

Workplace Safety and Health (Safety and Health Management System and Auditing) Regulations 2009

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No. S 607

WORKPLACE SAFETY AND HEALTH ACT (CHAPTER 354A)

WORKPLACE SAFETY AND HEALTH (SAFETY AND HEALTH MANAGEMENT SYSTEM AND AUDITING) REGULATIONS 2009

In exercise of the powers conferred by sections 30 and 65 of the Workplace Safety and Health Act, the Minister for Manpower hereby makes the following Regulations:

PART I

PRELIMINARY

Citation and commencement

1. These Regulations may be cited as the Workplace Safety and Health (Safety and Health Management System and Auditing) Regulations 2009 and shall come into

operation on 1st March 2010.

Definitions

2. In these Regulations, unless the context otherwise requires —

“auditing agency” means a company or firm that provides or desires to provide safety and health auditing services;

“imminent danger” means the existence of any condition or practice in a workplace which could reasonably be expected to cause death or serious bodily injury immediately to any person if works were to proceed in the workplace or if persons were to enter the workplace before the condition or practice was eliminated;

“shipyard” means any yard (including any dock, wharf, jetty, quay and the precincts thereof) where the construction, reconstruction, repair, refitting, finishing or breaking up of ships is carried out, and includes the waters adjacent to any such yard where the construction, reconstruction, repair, refitting, finishing or breaking up of ships is carried out by or on behalf of the occupier of that yard;

“worksite” means any premises where any building operation or works of engineering construction is or are being carried out by way of trade or for purposes of gain, whether or not by or on behalf of the Government or a statutory body, and includes any line or siding (not forming part of a railway) which is used in connection with the building operation or works of engineering construction.

PART II

APPROVAL TO ACT AS WORKPLACE SAFETY AND HEALTH AUDITOR

Application for approval to be workplace safety and health auditor

3.—(1) A person may apply to the Commissioner for his approval to act as a workplace safety and health auditor.

(2) An application under paragraph (1) shall be —

(a) accompanied by the appropriate fee specified in the First Schedule and which shall not be refundable; and

(b) submitted through an auditing agency of which he is a member unless the

Commissioner otherwise waives this requirement.

Requirements for approval as workplace safety and health auditor

4.—(1) For the purposes of section 33(3)(a) of the Act, a person may be approved to act as a workplace safety and health auditor if he satisfies the Commissioner that he —

- (a) has successfully completed a training course to equip him to become a workplace safety and health auditor; and
- (b) has the following practical experience:
 - (i) at least 5 years of practical experience relevant to the work to be performed by a workplace safety and health auditor; or
 - (ii) at least 3 years of practical experience relevant to the work to be performed by a workplace safety and health auditor, if he is a workplace safety and health officer at the time he applies for approval to act as a workplace safety and health auditor.

(2) Notwithstanding paragraph (1), the Commissioner may approve a person to act as a workplace safety and health auditor, although the person does not have the qualifications and practical experience referred to in paragraph (1)(a) and (b), if the Commissioner is satisfied that the person has such other qualifications and practical experience as to render him competent to act as a workplace safety and health auditor.

Certificate of approval

5.—(1) Upon a person being approved as a workplace safety and health auditor under this Part, the Commissioner shall —

- (a) issue him with a certificate of approval; and
- (b) record his name and relevant particulars in the register of workplace safety and health auditors.

(2) A certificate of approval shall not be transferable.

(3) Where a certificate of approval is lost, destroyed or defaced, the holder of the certificate may apply to the Commissioner for a replacement certificate, and regulation 3(2) shall apply to such application as if an application for approval under that regulation were a reference to an application for a replacement certificate.

(4) An application under paragraph (3) shall be supported by such documentary proof that the certificate of approval issued earlier has been lost, destroyed or defaced.

Register of workplace safety and health auditors

6. The Commissioner shall keep an up-to-date register of all persons approved to act as workplace safety and health auditors.

Workplace safety and health auditor to attend courses

7. The Commissioner may, in granting any person approval to act as a workplace safety and health auditor, impose any condition as he thinks fit, including the requirement for the person to attend such training courses which, in the opinion of the Commissioner, are relevant to the work of a workplace safety and health auditor.

PART III

SAFETY AND HEALTH MANAGEMENT SYSTEM

Implementation of safety and health management system

8.—(1) It shall be the duty of the occupier of every workplace specified in the Second Schedule to implement a safety and health management system for the purpose of ensuring the safety and health of persons at work in the workplace.

(2) The safety and health management system referred to in paragraph (1) shall be implemented in accordance with any relevant Singapore Standard relating to safety and health management systems or such other standards, codes of practice or guidance issued or approved by the Workplace Safety and Health Council.

Workplace safety and health audit

9.—(1) It shall be the duty of the occupier of any workplace specified in the Third Schedule to appoint a workplace safety and health auditor to audit the safety and health management system of the workplace at a frequency as specified in that Schedule.

(2) Notwithstanding paragraph (1), the Commissioner may, subject to such conditions as he may determine, direct the occupier of any workplace specified in the Third Schedule to conduct an audit of the safety and health management system of the workplace within such period as the Commissioner may require.

(3) It shall be the duty of the occupier of any workplace specified in the Third Schedule to have the workplace audited within such period as the Commissioner may direct under paragraph (2).

(4) It shall be the duty of the occupier of any workplace specified in the Third Schedule to implement, as far as is reasonably practicable, the recommendations

of the workplace safety and health auditor appointed under paragraph (1) without undue delay.

Internal review of safety and health management system

10.—(1) It shall be the duty of the occupier of any workplace specified in the Fourth Schedule to conduct an internal review of the safety and health management system of the workplace at a frequency as specified in that Schedule.

(2) Notwithstanding paragraph (1), the Commissioner may direct the occupier of any workplace specified in the Fourth Schedule to appoint a workplace safety and health auditor to audit the safety and health management system of the workplace.

(3) It shall be the duty of the occupier of any workplace specified in the Fourth Schedule to appoint a workplace safety and health auditor as the Commissioner may direct under paragraph (2).

(4) It shall be the duty of the occupier of any workplace specified in the Fourth Schedule to implement, as far as is reasonably practicable, the recommendations of the workplace safety and health auditor appointed under paragraph (3) without undue delay.

Commissioner may direct occupier of workplace to appoint workplace safety and health auditor

11.—(1) The Commissioner may direct the occupier of any workplace to appoint a workplace safety and health auditor to audit all or any of the following with a view to ensuring the safety and health of persons at work in the workplace:

- (a) any risk assessment relating to the workplace or the work carried out in that workplace;
- (b) any work process at the workplace;
- (c) the workplace.

(2) It shall be the duty of the occupier of any workplace to appoint a workplace safety and health auditor as directed by the Commissioner under paragraph (1).

(3) It shall be the duty of the occupier of any workplace to implement, as far as is reasonably practicable, the recommendations of the workplace safety and health auditor appointed under paragraph (1) without undue delay.

Duties of workplace safety and health auditor

12.—(1) The duties of a workplace safety and health auditor appointed in respect of a

workplace shall be —

- (a) to audit the workplace in such manner as the Commissioner may determine;
- (b) to submit an audit report to the occupier of the workplace upon completion of the audit indicating the findings and recommendations in the report;
- (c) to advise the occupier of the workplace to take immediate action to remedy any unsafe condition or unsafe work practice found during the audit that may result in imminent danger to the safety and health of persons at work; and
- (d) to report to the Commissioner the unsafe condition or unsafe work practice referred to in sub-paragraph (c) if the occupier —
 - (i) refuses to take immediate remedial action; or
 - (ii) needs more than a day to remedy the unsafe condition or unsafe work practice.

(2) A workplace safety and health auditor shall not conduct an audit of any workplace in which he, or the auditing agency of which he is a member, has any professional, financial or other interest which may conflict with his duties as a workplace safety and health auditor.

(3) Without prejudice to the generality of paragraph (2), a workplace safety and health auditor, or the auditing agency of which he is a member, shall be regarded as having a professional or financial interest which may conflict with his duties as a workplace safety and health auditor if he or the auditing agency of which he is a member —

- (a) is involved in the establishment or implementation of the safety and health management system for the workplace in which he is to conduct an audit; or
- (b) provides any workplace safety and health officer or any workplace safety and health coordinator to assist the occupier of the workplace (or any other person in charge of the workplace) on any workplace safety and health matter of the workplace in which he is to conduct an audit.

(4) It shall be the duty of the occupier of a workplace to ensure that the workplace safety and health auditor appointed under regulation 9(1), 10(3) or 11(2) in respect of the workplace is not a partner, an officer, an employee or an associate of the occupier of the workplace.

(5) For the purposes of paragraph (4), a person shall be regarded as an associate of an occupier of a workplace if the person is —

- (a) an employer of the occupier;
- (b) where the occupier is a body corporate —
 - (i) a person who is a substantial shareholder of that body corporate as defined in section 81 of the Companies Act (Cap. 50); or
 - (ii) a director, secretary or similar executive officer of the body corporate; or
- (c) where the occupier is a trustee, a beneficiary of the trust.

(6) A workplace safety and health auditor shall respect the confidentiality of protected information acquired by him in the course of his work and shall not disclose any such information to a third party without specific authority or unless there is a legal or professional duty to disclose.

(7) It shall be the duty of a workplace safety and health auditor appointed in respect of a workplace to exercise all due diligence when performing his function in relation to the carrying out of the audit of a workplace under paragraph (1).

(8) Any workplace safety and health auditor who, without reasonable excuse, contravenes paragraph (1), (2) or (7) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 and, in the case of a second or subsequent conviction, to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 6 months or to both.

(9) Any workplace safety and health auditor who, without reasonable excuse, contravenes paragraph (6) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 2 years or to both.

(10) Any occupier of a workplace who, without reasonable excuse, contravenes paragraph (4) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 and, in the case of a second or subsequent conviction, to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 6 months or to both.

Powers of workplace safety and health auditor

13.—(1) The workplace safety and health auditor shall, for the purposes of discharging his duties under regulation 12, have the power to do any or all of the following:

- (a) to enter, inspect and examine at any reasonable time the workplace;
- (b) to inspect and examine any machinery, equipment, plant, installation or article in the workplace;
- (c) to require the production of workplace records, certificates, notices and documents kept or required to be kept under the Act, including any other relevant document, and to inspect and examine any of them;
- (d) to make such examination and inquiry of the workplace and of any person at work at that workplace as may be necessary to execute his duties;
- (e) to assess the levels of noise, illumination, heat or harmful or hazardous substances in the workplace and the exposure levels of persons at work therein.

(2) The occupier of a workplace and any person at work in the workplace shall render all necessary assistance and co-operation to the workplace safety and health auditor as are necessary for him to discharge his duties under regulation 12 or otherwise for the exercise of his powers referred to in paragraph (1).

(3) Any person who obstructs a workplace safety and health auditor in the exercise of his power under this regulation shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000.

PART IV

MISCELLANEOUS

Offence

14. Any occupier of a workplace who contravenes regulation 8(1), 9(1), (3) or (4), 10(1), (3) or (4) or 11(2) or (3) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000, and if the contravention in respect of which he was so convicted continues after the conviction, he shall be guilty of a further offence and shall be liable to a fine not exceeding \$1,000 for every day or part thereof during which the offence continues after conviction.

FIRST SCHEDULE

Regulation 3(2)

FEES

<i>First column</i>	<i>Second column</i>
1. An application for approval to act as a workplace safety and health auditor	\$110
2. To replace a certificate of approval	\$10 per certificate to be replaced.

SECOND SCHEDULE

Regulation 8(1)

WORKPLACES TO IMPLEMENT SAFETY AND HEALTH MANAGEMENT SYSTEM

1. Any premises which is a worksite.
2. Any premises which is a shipyard.
3. Any factory engaged in the manufacturing of fabricated metal products, machinery or equipment and in which 100 or more persons are employed.
4. Any factory engaged in the processing or manufacturing of petroleum, petroleum products, petrochemicals or petrochemical products.
5. Any premises where the bulk storage of toxic or flammable liquid is carried on by way of trade or for the purpose of gain and which has a storage capacity of 5,000 or more cubic metres for such toxic or flammable liquid.
6. Any factory engaged in the manufacturing of—
 - (a) fluorine, chlorine, hydrogen fluoride or carbon monoxide; and
 - (b) synthetic polymers.
7. Any factory engaged in the manufacturing of pharmaceutical products or their intermediates.
8. Any factory engaged in the manufacturing of semiconductor wafers.

THIRD SCHEDULE

Regulation 9

WORKPLACES TO APPOINT WORKPLACE SAFETY AND HEALTH AUDITORS

<i>Classes or description of workplaces</i>	<i>Frequency of audit</i>
1. Any worksite with a contract sum of \$30 million or more	At least once every 6 months
2. Any shipyard in which 200 or more persons are employed	At least once every 12 months
3. Any factory engaged in the manufacturing of fabricated metal	At least once every 12 months

products, machinery or equipment and in which 100 or more persons are employed	
4. Any factory engaged in the processing or manufacturing of petroleum, petroleum products, petrochemicals or petrochemical products	At least once every 24 months
5. Any premises where the bulk storage of toxic or flammable liquid is carried on by way of trade or for the purpose of gain and which has a storage capacity of 5,000 or more cubic metres for such toxic or flammable liquid	At least once every 24 months
6. Any factory engaged in the manufacturing of —	At least once every 24 months
(a) fluorine, chlorine, hydrogen fluoride or carbon monoxide; or	
(b) synthetic polymers	
7. Any factory engaged in the manufacturing of pharmaceutical products or their intermediates	At least once every 24 months
8. Any factory engaged in the manufacturing of semiconductor wafers	At least once every 24 months.

FOURTH SCHEDULE

Regulation 10

WORKPLACES TO CONDUCT INTERNAL REVIEW OF SAFETY AND HEALTH MANAGEMENT SYSTEM

<i>Classes or description of workplaces</i>	<i>Frequency of internal review</i>
1. Any worksite with a contract sum of less than \$30 million	At least once every 6 months
2. Any shipyard in which less than 200 persons are employed	At least once every 12 months.

Made this 4th day of December 2009.

LOH KHUM YEAN
*Permanent Secretary,
Ministry of Manpower,
Singapore.*

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(To be presented to Parliament under section 65(8) of the Workplace Safety and

Health Act).