

# SAFE TEA TIME

## Where Do We Stand?












by Ir. Shum Keng Yan

I believe in sharing openly and adopting best practices whenever it makes sense. Likewise, many governments look at one another to see what the other country is doing in terms of Occupational Safety and Health. You will then see a pattern (similarities) in the way regulations are structured.

Let us have a peek at what other countries say about Occupational Safety and Health accountabilities. (You might need to refer to the February 2011 article entitled "Accountable or Responsible?" to compare with the Malaysian context.)

Here is what a random selection of countries requires (these are excerpts and best effort translations):

Country	Coverage
	The WSHA emphasises the importance of managing workplace safety and health proactively by requiring stakeholders to take reasonably practicable measures to ensure the safety and health of workers and other people that are affected by the work being carried out. Part IV: General Duties of Persons at Workplaces 11 Duties of occupier of workplace 12 Duties of employers 15 Duties of persons at work <a href="http://www.mom.gov.sg/legislation/occupational-safety-health/Pages/workplace-safety-health-act.aspx">http://www.mom.gov.sg/legislation/occupational-safety-health/Pages/workplace-safety-health-act.aspx</a>
	Act of the Republic of Indonesia Number 1 Year 1970 Regarding Safety refers to a. right to be protected, b. safety with regards to others within workplace, c. safe use of materials, d. method to ensure safety in the workplace, e. to take into account developments in society, industrialisation, technique and technology <a href="http://www.nakertrans.go.id/perundangan.html">http://www.nakertrans.go.id/perundangan.html</a> , 1,235,1
	Occupational Safety and Health Standards Rule 1005: Duties of Employers, Workers and other Persons: (1) Each employer covered by the provisions of this Standards shall: a. furnish his workers a place of employment free from hazardous conditions that are causing or are likely to cause death, illness or physical harm to his workers; b. give complete job safety instructions to all his workers, especially to those entering the job for the first time, including those relating to the familiarisation with their work environment, hazards to which the workers are exposed to and steps taken in case of emergency; etc... <a href="http://www.oshc.dole.gov.ph/29/OSH-INFO-MATERIALS/">http://www.oshc.dole.gov.ph/29/OSH-INFO-MATERIALS/</a>
	Factory Act B.E. 2535, Section 7 The Minister shall have the power to prescribe the ministerial rules fixing the factory of any type, kind or size to be the group 1 factory, group 2 factory, or group 3 factory as the case may be by taking into consideration the necessity for the control, prevention of nuisance, prevention of damage, and prevention of danger in accordance with the gravity of impact on the public or environment by classifying as follows, etc. <a href="http://www.thailawonline.com/en/thai-laws/laws-of-thailand/226-factory-act-be-2535-1992.html">http://www.thailawonline.com/en/thai-laws/laws-of-thailand/226-factory-act-be-2535-1992.html</a> Ministerial Regulation on the Prescribing of Standard of Administration and Management of Occupational Safety, Health and Environment B.E.2549 (2006): require employers of 13 categories of businesses ranging from mines to department stores to adhere to more stringent occupational safety standards, etc. <a href="http://www.koratsafety.com/menu/lawsafetyenvision.html">http://www.koratsafety.com/menu/lawsafetyenvision.html</a>
	Every occupier shall ensure, so far as is reasonably practicable, the health, safety and welfare of all workers while they are at work in the factory. <a href="http://www.legalindia.in/provisions-of-the-factories-act-1948">http://www.legalindia.in/provisions-of-the-factories-act-1948</a>
	Law of the People's Republic of China on Work Safety (Order of the President No.70) Chapter II Work Safety Assurance in Production and Business Units Chapter III Rights and Duties of Employees Chapter IV Supervision and Control over Work Safety Chapter V Accident Rescue, Investigation and Handling Chapter VI Legal Responsibility <a href="http://www.gov.cn/english/laws/2005-10/08/content_75054.htm">http://www.gov.cn/english/laws/2005-10/08/content_75054.htm</a>

Country	Coverage
	Occupational Safety and Health Ordinance (CAP 509): The scope has been expanded to cover offices, commercial premises, educational institutions, hospitals, clinics, laboratories and other workplaces. The legislation imposes general duty of care on employers, occupiers of premises and employees, and set down basic requirements in accident prevention, fire prevention, working environment, workplace hygiene, first aid, manual handling operation and use of display screen equipment. <a href="http://www.oshc.org.hk/eng/resource/law02.asp">http://www.oshc.org.hk/eng/resource/law02.asp</a>
	Model Work Health and Safety Act (26 November 2010): Part 2: Health and Safety Duties including Subdivision 2 "What is reasonably practicable" and Division 2 "Primary Duty of Care". Note: The Commonwealth and each state and territory government have agreed to harmonise their work health and safety laws (including Regulations and Codes of Practice) so that work health and safety laws are similar in each jurisdiction via the Model Work Health and Safety Act. The expected commencement is in 2012. <a href="http://safeworkaustralia.gov.au/AboutSafeWorkAustralia/WhatWeDo/Publications/Documents/560">http://safeworkaustralia.gov.au/AboutSafeWorkAustralia/WhatWeDo/Publications/Documents/560</a> ModelWorkHealthAndSafetyAct26November10.pdf
	Occupational Safety and Health Act (Act 4220): Article 5 (Duties of Employer) (1) An employer shall observe the standards for the prevention of industrial accidents as prescribed by this Act and any order issued under this Act, provide workers with information on safety and health in the workplace, prevent workers' health problems caused by physical fatigue, mental stress, etc., protect the lives of workers, maintain and promote the safety and health of workers by creating a proper work environment through the improvement of working conditions, and comply with the industrial accident and disease prevention policy of the State. Article 6 (Duties of Worker), etc. <a href="http://english.kosha.or.kr/bridge?menuId=1240">http://english.kosha.or.kr/bridge?menuId=1240</a>

The above are sourced from the relevant acts or guidance notes provided by the national agencies. I stand corrected if there are translation errors or omissions.

Clearly, each government looks seriously at the accountabilities, roles and responsibilities of the Employers, Employees and Others affected by the work. The concept of "Duty of Care" is also used in each of the countries listed above.

If I were to summarise in a nutshell, the legislative framework around the world is modelled after the European/British system on one hand and the United States' system on the other. Understanding this helps you to find out where the relevant sections can be found and how to navigate the various regulations, ministerial orders, provincial rules, Codes of Practices and so on.

*If you would like to share free EHS legislations links of various countries, drop me a note at [pub@iem.org.my](mailto:pub@iem.org.my). I would like to publish a collection of free legal links in a future article. ■*

*Legislations are quite uniform from country to country. The difference is in the level of details and enforcement, thus creating a misnomer that regulation in Asia is "less strict" compared with developed countries. Then again, should we not implement good EHS because it is "the right thing to do" rather than "because the law says so"?*