



FEDERAL SUBSIDIARY LEGISLATION

OCCUPATIONAL SAFETY AND HEALTH ACT 1994 [ACT 514] P.U. (A) 616/1996 OCCUPATIONAL SAFETY AND HEALTH (SAFETY AND HEALTH COMMITTEE) REGULATIONS 1996

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Preamble

IN exercise of the powers conferred by section 66 of the Occupational Safety and Health Act 1994, the Minister makes the following regulations:

PART I PRELIMINARY

1. Citation and commencement.

These regulations may be cited as the **Occupational Safety and Health (Safety and Health Committee) Regulations 1996** and shall come into force on 1 January 1997.

2. Interpretation.

In these Regulations, unless the context otherwise requires -

"authorised manager" means a person duly authorised by an employer to deal with any matter relating to the safety and health of persons employed at the place of work.

"chairman" means the chairman of a safety and health committee;

"Director General" means the Director General of Occupational Safety and health appointed under subsection 5(1) of the Act;

"member" means a member of a safety and health committee;

"near-miss accident" means any accident at a place of work which has the potential of causing injury to any person or damage to any property;

"safety audits" means the safety and health audits of plant and systems of work to ensure the safety and health of persons employed at a place of work;

"safety and health auditors" means persons, whether employed at a place of work or otherwise, appointed by the employer to conduct safety audits at the place of work;

"secretary" means the secretary of a safety and health committee.

3. Application.

(1) These Regulations shall apply to a safety and health committee established under section 30 of the Act.

(2) A safety and health committee formed at a place of work before the commencement of these Regulations shall reorganise itself in accordance with these Regulations within six months from the date of the commencement of these Regulations.

4. Duties of employers.

It shall be the duty of an employer -

- (a) to comply with Parts II and III of these Regulations; and
- (b) to ensure that Parts IV and V of these Regulations are complied with.

PART II COMPOSITION OF SAFETY AND HEALTH COMMITTEE

5. Membership of committee.

(1) 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.

6. Appointment of chairman and secretary of committee.

- (1) An employer or his authorised manager shall be the chairman of a safety and health committee.
- (2) The secretary of the committee shall be the person who is employed as the safety and health officer at the place of work.
- (3) Where there is no person employed as a safety and health officer at the place of work, the chairman may appoint another person to act as the secretary of the committee or the members may, by ballot, appoint from amongst themselves the secretary of the committee.

7. Appointment of other members of committee.

- (1) 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.
- (2) In the case where no representative or an insufficient number of representative or an insufficient number of the representatives of the employees are nominated, the employer shall appoint the required number of persons to represent the employees in compliance with regulation 5.
- (3) An employer shall not penalise a member of the committee in any maner for being absent from his normal duties at work while carrying out the functions of the committee.

8. Adequate employee representation.

The representatives of employees in a safety and health committee shall be able to represent the various sections of a place of work in order to maintain and develop the employees' interest in establishing a safe and healthy working condition at the place of work.

9. Vacancy.

If a vacancy occurs amongst the members of a safety and health committee, the vacancy shall be filled by a person appointed in the same manner as the previous member of the committee whose resignation or otherwise has created the vacancy.

10. Removal of member of committee.

A safety and health committee may remove a member from the committee if -

- (a) he fails to attend three consecutive meetings of the committee without leave of the chairman;
- (b) he has been found or declared to be of unsound mind;
- (c) he becomes bankrupt;
- (d) as a representative of employees, he is no longer employed at the place of work;
- (e) there has been prove against him, or he has been convicted on, a charge in respect of -
 - (i) an offence involving fraud, dishonesty or moral turpitude;
 - (ii) an offence under a law relating to occupational safety and health; or
 - (iii) any other criminal offence; or
- (f) he is otherwise unable or incapable of discharging his duties as a member of the committee.

PART III FUNCTIONS OF SAFETY AND HEALTH COMMITTEE

11. Functions of committee.

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.

12. Inspection of place of work.

A safety and health committee -

(a) 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;

(b) discuss, as soon as is practicable, the observation of the members of the committee make during the inspection of the place of work, and if there are circumstances at the place of work which, in the opinion of the committee, are prejudicial to the safety and health of any person employed therein, shall record the details of such circumstances in a report kept for such purpose; and

(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.

13. Investigation into any accident, etc.

(1) 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 subregulation (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 recurrence of such incident.

14. Action to be taken on report and recommendation of committee.

(1) A safety and health officer, or, if no person is appointed as such, the chairman, shall upon a report or recommendations being made under paragraph 12(c) or subregulation 13(4), furnish the same to the employer or his authorised manager.

(2) An employer or his authorised manager shall, as soon as is practicable, upon receiving the report or recommendations under subregulation (1), discuss the report or recommendations with the safety and health officer or the chairman, as the case may be, and the safety and health officer or the chairman shall record in the report the employer's or his authorised manager's decision thereon and shall direct any person employed at the place of work to take such action as the employer or his authorised manager deems necessary in the interest of the safety and health of persons employed therein.

(3) An employer shall keep a copy of the report in the place of work for a minimum period of seven years.

15. Matters to be considered by committee.

A safety and health committee, when performing its functions, shall take into consideration the following:

(a) any other reports apart from those under regulation 14 which may be submitted by a safety and health officer;

(b) the safety audits submitted by safety and health auditors;

(c) the reports and factual information provided by occupational safety and health officers;
and

(d) the reports by other government agencies on matters pertaining to safety and health at a place of work.

16. Investigation of complaint.

(1) An employer shall provide and maintain a system of communication to enable any of his employees to make a complaint on any matter prejudicial to the safety and health of persons at the place of work.

(2) An employer, upon receiving a complaint under subregulation (1), shall, as soon as is practicable, attend to the complaint and shall take immediate measures to eliminate or minimize the risk to safety and health at the place of work.

(3) Where an employer is unable to discharge his duties under subregulation (2), the employee may make a similar complaint, or the employer may refer the matter, to the committee.

(4) The committee shall, upon a complaint being made or matter being referred to under subregulation (3), investigate the matter and shall thereafter prepare a report and make recommendations to the employer on the ways of eliminating or minimising the risk to safety and health at the place of work.

17. Resolution of complaint.

(1) An employer shall, as soon as as it practicable, implement every recommendation made under subregulation 16(4), and if for any reason he or his authorised manager is unable to implement any of the recommendations, he shall convey his reason to the safety and health committee.

(2) If the committee does not agree with any of the reasons given by the employer or his authorised manager under subregulation (1), the committee shall make a request to the Director General to undertake an inspection of the place of work and to resolve the matter.

(3) For purpose of a request made under subregulation (2), the committee shall submit to the Director General in duplicate the following:

- (a) the inspection or investigation report;
- (b) the recommendation of the committee to the employer; and
- (c) any other documentary or material evidence pertaining to the complaint.

18. Assistance of committee.

A safety and health committee shall assist an employer in any competition in connection with safety and health, talks on safety and health and any other activity which is held to promote a safe conduct of work at the place of work.

19. Rules on safety and health.

(1) 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.

20. Sub-committee.

A safety and health committee may form a sub-committee to assist the committee in the performance of its functions.

PART IV MEETINGS OF SAFETY AND HEALTH COMMITTEE

21. Frequency of meetings of committee.

(1) A safety and health committee shall meet as often as may be necessary commensurate with the risks attendant on the nature of work at the place of work but shall not meet less than once in three months.

(2) Every member of the committee shall be given reasonable notice in writing of any meeting of the committee together with a copy of the agenda for the meeting attached to such notice.

(3) Notwithstanding subregulation (2), A meeting shall be called immediately in the event of an accident which results in loss of life or serious bodily injury to any person, a near-miss accident, a dangerous occurrence or any other situation which calls for immediate attention in order to ensure the safety and health of employees at the place of work.

22. Duty to provide facilities.

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

23. Inaugural meeting.

- (1) An inaugural meeting of a safety and health committee shall be convened by the employer of the place of work.
- (2) At the inaugural meeting the employer shall make known his safety and health policies, plans and proposals to establish a safety and healthy working condition at the place of work.
- (3) Save for subregulation (1), an employer may appoint his authorised manager to chair a meeting of the committee in his absence.

24. Quorum.

At every meeting of a safety and health committee the chairman, the secretary and not less than half of the remaining members present shall constitute a quorum.

25. Non-member may attend meeting.

- (1) A safety and health committee may invite any person who is involved in or has knowledge of any accident, near-miss accident, dangerous occurrence, occupational poisoning or occupational disease which has occurred at the place of work to attend any meeting of the committee during such incident shall be discussed.
- (2) The committee may invite any other person to any of its meetings to discuss any matter pertaining to occupational safety and health.

26. Matters to be discussed at meeting.

Only matter relating to safety and health at the place of work shall be discussed at any meeting of a safety and health committee.

27. Minutes of meeting.

- (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.

PART V PROVISIONS OF TRAINING AND INFORMATION

28. Duty to ensure basic knowledge and functions of committee.

An employer of place of work shall take such steps as are necessary to ensure that members of the safety and health committee have a basic understanding and knowledge of the functions of the committee under the Act.

29. Duty to provide adequate training.

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.

30. Duty to make available relevant document and information.

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 precedures, 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.

31. Information not to be supplied.

Notwithstanding regulation 30, and employer shall not make available to a safety and health committee the following information:

- (a) any information the disclosure of which would be prejudicial to the interest of national security;
- (b) any information which he could not disclose without contravening a prohibition imposed by or under any written law;

(c) any information relating specifically to an individual, unless he has consented to its disclosure;

(d) any information the disclosure of which would, for reasons other than its effect on health, safety or welfare at work, cause substantial injury to the employer's undertaking or, where the information was supplied to him by some other person, to the undertaking of that other person; or

(e) any information obtained by the employer for the purpose of instituting, prosecuting or defending any legal proceedings.

PART VI PENALTY

32. Penalty.

A person who by any act or omission contravenes any of the provisions of these Regulations shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding five thousand ringgit or to imprisonment for a term not exceeding six months or to both.

Made 3 December 1996.
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DATO' LIM AH LEK
Minister of Human Resources