

EMPLOYMENT LAW GUIDE: WORKPLACE SAFETY AND HEALTH

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Three fundamental principles supporting the Occupational Safety and Health (“OSH”) framework are:

- reducing risks at their source by requiring stakeholders to eliminate or minimise the risks said sources create;
- instilling greater ownership (i.e. sense of responsibility) of safety and health outcomes by industry; and
- preventing accidents through the imposition of higher penalties for poor safety management.

(a) Workplace Safety and Health Act

WSHA is the key legislation affecting the philosophy of this OSH framework. The WSHA covers all workplaces. The WSHA stipulates that every person must take measures “so far as is reasonably practicable” to ensure the safety and health of every workplace and every person within those premises. The 4 key features of the WSHA are:

- It places responsibilities on stakeholders who have it within their control to ensure safety at the workplace;
- It focuses on workplace safety and health systems and outcomes, rather than merely on compliance;
- It facilitates effective enforcement through the issuance of remedial orders; and
- It imposes higher penalties for non-compliance and risky behaviour.

(b) Work Injury Compensation Act (“WICA”)

Under the WICA, compensation is payable to or for the benefit of the ‘employee’ or, where death results from the injury, to the deceased employee’s estate or for the benefit of his dependents. The term ‘employee’ under the WICA means any person who has entered into or works under a contract of service or apprenticeship with the employer. The injury must be an injury by accident arising out of and in the course of employment.

Persons who are liable to pay compensation include the employer and the principal. While the employee cannot claim compensation under the Act against third party wrong doers, third parties such as insurers may be called upon to indemnify the employer/principal who has paid compensation to the employee. It is not possible for the employer to contract out of his obligations to pay work injury compensation.

It should be noted that an employer is required to buy work injury compensation insurance for all local and foreign employees doing manual work (regardless of salary level), and those doing non-manual work who earn less than S\$1,600 a month. For other employees, the employer has the option to decide whether to

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purchase such insurance but if a valid claim is made by these employees, the employer will have to compensate them regardless whether they are insured. Failure to provide adequate insurance is an offence carrying a fine of up to S\$10,000 or jail of up to 12 months, or both.

(c) Infectious Diseases (Workplace Measures to Prevent Spread of COVID-19) Regulations 2020 (“Workplace Measures Regulations”)

The Workplace Measures Regulations came into force on 1 April 2020 as part of the measures taken to combat the spread of the COVID-19 disease. The Workplace Measures Regulations give teeth to safe distancing measures in workplaces previously announced by the MOM in March 2020. Consequently, employers or principals are now obliged under the Workplace Measures Regulations to implement the safe distancing measures prescribed in the regulations. Occupiers and workers are also expected to abide by the safe distancing measures prescribed under the regulations. Breaches of any provisions under the Workplace Measures Regulations will generally amount to an offence punishable by a fine not exceeding S\$10,000 or to imprisonment for a term not exceeding 6 months or both.

The Workplace Measures Regulations will be effective for a “control period” defined as the period between 2 April 2020 and 30 April 2020, with both dates inclusive. With the extension of the circuit breaker period to 1 June 2020, the “control period” may be extended beyond 30 April 2020.

(i) Implementation of telecommuting

Regulation 4 imposes on every employer or principal the obligation to implement telecommuting for its employees during the control period unless it is not reasonably practicable to do so. They must also provide the facilities necessary for every worker to work in the worker’s place of residence in Singapore during the control period. The regulations do not go on to stipulate the facilities necessary for telecommuting.

Nevertheless, depending on the nature of the job, this may include equipment that are necessary for the worker to work from home, such as laptops and telecommunication devices.

Employers who fail to do so must be ready to justify their decision or be criminally liable of an offence.

(ii) Implementation of safe distancing measures

Regulation 5 requires every employer or principal to take reasonably practicable efforts to minimise the physical interaction between workers at work in a workplace. Insofar that workers are required to work in the workplace, they are to be placed in 2 or more groups for the purposes of avoiding or minimising physical interaction between workers in different groups, and stagger their arrival and departure timings. Any worker exhibiting any “specified symptoms”, defined as coughing, sneezing, breathlessness or runny nose, or is otherwise physically unwell, is required to report immediately upon the onset of the symptom or

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feeling physically unwell, to the employer or principal. All individuals in the workplace must be placed at least one metre apart from each other. All non-critical organised activity that requires physical interaction shall be cancelled save for certain types of training.

This is likely to require a change in the working environment of workplaces. The one metre distancing requirement will have to be adhered to not only at workspaces of workers and in meeting rooms, but all common areas such as the pantry and washrooms. Areas where queues are likely to form, markings should be made on the floor to ensure that those in the queue will be at least one metre apart.

With respect to the staggering of working hours, the MOM Advisory on safe distancing measures at the workplace provides that the staggering hours must be implemented over at least three 1-hourly blocks, with not more than half of the employees reporting to work within each 1-hour block. Thus far, MOM has already taken measures to ensure compliance, such as dispatching enforcement officers to conduct inspections at workplaces.

(iii) Communication of safe distancing measures

The Workplace Measures Regulations also impose an obligation on every employer or principal to, as far as reasonably possible, communicate to all its workers the arrangements taken by the employer to abide by the safe distancing measures.

Where the company is a trade union member, effort should be taken to inform the union on these arrangements. Employers should also keep employees informed of any changes to their safe distancing measures made in order to stay relevant with any new guidelines or advisories.

(iv) Obligations of occupiers

An occupier of a workplace must take extra measures during the control period, such as: (a) allowing natural ventilation of the workplace as far as reasonably practicable; (b) measuring the body temperature of every individual entering the workplace and to visually ascertain if the individual displays any specified symptom; (c) obtaining and recording the contact particulars of every individual who is not a worker who ordinarily works in the workplace, before allowing the individual to enter the workplace; (d) refusing entry to any individual who has a fever or who exhibits any specified system, or who refuses to comply with (b) and (c); (e) implementing measures and take reasonable steps to distance any two individual by one metre; and (f) requiring any individual who has a fever or displays any specified symptom to wear a mask and to immediately leave the workplace and if the individual is unable to immediately leave the workplace, isolate the individual.

Occupiers should demarcate an area of the workplace where isolation is carried out, and to also have masks at hand to meet the abovementioned requirements.

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(v) Compliance with movement control measures

Every employer or principal must not, during the control period, permit a worker or an individual subjected to a movement control measures, such as a quarantine order, a stay-home notice, or a medical certificate certifying that they have an acute respiratory symptom, to enter the workplace. Likewise, an occupier must not, during the control period, allow entry into the workplace of an individual whom the occupier is aware or has reason to believe is subject to a movement control measure.

Employers should have in place a system where employees shall inform them if they are subject to such movement control measures. Employers should also provide travel and health declarations to employees and individuals seeking to enter the workplace.

(vi) Obligations of employees and other individuals

A worker or other individual who has a fever or exhibits a specified symptom must not enter any workplace. All workers or individuals must also comply as far as reasonably practicable with all safe distancing measures implemented under the Workplace Measures Regulations by the employer.

Please note that this section of the Employment Law Guide is a summary provided for general information purposes, aimed at aiding understanding of Singapore's employment law as at the date of writing. It is not exhaustive or comprehensive and reading this memorandum is not a substitute for reading the text of the various statutes to fully understand the extent of the obligations owed. This guide should also not be relied upon as legal advice.

Read The Other Sections of The Employment Law Guide

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