OCCUPATIONAL SAFETY AND HEALTH ACT 1994 [ACT 514]

OCCUPATIONAL SAFETY AND HEALTH (NOTIFICATION OF ACCIDENT, DANGEROUS OCCURRENCE, OCCUPATIONAL POISONING AND OCCUPATIONAL DISEASE) REGULATIONS 2004

[P.U.(A) 128/2004].

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Preamble
IN exercise of the powers conferred by paragraph 66(2)(g) of the Occupational Safety and Health Act 1994 [Act 514], the Minister makes the following regulations:

PART I - PRELIMINARY

Regulation 1. Citation.
These regulations may be cited as the Occupational Safety and Health (Notification of Accident, Dangerous Occurrence, Occupational Poisoning and Occupational Disease) Regulations 2004.

Regulation 2. Interpretation.
(1) In these Regulations, unless the context otherwise requires—
"authorized" means authorized by government agencies in charge of occupational safety and health or internal security or emergency services or essential services or quarries or mines;
"approved" means approved by the Director General;
"serious bodily injury" means any injury listed in Schedule 1;
"fatal injury" means injury leading to immediate death or death within one year of the accident;
"non-fatal injury" means—
   (a) a lost-time injury which prevents a worker from performing normal work and leads to permanent or temporary incapacity for work; or
   (b) a no-lost-time injury where no work time is lost beyond that is required for medical attention;
"dangerous occurrence" means an occurrence arising out of or in connection with work and is of a class specified in Schedule 2;
"accident" means an occurrence arising out of or in connection with work which results in fatal injury or non-fatal injury;
"occupational poisoning and occupational disease" means a poisoning or a disease arising out of or in connection with work and is of a class specified in Schedule 3;
"quarry" means any open or underground excavation made for extracting and removing rock material from any land and includes the crushing, the process of grinding, or other treatment work of such material on the site or elsewhere;
"mine" has the same meaning as in section 3 of the Mineral Development Act 1994 [Act 525];
"lost-time" means lost days counted from and including the day following the day of the accident measured in calendar days.
(2) In these Regulations, any reference to an accident, dangerous occurrence, occupational poisoning or occupational disease arising out of or in connection with work shall include a reference to an accident or dangerous occurrence or occupational poisoning or occupational disease attributable to the manner of conducting an undertaking, the plant or substances used for the purposes of an undertaking and the condition of the premises so used or any part of them.

Regulation 3. Application.
(1) Subject to subsection 1(2) of the Act, these Regulations shall apply to all places of work.
(2) Nothing in these Regulations shall prejudice any requirement imposed by or under any other written law relating to reporting of accident, dangerous occurrence, occupational poisoning or occupational disease except that compliance with these Regulations shall be deemed to have complied with the provisions of—
   (a) sections 31 and 32 of the Factories and Machinery Act 1967 [Act 139];
   (b) regulation 13 of the Petroleum (Safety Measures) (Transportation of Petroleum by Pipelines) Regulations 1985; and
PART II - NOTIFICATION AND REPORTING OF ACCIDENT, DANGEROUS OCCURRENCE, OCCUPATIONAL POISONING AND OCCUPATIONAL DISEASE

Regulation 4. Exemption from Part II.
For the purpose of this Part, reporting of any death, injury or condition of a person shall not apply to a patient when undergoing treatment in a hospital or surgery by a doctor or dentist.

Regulation 5. Notification and reporting of accident and dangerous occurrence.
(1) Whenever any accident arising out of or in connection with work which caused any person either—
   (a) death; or
   (b) serious bodily injury, as specified in First Schedule, which prevents the person from following his normal occupation for more than four calendar days, or where a dangerous occurrence, as specified in Second Schedule, takes place in any place of work, the employer shall—
      (aa) forthwith notify the nearest Department of Occupational Safety and Health office by the quickest means available; and
      (bb) within 7 days send a report thereof in an approved form.

(2) Whenever any accident arising out of or in connection with work which causes bodily injury to any person which prevents the person from following his normal occupation for more than four calendar days, the employer shall, within 7 days, send a report thereof in an approved form to the Department of Occupational Safety and Health office.

(3) Where an employee, as a result of an accident arising out of or in connection with work, has suffered an injury or condition reportable under subregulation (1) which causes death within one year of the date of that accident, the employer shall inform the Director General in writing of the death as soon as it comes to his knowledge, whether or not the accident has been reported under subregulation (1).

Regulation 6. Exemption from requirement of regulation 5 to self-employed persons.
Paragraph 5(1)(aa) shall not apply to a self-employed person who is injured at premises of which he is the owner or occupier, but paragraph 5(1)(bb) shall apply to such self-employed person (other than in the case of death) and it shall be sufficient compliance with the regulation if the self-employed person makes arrangements for the report to be sent to the Department of Occupational Safety and Health office by some other person.

Regulation 7. Reporting of cases of occupational poisoning and occupational disease.
(1) Where a person at work suffers or likely to suffer from one of the occupational poisonings or occupational diseases specified in column 1 of Third Schedule and the work involves one of the activities specified in the corresponding entry in column 2 of that schedule, the employer shall, within 7 days, send a report thereof to the nearest Department of Occupational Safety and Health office in an approved form.

(2) Every registered medical practitioner or medical officer attending to, or called in to visit, a patient whom he believes to be suffering from any of the occupational poisoning or occupational disease listed in Third Schedule, shall within 7 days report the matter to the Director General in an approved form and at the same time, notify the employer whom the patient states is his employer.

Regulation 8. Exemption from requirement of regulation 7 to self-employed persons.
Subregulation 7(1) shall not apply to a self-employed person unless that person has been informed by a registered medical practitioner or a medical officer that he is suffering from a poisoning or a disease so specified and it shall be sufficient compliance with subregulation 7(1) if that person makes arrangements for the
report to be sent to the Department of Occupational Safety and Health office by some other person within 7 days of the date he is being informed by the registered medical practitioner or a medical officer.

PART III - NO INTERFERENCE AT ACCIDENT OR DANGEROUS OCCURRENCEScene

Regulation 9. No interference at accident or dangerous occurrence scene. Where the accident or dangerous occurrence causes the death of any person or serious bodily injury to any person or serious damage and dangerous to plant or other property, no person shall, unless authorized to do so, remove or in any way interfere with or disturb any plant, substance, article or thing related to the incident except to the extent necessary to—

(a) save the life of, prevent injury to, or relieve the suffering of any person;
(b) maintain the access of the general public to an essential service or utility; or
(c) prevent further damage to or serious loss of property or environment.

PART IV - MAINTENANCE OF ALL RECORDS OF ACCIDENT, DANGEROUS OCCURRENCE, OCCUPATIONAL POISONING AND OCCUPATIONAL DISEASE

Regulation 10. Records. (1) Every employer and self-employed person shall record and maintain a register, in an approved form, of—
(a) all accidents and dangerous occurrences which have occurred; or
(b) all occupational poisonings or occupational diseases which have occurred or are likely to occur, arising out of or in connection with work under his control, whether or not the accidents, dangerous occurrences, occupational poisonings and occupational diseases have been reported under subregulation 5(1) or 7(1).
(2) The record shall be kept at the place where the work to which it relates is carried on or, if this is not practicable, at the usual place of business of the employer or self-employed person and an entry in the registry shall be kept for at least 5 years from the date on which it was made.
(3) The employer or self-employed person, as the case may be, shall send to the Director General before 31 January of each year, such extracts from the registry for a period of 12 months ending on 31 December of each year.

Regulation 11. Requirement of further information. The Director General may, by notice in writing served on any person who has furnished a report under regulations 5, 6, 7 and 8, require that person to give to the Director General such information specified in Fourth Schedule as may be specified in the notice and within the time limit so specified.

PART V - MISCELLANEOUS

Regulation 12. Amendment of Schedule. The Minister may, by order published in the Gazette, amend any Schedule to these Regulations from time to time.

Regulation 13. Penalty. Any person who contravenes any provision of these Regulations, commits an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding one year or to both.
FIRST SCHEDULE

[subregulation 5(1)] SERIOUS BODILY INJURY

1. Emasculation
2. Permanent privation of the sight of either eye
3. Permanent privation of the hearing of either ear
4. Privation of any member or joint
5. Destruction or permanent impairing of the powers of any member or joint
6. Permanent disfiguration of the head or face
7. Fracture or dislocation of the bone
8. Loss of consciousness from lack of oxygen
9. Loss of consciousness or acute illness from absorption, inhalation or ingestion of any substance, which requires treatment by a registered medical practitioner
10. Any case of acute ill health where there is a reason to believe that this resulted from occupational exposure to isolated pathogen or infected material
11. Any other work related injury or burns which results in the person injured being admitted immediately into hospital for more than 24 hours
SECOND SCHEDULE

[subregulation 5(1)] DANGEROUS OCCURRENCE PART I DANGEROUS OCCURRENCES WHICH ARE NOTIFIABLE WHEREVER THEY OCCUR

COLLAPSE OF SCAFFOLDING

1. A collapse or part collapse of any scaffold which is more than 5 metres high which results in a substantial part of the scaffold falling or overturning.

COLLAPSE OF A BUILDING OR STRUCTURE

2. At any building or structure under construction, reconstruction, alteration, or demolition, a collapse or partial collapse of any part of the building or structure, or of any falsework, except where the manner and extent of collapse or partial collapse was intentional.

ELECTRICAL SHORT CIRCUIT

3. Electrical short circuit or overloaded attended by fire or explosion which resulted in the stoppage of the plant involved for more than 24 hours and which, might have been liable to cause serious bodily injury to any person.

ESCAPE OF A SUBSTANCE

4. The uncontrolled release or escape of any substance or agent in circumstances which, might be liable to cause damage to health of, or serious injury to, any person.

EXPLOSION, FIRE OR FAILURE OF STRUCTURE

5. Explosion, fire or failure of structure affecting the safety or strength of any place of work or plant contained therein.

6. Any explosion or fire occurring in any place of work due to the ignition of processed material, their by-products or finished products which resulted in the stoppage or suspension of normal work in that place for more than 24 hours.

7. The bursting of a revolving vessel, wheel, grindstone or grinding wheel moved by mechanical power.

8. The bursting, explosion or collapse of a pipeline or any part thereof, or the ignition of anything in a pipeline, or anything which immediately before it was ignited was in a pipeline.

9. The explosion, collapse, bursting or failure of structure affecting the safety or strength of any closed vessel including a steam boiler or an unfired pressure vessel; the loss of water, the melting of fusible plug and the bursting of a tube.

10. Fire or explosion in a warehouse or storage area where hazardous substances are stored.

LIFTING MACHINERY, ETC.

11. The collapse of, the overturning of or the failure of any load bearing part of any crane, derrick, winch, hoist, piling frame, lift, excavator or other appliance used in raising or lowering persons or goods, or any part thereof.

PART II DANGEROUS OCCURRENCES WHICH ARE NOTIFIABLE IN RELATION TO MINES BREATHING APPARATUS

1. An incident where a breathing apparatus, or a smoke helmet or other apparatus serving the same purpose or a self-rescuer, while being used, fails to function safely or develops a defect likely to affect its safe working.
2. An incident, at any mine, where immediately after using and arising out of the use of a breathing apparatus or a smoke helmet or other apparatus serving the same purpose or a self-rescuer, any person receives first-aid or medical treatment by reason of his unfitness or suspected unfitness at the mine.

DREDGE
3. Sinking or overturning of a dredge.

ELECTRIC SHOCK
4. An incident where any person suffers electric shock or burns from any electrical circuit, equipment or installation which requires first-aid or medical treatment at a mine.

ESCAPE OF GAS
5. Any violent outburst of gas together with coal or other solid matter into the mine workings except when such outburst is caused intentionally.

FAILURE OF PLANT OR EQUIPMENT
6. The breakage of any rope, chain, coupling or other gear of a similar kind, by which persons are carried through any shaft, staple-pit or unwalkable outlet.
7. The breakage of any rope, chain, coupling or other gear of a similar kind, used for the transport of persons below ground or breakage of the belt of a conveyor designated as a man-riding conveyor while man are being carried.
8. An incident where any conveyance being used for the carriage of persons is overwound, or any conveyance not being so used is overwound and becomes detached from its winding rope, or any conveyance operated by means of the friction of a rope on a winding sheave is brought to rest by the apparatus provided in the headframe of the shaft or in the part of the shaft below the lowest land for the time being in used, being apparatus provided for bringing the conveyance to rest in the event of its being overwound.
9. The stoppage of any ventilating apparatus (other than an auxiliary fan) causing a substantial reduction in ventilation of the mine lasting for a period exceeding 30 minutes except when for the purpose of planned maintenance.
10. The collapse of any headframe, winding engine house, fan house or storage bunker, screen or tippler house or vehicle gantry.

FIRE OR IGNITION OF GAS
11. The ignition, below ground, of any gas (other than gas in safety lamp) or of any dust.
12. The accidental ignition of any gas in part of a fire damp drainage system on the surface or in an exhauster house.
13. The outbreak of any fire below ground.
14. An incident where any person in consequence of any smoke or any other indication that a fire may have broken out below ground, has been caused to leave any mine.
15. The outbreak of any fire on the surface endangering the operation of any winding or haulage apparatus installed at a shaft or unwalkable outlet or of any mechanically operated apparatus for producing ventilation below ground.

INJURY BY EXPLOSION OF BLASTING MATERIAL
16. An incident where any person suffers an injury resulting from an explosion or discharge of any blasting material or device for which he receives first-aid or medical treatment at the mine.

INRUSH OF GAS OR WATER
17. Any inrush of noxious or flammable gas from oldworkings.
18. Any inrush of water or material which flows when wet from any source.

INSECURE TIP
19. Any movement of material or any fire or any other event which indicates that a mine is or is likely to become insecure.

LOCOMOTIVES
20. Any incident where an underground locomotive when not used for shunting or testing purposes is brought to rest by means other than its safety circuit protective devices or normal service brakes.
PART III DANGEROUS OCCURRENCES WHICH ARE NOTIFIABLE IN RELATION TO QUARRIES
1. The collapse of any load-bearing structure which carries processing plant, storage equipment, storage bunker or access ways.
2. An incident where any person suffers an injury resulting from an explosion or discharge of any blasting material or device for which he receives first-aid or medical treatment at the quarry.
3. An occurrence where any substance is ascertained to have been projected beyond a quarry as a result of blasting operations in which any person is or likely to be endangered.
4. An incident where any person suffers electric shock or burns from any electrical circuit, equipment or installation which requires first-aid or medical treatment at the quarry.
5. Any movement of material or any fire or any other event which indicates that a quarry is or likely to become insecure.

PART IV DANGEROUS OCCURRENCES WHICH ARE NOTIFIABLE IN RELATION TO FORESTRY
1. Uncontrolled falling of an adjacent tree or tree branches as a result of felling operation.
2. Uncontrolled falling of log during the process of loading or transporting or unloading operation.
3. Overturning of skidder or lorry or tractor or truck or any other vehicle used in transporting of logs.
4. Breaking or snapping of log sling or other cables used during tree felling or skidding or transporting of logs or other related operations.
5. Accidents involving vehicles used in transporting logs or personnel.
6. Uncontrolled sliding of logs on steep slopes during felling, or barking or bucking or skidding or loading or unloading operation.
7. Derailment of locomotive used in transporting logs or personnel.

PART V DANGEROUS OCCURRENCES WHICH ARE NOTIFIABLE IN RELATION TO AGRICULTURE
1. Overturning of tractor and other farm vehicles.
2. Accidents involving any vehicles used in transporting raw materials, pesticides, farm products or personnel.
### Third Schedule

[Regulation 7] Occupational Poisoning and Occupational Disease

<table>
<thead>
<tr>
<th>Column 1</th>
<th>Column 2</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Description of occupational poisoning or disease</strong></td>
<td><strong>Nature of activity/occupation</strong></td>
</tr>
<tr>
<td><strong>POISONING</strong></td>
<td></td>
</tr>
<tr>
<td>1. Poisoning by:</td>
<td>Any activity.</td>
</tr>
<tr>
<td>(a) Acrylamide monomer</td>
<td>The use or handling of, or exposure to, the fumes or vapour of acrylamide.</td>
</tr>
<tr>
<td>(b) Alcohols, glycols, ketones or aldehydes</td>
<td>The use or handling of, or exposure to, the fumes, dust or vapour of alcohols, glycols, ketones or aldehydes.</td>
</tr>
<tr>
<td>(c) Antimony</td>
<td>The use or handling of, or exposure to, the fumes, dust or vapour of antimony or a compound of antimony or a substance containing antimony.</td>
</tr>
<tr>
<td>(d) Arsenic</td>
<td>The use or handling of, or exposure to, the fumes, dust or vapour of arsenic or a compound of arsenic or a substance containing arsenic or exposure to any solution containing arsenic or a compound of arsenic.</td>
</tr>
<tr>
<td>(e) Benzene or a homologue</td>
<td>The use or handling of, or exposure to, the fumes, dust or vapour containing benzene or any of its homologues and their amino and nitro derivatives.</td>
</tr>
<tr>
<td>(f) Beryllium or one of its compounds</td>
<td>The use or handling of, or exposure to, the fumes, dust or vapour of beryllium or a compound of beryllium or a substance containing beryllium.</td>
</tr>
<tr>
<td>(g) Cadmium</td>
<td>The use or handling of, or exposure to, the fumes, dust or vapour of cadmium or a compound of cadmium or a substance containing cadmium.</td>
</tr>
<tr>
<td>(h) Carbon disulphide</td>
<td>The use or handling of, or exposure to, the fumes, dust or vapour of carbon disulphide or a compound of carbon disulphide or a substance containing carbon disulphide.</td>
</tr>
<tr>
<td>(i) Carbon monoxide gas</td>
<td>The use or handling of, or exposure to, carbon monoxide gas, and any process involving the use of— (a) dynamite and gunpowder for blasting in subterranean galleries;</td>
</tr>
</tbody>
</table>
FOURTH SCHEDULE
[Regulation 11] MATTERS WHICH THE DIRECTOR GENERAL MAY REQUIRE TO BE NOTIFIED

1. Further details of the circumstances leading to the reported incident.
2. Further details about the nature and/or design of any plant involved in the reported incident.
3. Safety systems and procedures for the control of the plant or substance involved in the reported incident.
4. Qualification, experience and training of staff, consultants or advisers having use or control of any plant or substance or concerned with safety systems or procedures.
5. Design and operation documentation.
6. Arrangements for the protection of personnel from any plant or substance connected with the reported incident.
7. Details of any examination of, or test carried out on, any plant or installation involved in the reported incident.
8. Any available information about levels of exposure of persons at the work place to airborne substances.

Made 7 April 2004 [JKKP BP (S) 127/9/25(3); PN(PU)541/VII]

DATUK WIRA DR. FONG CHAN ONN Minister of Human Resources