



Workplace Safety Makes Good Business Sense



From September 2011, all businesses must comply with the Workplace Safety and Health Act (WSHA). A failure to comply with the Act could result in significant penalties including:

- imprisonment for up to two years; and
- fines of up to SGD 1,000,000.

How are you preparing your clients for this legislative extension?

The Workplace Safety and Health Act 2006 (WSHA)

When enacted on 1 March 2006, the WSHA initially covered only “high risk” workplaces such as factories, construction sites, shipyards and airports. In March 2008, the WSHA expanded to cover the “medium”-risk workplaces including hotels, restaurants and the healthcare sector. By September 2011, the Act will encompass every business in Singapore.

The key principle in the WSHA is as follows:

Each and every stakeholder has the duty to take, so far as is reasonably practicable, such measures as are necessary to ensure safety and health for any person who may be affected by his undertaking in the workplace.

Stakeholders are not limited to employers and employees and can include principals, occupiers, self-employed persons, manufacturers and/or suppliers of machinery, equipment or hazardous substances at work.

The principle is meant to be broad-sweeping as safety and health hazards exist in all workplaces, and various persons have the capacity to control workplace risks. By imposing personal responsibility on a wide group of individuals, the WSHA makes safety and health everyone’s concern.

Stakeholders can delve further into the Act’s subsidiary legislation to get a better grasp of their legal obligations.

Practical implications

The WSHA:

- imposes duties of care on various stakeholders to proactively eliminate or mitigate risks at source;
- encourages ownership of safety and health outcomes; and
- incorporates penalties to deter poor safety management.

Given the Ministry’s increased attention and enforcement efforts, your clients may need to review their safety and health policies.

Areas of focus might include:

- the adequacy of any safety management systems;
- whether sufficient supervision, training and suitable equipment is provided to staff so as to minimise the potential for workplace injuries; and
- the workplace safety of contractors’ and sub-contractors’ employees or others present at the workplace.

Even clients who have the most well-established safety systems need to remain vigilant against false confidence over time, particularly if safety has not been embraced as the norm throughout their organizations.

Continuous improvement

The quest to improve workplace safety standards is a continuous one. Mr. Gan Kim Yong, our Minister for Manpower, spoke at the Keppel Group Safety Convention on 25 October 2010. In commending the local marine sector’s steady workplace safety and health improvements, the Minister also emphasised the need to persist in such efforts. Relevantly,



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during a two-month inspection of shipyards, up to 100 warnings were issued despite the existence of safety systems and processes. Many of those warnings were for inadequate implementation of risk controls and compliance on the ground. This underlines that workplace safety requires more than a written process – the process must be actively implemented and continuously improved.

Penalties

Both a corporate body and an individual person can be charged and convicted under the Act.

Penalty options include:

- suspension of any certificates (eg. of factory, machinery/equipment, competent person/organization);
- remedial orders and stop work orders;
- composition fines; and/or
- prosecution.

Further, the following maximum penalties may apply:

- for individuals: SGD 200,000 and/or two-year imprisonment;
- for corporate bodies: SGD 500,000;
- for repeat offenders whose offence has on two or more occasions caused fatalities: maximum fine is doubled, in addition to any incarceration; and
- post-conviction, for every day or part thereof during which the same offence continues: (corporate body) SGD 5,000; (individual) SGD 2,000.

The onus of proving what safety measures were “reasonably practicable” is on the accused, either to prove that “it was not reasonably practicable to do more than” what was done, or that

“there was no better practicable means than” what was in fact done to satisfy that duty.

A safer workplace makes good business sense.

It is imperative that your clients understand that they should be providing a safer workplace. The benefits of doing so include improved business continuity and productivity, enhanced employee morale and corporate reputation and better worker safety and therefore more economical insurance premiums.

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