupational Safety and Health Act 1994 (No. 514). (S 30(1) (3))

### 8.3 Workers' right to select their representatives for health and safety matters

#### Summary / Citation

An OSH committee shall be organized at the workplace which includes members of the workers' representatives.

"A safety and health committee shall consist of -

- (a) a chairman;
- (b) a secretary;
- (c) representatives of employer; and
- (d) representatives of employees.

(2) Where there are one hundred persons or less employed at a place of work, there shall not be less than two representatives each from the employees and the management on the committee; and where there are more than one hundred persons employed at the place of work, there shall not be less than four representatives each from the employees and the management."

#### Remarks / comments

"Every employer shall establish a safety and health committee at the place of work in accordance with this section if—

- (a) there are forty or more persons employed at the place of work; or
- (b) the Director General directs the establishment of such a committee at the place of work."

#### References

Occupational Safety and Health Act 1994 (No. 514). (S 30)

Occupational Safety and Health (Safety and Health Committee) Regulations 1996 [P.U.(A) 616/96] (S 5)

#### 8.3.1 Workforce size conditions for workers' representation in health and safety

##### **Summary / Citation**

"Every employer shall establish a safety and health committee at the place of work in accordance with this section if—

- (a) there are forty or more persons employed at the place of work; or
- (b) the Director General directs the establishment of such a committee at the place of work."

##### **References**

Occupational Safety and Health Act 1994 (No. 514). (S 30(1))

#### 8.3.2 Conditions of eligibility to represent workers in health and safety

##### **Summary / Citation**

"An employer shall invite persons employed at the place of work to nominate their representatives to the safety and health committee; and where the number of persons so nominated exceeds the number of vacancies available, a ballot shall be held to determine the representatives."

##### **Remarks / comments**

"Every employer shall establish a safety and health committee at the place of work in accordance with this section if—

- (a) there are forty or more persons employed at the place of work; or
- (b) the Director General directs the establishment of such a committee at the place of work."

##### **References**

Occupational Safety and Health Act 1994 (No. 514). (S 30(1))

Occupational Safety and Health (Safety and Health Committee) Regulations 1996 [P.U.(A) 616/96] (S 7 (1))

### 8.4 OSH representatives' functions, rights and powers

#### 8.4.1 Right to inspect the workplace

##### **Summary / Citation**

"The safety and health committee, inspect the place of work at least once in every three months to ascertain if there is anything prejudicial to the safety and health of persons employed therein: Provided that the committee may, at any time, make further inspections of any plant therein or any part of the place of work to check on the effectiveness of the measures taken to ensure the safety and health of persons at the place of work."

##### **References**

Occupational Safety and Health (Safety and Health Committee) Regulations 1996 [P.U.(A) 616/96] (S 12(1)(a))

#### 8.4.2 Right to access OSH information

##### **Summary / Citation**

"The safety and health committee of a place of work shall -

- (a) assist in development of safety and health rules and safe systems of work;
- (b) review the effectiveness of safety and health programmes;
- (c) carry out studies on the trends of accident, near-miss accident, dangerous occurrence, occupational poisoning or occupational disease which occurs at the place of work, and shall report to the employer of any unsafe or unhealthy condition or practices at the place of work together with recommendations for corrective actions; and
- (d) review the safety and health policies at the place of work and make recommendations to the employer for any revision of such policies."

"An employer of a place of work shall, in consultation with a safety and health committee, prepare and promote rules on safety and health which will ensure the safety and health of persons employed at the place of work for the guidance of such persons.

(2) The rules may with the approval of the employer be amended, varied or rescinded by the committee.

(3) The employer of the place of work shall furnish to each of his employees a copy of the rules.

(4) An occupational safety and health officer shall be given a copy of the rules when so requested."

"An employer shall make available to a safety and health committee the following documents and information:

- (a) the Act and all subsidiary legislation made under the Act;
- (b) industry codes of practice and guidelines relating to the elimination of risks to safety and health associated with nature of work carried out at place of work, and such other relevant codes of practice;
- (c) information about safety plans and their implementation, and any proposed changes to the safety plans affecting the safety and health of employees;
- (d) technical information about safety and health hazards and precautions necessary to eliminate or minimize them;
- (e) information about operation procedures, systems of work, and substances for use at work and other relevant data pertaining to safety and health, and
- (f) any other information as directed by the Director General from time to time."

#### References

Occupational Safety and Health (Safety and Health Committee) Regulations 1996 [P.U.(A) 616/96] (S 11, S19, S30)

8.4.3 Right to be present at interviews

8.4.4 Right to receive professional assistance from OSH experts

#### Summary / Citation

"An employer shall take such steps as are reasonably practicable to provide the members of a safety and health committee with adequate training in occupational safety and health so as to enable them to perform the functions of the committee effectively."

#### References

Occupational Safety and Health (Safety and Health Committee) Regulations 1996 [P.U.(A) 616/96] (S29)

8.4.5 Right to accompany inspectors

8.4.6 Right to use facilities

#### Summary / Citation

"An employer of a place of work shall -

- (a) provide a suitable place at the place of work for the safety and health committee to hold its meetings."

#### References

Occupational Safety and Health (Safety and Health Committee) Regulations 1996 [P.U.(A) 616/96] (S 22(a))

8.4.7 Right to have time off work with pay to perform duties

**Summary / Citation**

"An employer of a place of work shall -

(b) permit every member of the committee to attend such meetings during working hours."

## References

Occupational Safety and Health (Safety and Health Committee) Regulations 1996 [P.U.(A) 616/96] (S 22(b))

## 8.4.8 Right to issue remedial notices

**Remarks / comments**

"A safety and health committee -

(c) make recommendations to the employer on the remedial measures to be taken on any matter prejudicial to the safety and health of persons at the place of work and shall record such recommendations in the report."

## References

Occupational Safety And Health (Control of Industrial Major Accident Hazards) Regulations 1996 [P.U.(A) 39/96]. (S 12(c))

## 8.4.9 Right to resolve OSH issues in consultation with employers

**Summary / Citation**

"The safety and health committee -

(d) review the safety and health policies at the place of work and make recommendations to the employer for any revision of such policies."

"An employer of a place of work shall, in consultation with a safety and health committee, prepare and promote rules on safety and health which will ensure the safety and health of persons employed at the place of work for the guidance of such persons."

## References

Occupational Safety and Health (Safety and Health Committee) Regulations 1996 [P.U.(A) 616/96] (S11, S19)

## 8.4.10 Right to direct that dangerous work cease

**8.5 Right of workers' representatives from outside the undertaking to address OSH issues at the workplace**

## 8.5.1 Right to enter the workplace

## 8.5.2 Right to investigate suspected non-compliance with OSH legislation

## 8.5.3 Right to consult with workers

## 8.5.4 Right to advise workers

## 8.5.5 Right to initiate enforcement action

**8.6 Joint OSH Committee****Summary / Citation**

"Every employer shall establish a safety and health committee at the place of work in accordance with this section if—

(a) there are forty or more persons employed at the place of work; or

(b) the Director General directs the establishment of such a committee at the place of work."

## References

Occupational Safety and Health Act 1994 (No. 514). (S 30(1))

## 8.6.1 Participation of workers' representatives in joint OSH committee

**Summary / Citation**

An OSH committee shall be organized at the workplace which includes members of the workers' representatives.

"A safety and health committee shall consist of -

- (a) a chairman;
- (b) a secretary;
- (c) representatives of employer; and
- (d) representatives of employees.

(2) Where there are one hundred persons or less employed at a place of work, there shall not be less than two representatives each from the employees and the management on the committee; and where there are more than one hundred persons employed at the place of work, there shall not be less than four representatives each from the employees and the management."

#### References

Occupational Safety And Health (Safety And Health Officer) Regulations 1997 [P.U.(A) 315/97]. (S 5)

#### 8.6.2 Conditions for establishing a joint OSH committee

##### **Summary / Citation**

"Every employer shall establish a safety and health committee at the place of work in accordance with this section if—

- (a) there are forty or more persons employed at the place of work; or
- (b) the Director General directs the establishment of such a committee at the place of work."

#### References

Occupational Safety and Health Act 1994 (No. 514). (S 30(1))

#### 8.6.3 Objectives, roles and/or functions of joint OSH committees

##### **Summary / Citation**

"The safety and health committee of a place of work shall -

- (a) assist in development of safety and health rules and safe systems of work;
- (b) review the effectiveness of safety and health programmes;
- (c) carry out studies on the trends of accident, near-miss accident, dangerous occurrence, occupational poisoning or occupational disease which occurs at the place of work, and shall report to the employer of any unsafe or unhealthy condition or practices at the place of work together with recommendations for corrective actions; and
- (d) review the safety and health policies at the place of work and make recommendations to the employer for any revision of such policies."

#### References

Occupational Safety and Health (Safety and Health Committee) Regulations 1996 [P.U.(A) 616/96] (S 11)

#### 8.6.4 Keeping record of the work of joint OSH committees

##### **Summary / Citation**

"1) A copy of the minutes of every meeting of a safety and health committee shall be furnished to every member of the committee and the employer of the place of work within two weeks after the meeting has taken place.

(2) The employer shall keep a copy of the minutes of the meeting of the committee at the place of work for a minimum period of seven years for purposes of inspection by and occupational safety and health officer."

#### References

Occupational Safety and Health (Safety and Health Committee) Regulations 1996 [P.U.(A) 616/96] (S 27(1)(2))

#### 8.6.5 Sharing the minutes of joint OSH committees meetings

**Summary / Citation**

- (1) A copy of the minutes of every meeting of a safety and health committee shall be furnished to every member of the committee and the employer of the place of work within two weeks after the meeting has taken place.
- (2) The employer shall keep a copy of the minutes of the meeting of the committee at the place of work for a minimum period of seven years for purposes of inspection by an occupational safety and health officer.
- (3) An occupational safety and health officer may at any time require for a copy of such minutes to be furnished to him and the employer of the place of work shall forthwith comply with such requirement."

**References**

Occupational Safety And Health (Safety And Health Officer) Regulations 1997 [P.U.(A) 315/97]. (S27)

**8.7 Mandatory training for members of joint OSH committee(s)****Summary / Citation**

"An employer shall take such steps as are reasonably practicable to provide the members of a safety and health committee with adequate training in occupational safety and health so as to enable them to perform the functions of the committee effectively."

**References**

Occupational Safety and Health (Safety and Health Committee) Regulations 1996 [P.U.(A) 616/96] (S29)

**8.8 Protection against reprisals****Summary / Citation**

"No employer shall dismiss an employee, injure him in his employment, or alter his position to his detriment by reason only that the employee—

- (a) makes a complaint about a matter which he considers is not safe or is a risk to health;
- (b) is a member of a safety and health committee established pursuant to this Act; or
- (c) exercises any of his functions as a member of the safety and health committee."

**References**

Occupational Safety and Health Act 1994 (No. 514). (S27)

**8.9 Immunity from civil and criminal liability for exercising OSH related rights and duties****9 Specific hazards or risks****9.1 Biological hazards****Summary / Citation**

- "(1) It shall be the duty of a person who formulates, manufactures, imports or supplies any substance for use at work—
- (a) to ensure, so far as is practicable, that the substance is safe and without risks to health when properly used;
  - (b) to carry out or arrange for the carrying out of such testing and examination as may be necessary for the performance of the duty imposed on him by paragraph (a); and
  - (c) to take such steps as are necessary to ensure that there will be available in connection with the use of the substance at work adequate information about the results of any relevant test which has been carried out on or in connection with the substance and about any condition necessary to ensure that it will be safe and without risks to health when properly used.
- (2) It shall be the duty of a person who undertakes the manufacture or supply of any substance for use at work to carry out or arrange for the carrying out of any necessary research with a view to the discovery and, so fa

r as is practicable, the elimination or minimization of any risk to safety or health to which the substance may give rise."  
(Factories and Machinery Act 1967, S 21)

"Without prejudice to any law relating to public health, in respect of any factory the following provisions relating to health of persons shall apply:

(a) every factory shall be kept in a clean state and free from offensive effluvia arising from any drain, sanitary convenience or other source and shall be cleaned at such times and by such methods as may be prescribed and these methods may include lime-washing or colour washing, painting, varnishing, disinfecting or deodorising; (...)"

(Factories and Machinery Act 1967, S 22)

"(1) The Minister may make regulations for or with respect to the safety, health and welfare of persons at work in order to achieve the objects of this Act.

(2) In particular and without prejudice to the generality of subsection (1), such regulations may— (...)

(k) prescribe the standards in relation to the use of, including standards of exposure to, any physical, biological, chemical or psychological hazard; (...)"

(Occupational Safety and Health Act, S 66(1)(2)(k))

#### References

Occupational Safety and Health Act 1994 (No. 514). (S 66(1)(2)(k))

Factories and Machinery Act 1967 [Act 139]. (S 21, 22 (1)(a))

## 9.2 Chemical hazards

### Summary / Citation

"(1) The Minister may make regulations for or with respect to the safety, health and welfare of persons at work in order to achieve the objects of this Act.

(2) In particular and without prejudice to the generality of subsection (1), such regulations may— (...)

(k) prescribe the standards in relation to the use of, including standards of exposure to, any physical, biological, chemical or psychological hazard; (...)"

(S 66(1)(2)(k))

Where it appears to the Minister that in any of the industries or class or description of industries— (d) there may be risk of injury to the health of persons employed in any of the occupations specified in the Third Schedule, or from any substance or material brought to the industries to be used or handled therein or from any change in the conditions in the industries, he may make regulations requiring such reasonable arrangements as may be specified in the regulations to be made for the medical surveillance and medical examination, not including medical treatment of a preventive character, of the persons or any class of persons employed in the industries or class or description of industries.  
(S 28(1)(d))

Any occupation involving the use or handling of, or exposure to, the fumes, dust or vapour of silica, asbestos, raw cotton dust, lead, mercury, arsenic, phosphorus, carbon bisulphide, benzene, organic-phosphate, nitrous fumes, cadmium, beryllium or pesticides.

(Third Schedule (1))

#### References

Occupational Safety and Health Act 1994 (No. 514). (S 28(1)(d), 66(1)(2)(k), Third Schedule (1))

### 9.2.1 Handling, storage, labelling and use

#### **Summary / Citation**

The structure of the Regulations is the following:

Part I - Preliminary

Part II - Identification of Chemicals Hazardous to Health

Part III - Permissible Exposure Limit

Part IV - Assessment of Risk to Health

Part V - Action to Control Exposure

Part VI - Labelling and Re-labelling

Part VII - Information, Instruction and Training

Part VIII - Monitoring of Exposure at the Place of Work

Part IX - Health Surveillance

Part X - Medical Removal Protection

Part XI - Warning Sign

Part XII - Record Keeping

#### References

Occupational Safety and Health (Use and Standards of Exposure of Chemicals Hazardous to Health) Regulations 2000 (P.U. (

### 9.2.2 Duty of manufacturers, suppliers and importers of chemicals in relation to the safety and health of users

#### **Summary / Citation**

"(1) It shall be the duty of a person who formulates, manufactures, imports or supplies any substance for use at work—

(a) to ensure, so far as is practicable, that the substance is safe and without risks to health when properly used;

(b) to carry out or arrange for the carrying out of such testing and examination as may be necessary for the performance of the duty imposed on him by paragraph (a); and

(c) to take such steps as are necessary to ensure that there will be available in connection with the use of the substance at work adequate information about the results of any relevant test which has been carried out on or in connection with the substance and about any condition necessary to ensure that it will be safe and without risks to health when properly used.

(2) It shall be the duty of a person who undertakes the manufacture or supply of any substance for use at work to carry out or arrange for the carrying out of any necessary research with a view to the discovery and, so far as is practicable, the elimination or minimization of any risk to safety or health to which the substance may give rise."

#### References

Occupational Safety and Health Act 1994 (No. 514). (S 21)

### 9.2.3 Pesticides

#### **Summary / Citation**

Where it appears to the Minister that in any of the industries or class or description of industries— (d) there may be risk of injury to the health of persons employed in any of the occupations specified in the Third Schedule, or from any substance or material brought to the industries to be used or handled therein or from any change in the conditions in the industries, he may make regulations requiring such reasonable arrangements as may be specified in the regulations to be made for the medical surveillance and medical examination, not including medical treatment of a preventive character, of the persons or any class of persons employed in the industries or class or description of industries.

(S 28(1)(d))



Any occupation involving the use or handling of, or exposure to, the fumes, dust or vapour of silica, asbestos, raw cotton dust, lead, mercury, arsenic, phosphorus, carbon bisulphide, benzene, organic-phosphate, nitrous fumes, cadmium, beryllium or pesticides.

(Third Schedule (1))

"(1) The Minister may make regulations for or with respect to the safety, health and welfare of persons at work in order to achieve the objects of this Act.

(2) In particular and without prejudice to the generality of subsection (1), such regulations may— (...)

(k) prescribe the standards in relation to the use of, including standards of exposure to, any physical, biological, chemical or psychological hazard; (...)"

(Occupational Safety and Health Act, S 66(1)(2)(k))

#### References

Occupational Safety and Health Act 1994 (No. 514). (S 28(1)(d), 66(1)(2)(k), Third Schedule (1))

Pesticides Act 1974

### 9.3 Ergonomic hazards

### 9.4 Physical hazards

#### 9.4.1 Ionising radiation

##### **Summary / Citation**

"In every factory in which persons are exposed to risk of bodily injury from explosive, inflammable, poisonous or corrosive substances or ionising radiations, such measures as may be prescribed shall be taken as will eliminate the risk."

(Factories and Machinery Act 1967, S 11)

"(1) The Minister may make regulations for or with respect to the safety, health and welfare of persons at work in order to achieve the objects of this Act.

(2) In particular and without prejudice to the generality of subsection (1), such regulations may— (...)

(k) prescribe the standards in relation to the use of, including standards of exposure to, any physical, biological, chemical or psychological hazard; (...)"

(Occupational Safety and Health Act, S 66(1)(2)(k))

#### References

Occupational Safety and Health Act 1994 (No. 514). (S 66(1)(2)(k))

Factories and Machinery Act 1967 [Act 139]. (S11)

#### 9.4.2 Vibration and noise

##### **Summary / Citation**

"(1) The Minister may make regulations for or with respect to the safety, health and welfare of persons at work in order to achieve the objects of this Act.

(2) In particular and without prejudice to the generality of subsection (1), such regulations may— (...)

(k) prescribe the standards in relation to the use of, including standards of exposure to, any physical, biological, chemical or psychological hazard; (...)"

(Occupational Safety and Health Act, S 66(1)(2)(k))

Factories and Machinery (Noise Exposure) Regulations 1989 sets forth maximum permissible noise limits, and provides for exposure monitoring, hearing protection devices, and audiometric testing programmes.

"Where in any factory persons are exposed to a wet or dusty process, to noise, to heat or to any poisonous, corrosive or other injurious substance which is liable to cause bodily injury to those persons the Minister may prescribe the provision and maintenance for use of those persons suitable and adequate personal protective clothing and appliances including where necessary goggles, gloves, leggings, caps, foot-wear and protective ointment or lotion."

(Factories and Machinery Act 1967, S 24)

#### References

Occupational Safety and Health Act 1994 (No. 514). (S 66(1)(2)(k))

Factories and Machinery Act 1967 [Act 139]. (S 24)

Factories and Machinery (Noise Exposure) Regulations 1989 (PU (A) 1).

#### 9.4.3 Working at height

##### **Summary / Citation**

"Without prejudice to any law with respect to local authorities, in respect of any factory, the following provisions relating to safety shall apply: (...)

(c) all floors, working levels, platforms, decks, stairways, passages, gangways, ladders and steps shall be of safe construction so as to prevent a risk of persons falling, and structurally sound so as to prevent a risk of collapse, and shall be properly maintained and kept, as far as reasonably practicable, free from any loose material and in a non-slippery condition; (...)"

(Factories and Machinery Act 1967, S 10(c))

"(1) The Minister may make regulations for or with respect to the safety, health and welfare of persons at work in order to achieve the objects of this Act.

(2) In particular and without prejudice to the generality of subsection (1), such regulations may— (...)

(k) prescribe the standards in relation to the use of, including standards of exposure to, any physical, biological, chemical or psychological hazard; (...)"

(Occupational Safety and Health Act 1967, S 66(1)(2)(k))

#### References

Occupational Safety and Health Act 1994 (No. 514). (S 66(1)(2)(k))

Factories and Machinery Act 1967 [Act 139]. (S 10 (c ))

#### 9.4.4 Working in confined spaces

##### **Summary / Citation**

"(1) Without prejudice to any law relating to public health, in respect of any factory the following provisions relating to health of persons shall apply: (...)

(b) the maximum number of persons employed at any one time in any workroom in any factory shall be such that the amount of cubic feet of space and the superficial feet of floor area allowed in the workroom for each such person are not less than the amount of cubic feet of space and the superficial feet of floor area prescribed either generally or for the particular class of work carried on in the workroom; (...)"

(Factories and Machinery Act 1967, S 22(1b))

"(1) The Minister may make regulations for or with respect to the safety, health and welfare of persons at work in order to achieve the objects of this Act.

(2) In particular and without prejudice to the generality of subsection (1), such regulations may— (...)

(k) prescribe the standards in relation to the use of, including standards of exposure to, any physical, biological, chemical or psychological hazard; (...)"

(Occupational Safety and Health Act 1994, S 66(1)(2)(k))

#### References

Occupational Safety and Health Act 1994 (No. 514). (S 66(1)(2)(k))

Factories and Machinery Act 1967 [Act 139]. (S 22(1b))

#### 9.4.5 Risks arising from poor maintenance of workplace facilities

##### **Summary / Citation**

"Without prejudice to any law relating to public health, in respect of any factory the following provisions relating to health of persons shall apply:

(a) every factory shall be kept in a clean state and free from offensive effluvia arising from any drain, sanitary convenience or other source and shall be cleaned at such times and by such methods as may be prescribed and these methods may include lime-washing or colour washing, painting, varnishing, disinfecting or deodorising; (...)"

(Factories and Machinery Act 1967, S 22)

"(1) The Minister may make regulations for or with respect to the safety, health and welfare of persons at work in order to achieve the objects of this Act.

(2) In particular and without prejudice to the generality of subsection (1), such regulations may— (...)

(k) prescribe the standards in relation to the use of, including standards of exposure to, any physical, biological, chemical or psychological hazard; (...)"

(Occupational Safety and Health Act 1994, S 66(1)(2)(k))

#### References

Occupational Safety and Health Act 1994 (No. 514). (S 66(1)(2)(k))

Factories and Machinery Act 1967 [Act 139]. (S 22)

#### 9.4.6 Exposure to extreme temperatures

##### **Summary / Citation**

"(1) Without prejudice to any law relating to public health, in respect of any factory the following provisions relating to health of persons shall apply: (...) effective and suitable provision shall be made for securing and maintaining such temperature as will ensure to any person employed in a factory reasonable conditions of comfort and prevention from bodily injury;(...)"  
(Factories and Machinery Act 1967, S 22(1d)/S 24/Third Schedule)

"(1) The Minister may make regulations for or with respect to the safety, health and welfare of persons at work in order to achieve the objects of this Act.  
(2) In particular and without prejudice to the generality of subsection (1), such regulations may— (...)  
(k) prescribe the standards in relation to the use of, including standards of exposure to, any physical, biological, chemical or psychological hazard; (...)"  
(Occupational Safety and Health Act 1994, S 66(1)(2)(k))

#### References

Occupational Safety and Health Act 1994 (No. 514). (S 66(1)(2)(k))

Factories and Machinery Act 1967 [Act 139]. (S 22(1d)/S 24/Third Schedule)

#### 9.4.7 Fire risks

##### **Summary / Citation**

"Without prejudice to any law with respect to local authorities, in every factory there shall be taken such precautions against fire, and there shall be provided and maintained, such means of escape in case of fire other than means of exit in ordinary use, and such means of extinguishing fire as may be prescribed."  
(Factories and Machinery Act 1967, S 13)

"(1) The Minister may make regulations for or with respect to the safety, health and welfare of persons at work in order to achieve the objects of this Act.  
(2) In particular and without prejudice to the generality of subsection (1), such regulations may— (...)  
(k) prescribe the standards in relation to the use of, including standards of exposure to, any physical, biological, chemical or psychological hazard; (...)"  
(Occupational Safety and Health Act 1994, S 66(1)(2)(k))

#### References

Occupational Safety and Health Act 1994 (No. 514). (S 66(1)(2)(k))

Factories and Machinery Act 1967 [Act 139]. (S 13)

#### 9.4.8 Tobacco

##### **Summary / Citation**

"(1) The Minister may make regulations for or with respect to the safety, health and welfare of persons at work in order to achieve the objects of this Act.  
(2) In particular and without prejudice to the generality of subsection (1), such regulations may— (...)  
(e) prescribe the requirements to abstain from eating, drinking or smoking in any circumstances involving risk of absorption of any substance or risk of injury or poisoning arising out of the use of any substance; (...)"  
(k) prescribe the standards in relation to the use of, including standards of exposure to, any physical, biological, chemical or psychological hazard; (...)"

#### References

Occupational Safety and Health Act 1994 (No. 514). (S 66(2)(e)(k))

#### 9.4.9 Asbestos

##### **Summary / Citation**

Where it appears to the Minister that in any of the industries or class or description of industries— (d) there may be risk of injury to the health of persons employed in any of the occupations specified in the Third Schedule, or from any substance or material brought to the industries to be used or handled therein or from any change in the conditions in the industries, he may make regulations requiring such reasonable arrangements as may be specified in the regulations to be made for the medical surveillance and medical examination, not including medical treatment of a preventive character, of the persons or any class of persons employed in the industries or class or description of industries.

(S 28(1)(d))

Any occupation involving the use or handling of, or exposure to, the fumes, dust or vapour of silica, asbestos, raw cotton dust, lead, mercury, arsenic, phosphorus, carbon bisulphide, benzene, organic-phosphate, nitrous fumes, cadmium, beryllium or pesticides.

(Third Schedule (1))

"(1) The Minister may make regulations for or with respect to the safety, health and welfare of persons at work in order to achieve the objects of this Act.

(2) In particular and without prejudice to the generality of subsection (1), such regulations may— (...)

(k) prescribe the standards in relation to the use of, including standards of exposure to, any physical, biological, chemical or psychological hazard; (...)"

(S 66(1)(2)(k))

#### References

Occupational Safety and Health Act 1994 (No. 514). (S 28(1)(d), S 66(1)(2)(k), Third Schedule (1))

#### 9.4.10 Risks related to nanotechnology

##### **Summary / Citation**

"(1) The Minister may make regulations for or with respect to the safety, health and welfare of persons at work in order to achieve the objects of this Act.

(2) In particular and without prejudice to the generality of subsection (1), such regulations may— (...)

(k) prescribe the standards in relation to the use of, including standards of exposure to, any physical, biological, chemical or psychological hazard; (...)"

#### References

Occupational Safety and Health Act 1994 (No. 514). (S 66(1)(2)(k))

#### 9.4.11 Contraction of HIV in the workplace

##### **Summary / Citation**

"(1) The Minister may make regulations for or with respect to the safety, health and welfare of persons at work in order to achieve the objects of this Act.

(2) In particular and without prejudice to the generality of subsection (1), such regulations may— (...)

(k) prescribe the standards in relation to the use of, including standards of exposure to, any physical, biological, chemical or psychological hazard; (...)"

## References

Occupational Safety and Health Act 1994 (No. 514). (S 66(1)(2)(k))

### 9.5 Psychosocial hazards

#### 9.5.1 Psychosocial risks

##### **Summary / Citation**

"(1) The Minister may make regulations for or with respect to the safety, health and welfare of persons at work in order to achieve the objects of this Act.

(2) In particular and without prejudice to the generality of subsection (1), such regulations may— (...)

(k) prescribe the standards in relation to the use of, including standards of exposure to, any physical, biological, chemical or psychological hazard; (...)"

## References

Occupational Safety and Health Act 1994 (No. 514). (S 66(1)(2)(k))

#### 9.5.2 Occupational violence

## References

Occupational Safety and Health Act 1994 (No. 514). (S 15)

### 9.6 Other hazardous substances

##### **Summary / Citation**

Where it appears to the Minister that in any of the industries or class or description of industries— (d) there may be risk of injury to the health of persons employed in any of the occupations specified in the Third Schedule, or from any substance or material brought to the industries to be used or handled therein or from any change in the conditions in the industries, he may make regulations requiring such reasonable arrangements as may be specified in the regulations to be made for the medical surveillance and medical examination, not including medical treatment of a preventive character, of the persons or any class of persons employed in the industries or class or description of industries. (S 28(1)(d))

Any occupation involving the use or handling of, or exposure to, the fumes, dust or vapour of silica, asbestos, raw cotton dust, lead, mercury, arsenic, phosphorus, carbon bisulphide, benzene, organic-phosphate, nitrous fumes, cadmium, beryllium or pesticides.

(Third Schedule (1))

## References

Occupational Safety and Health Act 1994 (No. 514). (S 28(1)(d), Third Schedule (1))

Occupational Safety And Health (Control of Industrial Major Accident Hazards) Regulations 1996 [P.U.(A) 39/96]. (S 2, S 3)

### 9.7 Machineries

#### 9.7.1 Risks related to machinery and tools

## References

Factories and Machinery Act 1967 [Act 139]. (S 10(e))

9.7.2 Duty of designers and/or manufacturers of machineries in relation to the occupational safety and health of operators of machineries

**Summary / Citation**

There are duties for any person who designs, manufactures, imports or supplies any plant for use at work to ensure the plant is without risks, carry out and arrange for testing of the substance, and take steps to secure the safety.

It is the duty of the designers or/and the manufacturers of machinery to ensure to the plant is so designed and constructed as to be safe and without risks to health when properly used.

## References

Occupational Safety and Health Act 1994 (No. 514). (S20)

9.7.3 Duty of designers, manufacturers, importers or suppliers of machineries to provide machineries information

**Summary / Citation**

The designers, manufacturers, importers or suppliers of machinery shall take necessary steps to secure adequate information about the use of the plant at work and about any condition necessary to ensure that the plant will be safe and without risks to health.

## References

Occupational Safety and Health Act 1994 (No. 514). (S20(1)(c))

9.7.4 Duty to purchase machineries from authorised/certificated suppliers or only if approved/certificated

**Summary / Citation**

No person shall sell or let on hire any machinery other than transmission machinery which does not comply with any regulations made under this Act applicable to the machinery.

## References

Factories and Machinery Act 1967 [Act 139]. (S 12)

9.7.5 Maintenance of machinery and equipment

**Summary / Citation**

The designers and manufacturers have the duties to carry out testing and examination of the plants and system they provide.

## References

Occupational Safety and Health Act 1994 (No. 514). (S15, S20)

Factories and Machinery Act 1967 [Act 139]. (S12)

9.7.5.1 List of equipment where applicable

## References

Factories and Machinery Act 1967 [Act 139]. (S 10 ( c ), S 14, S 21, S 22( C ))

**9.8 Provisions to protect workers in specific condition of vulnerability**

9.8.1 Protection of pregnancy at work

**Summary / Citation**

Provided that where a medical officer or the registered medical practitioner appointed by the employer certifies that the female employee as a result of her advanced state of pregnancy is unable to perform her duties satisfactorily, the employee may be required to commence her maternity leave at any time during a period of fourteen days preceding the date of her confinement as determined in advance by the medical officer or the registered medical practitioner appointed by the employer.

(Employment Act, Art. 37(1)(b))

Pregnant employees and lactating workers are put into the medical removal programme.

(Occupational Safety and Health (Use and Standards of Exposure of Chemicals Hazardous to Health) Regulations 2000, S 28)

#### References

Occupational Safety and Health (Use and Standards of Exposure of Chemicals Hazardous to Health) Regulations 2000 (P.U. (J

Employment Act 1955 (No. 265). (Art. 37(1)(b))

#### 9.8.2 Protection of lactating women at work

##### **Summary / Citation**

Pregnant employees and lactating workers are put into the medical removal programme.

#### References

Occupational Safety and Health (Use and Standards of Exposure of Chemicals Hazardous to Health) Regulations 2000 (P.U. (J

#### 9.8.3 Limits to women's access to specific occupations, undertakings or shifts

##### **Summary / Citation**

"Prohibition of night work

(1) Except in accordance with regulations made under this Act or any exemption granted under the proviso to this subsection no employer shall require any female employee to work in any industrial or agricultural undertaking between the hours of ten o'clock in the evening and five o'clock in the morning nor commence work for the day without having had a period of eleven consecutive hours free from such work:

Provided that the Director General may, on application made to him in any particular case, exempt in writing any female employee or class of female employees from any restriction in this subsection, subject to any conditions he may impose.

(2) Any person—

(a) who is affected by any decision made or condition imposed under the proviso to subsection (1); and

(b) who is dissatisfied with such decision or condition, may within thirty days of such decision or condition being communicated to him appeal in writing therefrom to the Minister.

(3) In deciding

any appeal made to him under subsection (2), the Minister may make such decision or order thereon, including the alteration or removal of any condition imposed or the imposition of any further condition, as appears just and such decision or order shall be final.

(S 34)

Prohibition of underground work

No female employee shall be employed in any underground working.

(S 35)



Prohibition of employment by Minister

Notwithstanding the provisions of this Part the Minister may by order prohibit or permit the employment of female employees in such circumstances or under such conditions as may be described in such order.

(S 36)"

#### References

Occupational Safety and Health Act 1994 (No. 514). (S 34-36)

Occupational Safety and Health (Employers' Safety and General Policy Statements) (Exception) Regulations 1995 [P.U.(A) 78/

9.8.4 Limits to workers' access to specific occupations, undertakings or shifts by reason of age

#### Summary / Citation

"Young person means any person who, not being a child, has not completed his sixteenth year of age.

(S 1A)

Employment in which children and young persons may be engaged

(1) No child or young person shall be, or be required or permitted to be, engaged in any employment other than those specified in this section.

(2) A child may be engaged in any of the following employments:

(a) employment involving light work suitable to his capacity in any undertaking carried on by his family;

(b) employment in any public entertainment, in accordance with the terms and conditions of a licence granted in that behalf under this Act;

(c) employment requiring him to perform work approved or sponsored by the Federal Government or the Government of any State and carried on in any school, training institution or training vessel; and

(d) employment as an apprentice under a written apprenticeship contract approved by the Director General with whom a copy of such contract has been filed.

(3) A young person may be engaged in any of the following employments:

(a) any employment mentioned in subsection (2); a

nd in relation to paragraph (a) of that subsection any employment suitable to his capacity (whether or not the undertaking is carried on by his family);

(b) employment as a domestic servant;

(c) employment in any office, shop (including hotels, bars, restaurants and stalls), godown, factory, workshop, store, boarding house, theatre, cinema, club or association;

(d) employment in an industrial undertaking suitable to his capacity; and

(e) employment on any vessel under the personal charge of his parent or guardian:

Provided that no female young person may be engaged in any employment in hotels, bars, restaurants, boarding houses or clubs unless such establishments are under the management or control of her parent or guardian:

Provided further that a female young person may be engaged in any employment in a club not managed by her parent or guardian with the approval of the Director General.

(4) The Minister may, if he is satisfied that any employment (not mentioned in subsection

(2) or subsection (3)) is not dangerous to life, limb, health or morals, by order declare such employment to be an employment in which a child or young person may be, or permitted to be, engaged; and the Minister may in such order impose such conditions as he deems fit and he may at any time revoke or vary the order or may withdraw or alter such conditions.

(5) No child or young person shall be, or be required or permitted to be, engaged in any employment contrary to the provisions of the Factories and Machinery Act 1967 [Act 139] or the \*Electricity Act 1949 [Act 116] or in any employment requiring him to work underground.

(S 2)

The Minister may prohibit any child or young person from engaging or being engaged in any employment  
Notwithstanding the foregoing provisions, the Minister may, in any particular case, by order prohibit any child or young person from engaging or from being engaged in any of the employments mentioned in section 2 if he is satisfied that having regard to the circumstances such employment would be detrimental to the interests of the child or young person, as the case may be.

(S 3)

#### Number of days of work

No child or young person engaged in any employment shall in any period of seven consecutive days be required or permitted

to work for more than six days.

(S 4)

#### Hours of work of children

(1) No child engaged in any employment shall be required or permitted—

(a) to work between the hours of 8 o'clock in the evening and 7 o'clock in the morning;

(b) to work for more than three consecutive hours without a period of rest of at least thirty minutes;

(c) to work for more than six hours in a day or, if the child is attending school, for a period which together with the time he spends attending school, exceeds seven hours; or

(d) to commence work on any day without having had a period of not less than fourteen consecutive hours free from work.

(2) Paragraph (1)(a) shall not apply to any child engaged in employment in any public entertainment.

(S 5)

#### Hours of work of young persons

(1) No young person engaged in any employment shall be required or permitted—

(a) to work between the hours of 8 o'clock in the evening and 6 o'clock in the morning;

(b) to work for more than four consecutive hours without a period of rest of at least thirty minutes;

(c) to work for more than seven hours in any one day or, if the young person is attending school, for a period which together with the time he spends attending school, exceeds eight hours:

Provided that if the young person is an apprentice under paragraph 2(2)(d), the period of work in any one day shall not exceed eight hours; or

(d) to commence work on any day without having had a period of not less than twelve consecutive hours free from work.

(2) Paragraph (1)(a) shall not apply to any young person engaged in employment in an agricultural undertaking or any employment in a public entertainment or on any vessel under paragraph 2(3)(e).

(S 6)

No young person shall carry out work involving the management of, or attendance on, or proximity to, any machinery.

(Factories and Machinery Act 1967, S 28)

#### References

Factories and Machinery Act 1967 [Act 139]. (S 28)

Children and Young Persons (Employment) Act 1966. (S 1A, 2-6)

## 10 Recording, notification and investigation of accidents/incidents and diseases

### 10.1 Duty to record and/or investigate the causes of work accidents, near misses incidents and cases of occupational diseases

#### 10.1.1 Work-related accidents

##### **Summary / Citation**

"A safety and health committee shall inspect the place of work, as soon as it is safe to do so, after any accident, near-miss accident, dangerous occurrence, occupational poisoning or occupational disease has occurred at the place of work.

(2) Where a person is employed as a safety and health officer, he shall furnish the chairman of the committee with a report of his findings subsequent to an investigation conducted by him into any accident, near-miss accident, dangerous occurrence, occupational poisoning or occupational disease which has occurred at the place of work, and the chairman shall, as soon as is practicable, convene a meeting of the committee to discuss the report.

(3) Where no safety and health officer is employed at the place of work, the employer or his authorised manager shall forthwith inform the chairman or the secretary of the committee of any accident, near-miss accident, dangerous occurrence, occupational poisoning or occupational disease which has occurred at the place of work, and the chairman or the secretary shall, as soon as is practicable, after the committee has inspected the place of work, convene a meeting to investigate into such incident.

(4) At the meeting of the committee convened under sub-regulation (2) or (3), the committee shall discuss the cause of the accident, near -miss accident, dangerous occurrence, occupational poisoning or occupational disease and make recommendations to the employer of the measures to be taken to prevent the reoccurrence of such incident."

#### References

Occupational Safety and Health (Safety and Health Committee) Regulations 1996 [P.U.(A) 616/96] (S13)

#### 10.1.2 Near miss incidents

##### **Summary / Citation**

"A safety and health committee shall inspect the place of work, as soon as it is safe to do so, after any accident, near-miss accident, dangerous occurrence, occupational poisoning or occupational disease has occurred at the place of work.

(2) Where a person is employed as a safety and health officer, he shall furnish the chairman of the committee with a report of his findings subsequent to an investigation conducted by him into any accident, near-miss accident, dangerous occurrence, occupational poisoning or occupational disease which has occurred at the place of work, and the chairman shall, as soon as is practicable, convene a meeting of the committee to discuss the report.

(3) Where no safety and health officer is employed at the place of work, the employer or his authorised manager shall forthwith inform the chairman or the secretary of the committee of any accident, near-miss accident, dangerous occurrence, occupational poisoning or occupational disease which has occurred at

the place of work, and the chairman or the secretary shall, as soon as is practicable, after the committee has inspected the place of work, convene a meeting to investigate into such incident.

(4) At the meeting of the committee convened under sub-regulation (2) or (3), the committee shall discuss the cause of the accident, near -miss accident, dangerous occurrence, occupational poisoning or occupational disease and make recommendations to the employer of the measures to be taken to prevent the reoccurrence of such incident."

#### References

Occupational Safety and Health (Safety and Health Committee) Regulations 1996 [P.U.(A) 616/96] (S13)

##### 10.1.3 Occupational diseases

###### **Summary / Citation**

"A safety and health committee shall inspect the place of work, as soon as it is safe to do so, after any accident, near-miss accident, dangerous occurrence, occupational poisoning or occupational disease has occurred at the place of work.

(2) Where a person is employed as a safety and health officer, he shall furnish the chairman of the committee with a report of his findings subsequent to an investigation conducted by him into any accident, near-miss accident, dangerous occurrence, occupational poisoning or occupational disease which has occurred at the place of work, and the chairman shall, as soon as is practicable, convene a meeting of the committee to discuss the report.

(3) Where no safety and health officer is employed at the place of work, the employer or his authorised manager shall forthwith inform the chairman or the secretary of the committee of any accident, near-miss accident, dangerous occurrence, occupational poisoning or occupational disease which has occurred at the place of work, and the chairman or the secretary shall, as soon as is practicable, after the committee has inspected the place of work, convene a meeting to investigate into such incident.

(4) At the meeting of the committee convened under sub-regulation (2) or (3), the committee shall discuss the cause of the accident, near -miss accident, dangerous occurrence, occupational poisoning or occupational disease and make recommendations to the employer of the measures to be taken to prevent the reoccurrence of such incident."

#### References

Occupational Safety and Health (Safety and Health Committee) Regulations 1996 [P.U.(A) 616/96] (S13)

##### 10.2 Employers' duty to notify OSH authorities of work related death and/or injuries to health

###### **Summary / Citation**

(1) An employer shall notify the nearest occupational safety and health office of any accident, dangerous occurrence, occupational poisoning or occupational disease which has occurred or is likely to occur at the place of work.

(2) Every registered medical practitioner or medical officer attending to, or called in to visit, a patient whom he believes to be suffering from any of the diseases listed in the Third Schedule of the Factories and Machinery Act 1967 [Act 139], or any disease named in any regulation or order made by the Minister under this Act, or occupational poisoning shall report the matter to the Director General.

#### References

Occupational Safety and Health Act 1994 (No. 514). (S 32)

## 11 OSH inspection and enforcement of OSH legislation

### 11.1 Appointment of OSH inspectors

#### **Summary / Citation**

"The Director General may, as he deems fit, appoint a person or an independent inspecting body from any of the industries to advise or assist him in carrying out the objects and purposes of this Act."

## References

Occupational Safety and Health Act 1994 (No. 514). (S 6(1))

### 11.2 OSH inspectors' powers

#### 11.2.1 Power to enter workplaces

##### **Summary / Citation**

An occupational safety and health officer (inspector), in this Part referred to as the "officer", may, for the purpose of carrying out the objects of this Act or any regulation made thereunder, at any reasonable time and upon the production of his certificate of authorization enter, inspect and examine any place of work other than a place used solely for residential purposes.

## References

Occupational Safety and Health Act 1994 (No. 514). (S 39 (1))

#### 11.2.2 Power to inspect and carry out any examination, test or enquiry

##### **Summary / Citation**

In exercising his powers under subsection , an officer may—

- (a) make examination and investigation of any plant, substance, article or other thing whatsoever as may be necessary to ascertain whether or not this Act or any regulation made thereunder has been complied with;
- (b) direct that the place of work or any part thereof, or anything therein, shall be left undisturbed, whether generally or in particular respects, for so long as is reasonably necessary for the purpose of any examination or investigation under paragraph (a);
- (c) take such measurements and photographs and make such recordings as he considers necessary for the purpose of any examination or investigation under paragraph (a);
- (d) take samples of any article or substance found in the place of work which he has power to enter, and of the atmosphere in or in the vicinity of the place of work.
- (e) require any person employed in a place of work in which any of the diseases named in the Third Schedule of the Factories and Machinery Act 1967 or any disease named in any regulation or order made by the Minister under this Act has occurred or is likely to occur, to be medically examined by a medical officer or a registered medical practitioner."

## References

Occupational Safety and Health Act 1994 (No. 514). (S 39 (2))

#### 11.2.3 Power to investigate

##### **Summary / Citation**

In exercising his powers under subsection , an officer may—

- (a) make examination and investigation of any plant, substance, article or other thing whatsoever as may be necessary to ascertain whether or not this Act or any regulation made thereunder has been complied with;
- (b) direct that the place of work or any part thereof, or anything therein, shall be left undisturbed, whether generally or in particular respects, for so long as is reasonably necessary for the purpose of any examination or investigation under paragraph (a);
- (c) take such measurements and photographs and make such recordings as he considers necessary for the purpose of any examination or investigation under paragraph (a);
- (d) take samples of any article or substance found in the place of work which he has power to enter, and of the atmosphere in or in the vicinity of the place of work.
- (e) require any person employed in a place of work in which any of the diseases named in the Third Schedule of the Factories and

Machinery Act 1967 or any disease named in any regulation or order made by the Minister under this Act has occurred or is likely to occur, to be medically examined by a medical officer or a registered medical practitioner."

#### References

Occupational Safety and Health Act 1994 (No. 514). (S39(2))

##### 11.2.4 Duty to provide advice on OSH

###### **Summary / Citation**

"Upon concluding an inspection, an officer shall give to the employer and the safety and health committee information with respect to his observations and any action he proposes to take in relation to the place of work."

#### References

Occupational Safety and Health Act 1994 (No. 514). (S 43 (2))

### 11.3 OSH inspectors' enforcement powers

#### 11.3.1 Power to issue orders or notices

###### **Summary / Citation**

The inspectors shall issue improvement or prohibition notices to the employers to require actions to take to remove the danger.

#### References

Occupational Safety and Health Act 1994 (No. 514). (S 48(1)(2))

#### 11.3.2 Power to impose financial penalties

###### **Summary / Citation**

A person who without reasonable excuse fails to comply with any improvement or prohibition notice issued under section 48 shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding five years or to both, and to a further fine of five hundred ringgit for each day during which the offence continues.

#### References

Occupational Safety and Health Act 1994 (No. 514). (S 49(2))

#### 11.3.3 Power to revoke or suspend licenses or authorisations

###### **Summary / Citation**

(2) If an officer is of the opinion that the defect in subsection (1) is likely to cause immediate danger to life or property, he shall serve a prohibition notice prohibiting the use or operation of the place of work, plant, substance or process until such time that any danger posed is removed and the defect made good to the satisfaction of the officer.

#### References

Occupational Safety and Health Act 1994 (No. 514). (S 48 (2))

#### 11.3.4 Power to require the cessation of dangerous work

###### **Summary / Citation**

(2) If an officer is of the opinion that the defect in subsection (1) is likely to cause immediate danger to life or property, he shall serve a prohibition notice prohibiting the use or operation of the place of work, plant, substance or process until such time that any danger posed is removed and the defect made good to the satisfaction of the officer.

#### References

Occupational Safety and Health Act 1994 (No. 514). (S48 (2))

##### 11.3.5 Power to initiate prosecutions

###### **Summary / Citation**

Prosecutions in respect of offences committed under this Act or any regulation made thereunder may, with the prior written consent of the Public Prosecutor, be instituted and conducted by an occupational safety and health officer or by an officer specially authorized in writing by the Director General subject to the provisions of the Criminal Procedure Code.

#### References

Occupational Safety and Health Act 1994 (No. 514). (S 61)

##### 11.3.6 Power to conduct prosecutions

###### **Summary / Citation**

Prosecutions in respect of offences committed under this Act or any regulation made thereunder may, with the prior written consent of the Public Prosecutor, be instituted and conducted by an occupational safety and health officer or by an officer specially authorized in writing by the Director General subject to the provisions of the Criminal Procedure Code.

#### References

Occupational Safety and Health Act 1994 (No. 514). (S 61)

##### 11.3.7 Other enforcement powers

###### **Summary / Citation**

Police investigation powers except the power to arrest without warrant given by the Criminal Procedure Code; the power to examine witnesses.

#### References

Occupational Safety and Health Act 1994 (No. 514). (S 44(2), S 45)

## 11.4 Application of sanctions by courts

### 11.4.1 Financial penalties for legal persons

###### **Summary / Citation**

A person who contravenes the provisions of the following sections:

15 General duties of employers and self-employed persons to their employees,

16 Duty to formulate safety and health policy,

17 General duties of employers and self-employed persons to persons other than their employees,

18 Duties of an occupier of a place of work to persons other than his employees,

shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit (13,985.63 USD approximately) or to imprisonment for a term not exceeding two years or to both.

(S 19)

A person who contravenes the provisions of the following sections:

20 General duties of manufacturers, etc., as regards plant for use at work,

21 General duties of manufacturers, etc., as regards substances for use at work,

shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding twenty thousand ringgit (5,587.69 USD approximately) or to imprisonment for a term not exceeding two years or to both.

(S 23)

**Remarks / comments**

There is no distinction for corporations and individual concerning the sum of penalties.

**References**

Occupational Safety and Health Act 1994 (No. 514). (S 19, S 23)

11.4.2 Financial penalties for natural persons

**Summary / Citation**

A person who contravenes the provisions of the following sections:

15 General duties of employers and self-employed persons to their employees,

16 Duty to formulate safety and health policy,

17 General duties of employers and self-employed persons to persons other than their employees,

18 Duties of an occupier of a place of work to persons other than his employees,

shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit (13,985.63 USD approximately) or to imprisonment for a term not exceeding two years or to both.

(S 19)

A person who contravenes the provisions of the following sections:

20 General duties of manufacturers, etc., as regards plant for use at work,

21 General duties of manufacturers, etc., as regards substances for use at work,

shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding twenty thousand ringgit (5,587.69 USD approximately) or to imprisonment for a term not exceeding two years or to both.

(S 23)

**Remarks / comments**

There is no distinction for corporations and individual concerning the sum of penalties.

**References**

Occupational Safety and Health Act 1994 (No. 514). (S 19, S 23)

11.4.3 Non-financial sanctions

11.4.4 Criminal liability

**Summary / Citation**

When the inspector holds the opinion that a criminal proceeding ought to be instituted, he shall forward evidence, the findings and the report to the prosecutor. Public Prosecutor's consent is a requirement.

**References**

Occupational Safety and Health Act 1994 (No. 514). (S61)

Factories and Machinery Act 1967 [Act 139]. (S 33)



#### 11.4.5 Terms of imprisonment for natural persons

##### **Summary / Citation**

A person who contravenes the provisions of the following sections:

15 General duties of employers and self-employed persons to their employees,

16 Duty to formulate safety and health policy,

17 General duties of employers and self-employed persons to persons other than their employees,

18 Duties of an occupier of a place of work to persons other than his employees,

shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit (13,985.63 USD approximately) or to imprisonment for a term not exceeding two years or to both.

(S 19)

A person who contravenes the provisions of the following sections:

20 General duties of manufacturers, etc., as regards plant for use at work,

21 General duties of manufacturers, etc., as regards substances for use at work,

shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding twenty thousand ringgit (5,587.69 USD approximately) or to imprisonment for a term not exceeding two years or to both.

(S 23)

##### **References**

Occupational Safety and Health Act 1994 (No. 514). (S 19, S 23)