

OCCUPATIONAL SAFETY AND HEALTH ACT 1994 [ACT 514]

**OCCUPATIONAL SAFETY AND HEALTH (CONTROL OF INDUSTRIAL MAJOR ACCIDENT HAZARDS)
REGULATIONS 1996**

[P.U.(A) 39/96].

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Preamble

IN exercise of the powers conferred by section 66 of the Occupational Safety and Health Act 1994 [Act 514], the Minister makes the following regulations:

PART I – PRELIMINARY

Regulation 1. Citation and commencement.

These regulations may be cited as the **Occupational Safety and Health (Control of Industrial Major Accident Hazards) Regulations 1996** and shall come into force on 1 February 1996.

Regulation 2. Application.

These Regulations shall apply to all industrial activities except-

- (a) a nuclear installation;
- (b) an installation under the armed forces;
- (c) a vehicle or vessel transporting hazardous substances to or from the site of an industrial activity; and
- (d) an industrial activity in which there is involved or likely to be involved a quantity of hazardous substance or a category or categories of substances which is or are equal or less than ten per cent of the threshold quantity of the hazardous substance or substances.

Regulation 3. Interpretation.

In these Regulations, unless the context otherwise requires-

"Competent Person" means an employee or any other person who is appointed by the manufacturer and approved in writing by the Director General to prepare a written report pursuant to the requirements of Part IV;

"further relevant information", for the purpose of Schedule 3, means information which is necessary for the assessment of the potential effects of a major accident and which, in the circumstances of the case-

- (a) is reasonably required by an inquirer to assess the risks to his health and safety created by an industrial accident and to know and understand what action he should take in the event of an accident; and
- (b) where the information is to be disclosed by a manufacturer, the information is such as is reasonable for him to disclose having regard to the requirements of the law and his commercial interests;

"hazardous substance" means-

- (a) any substance which is within any of the criteria laid down in Schedule 1; or
- (b) any substance listed in Part 1 of Schedule 2;

"industrial activity" means-

- (a) an operation carried out in an industrial installation referred to in Schedule 4 involving or likely to involve one or more hazardous substances, and includes on-site storage and on-site transport which are associated with the operations; or
- (b) a storage of hazardous substances or preparations at any place, installation, premises, building or area of land, whether isolated or within an establishment, being a site used for the purpose of storage;

"local authority" means any city council, municipal council, district council, town council, town board, local council, rural board or other similar local authority established by any written law and includes an authority in charge of a Federal Territory established by any written law;

"major accident" means an occurrence including, in particular, a major emission, fire or explosion resulting from uncontrolled development in the course of an industrial activity which leads to serious danger to persons, whether immediate or delayed or inside or outside and installation, or to the environment, and involving one or more hazardous substances;

"major hazard installation" means an industrial activity which produces, processes, handles, uses, disposes of or stores, whether permanently or temporarily, one or more hazardous substances or a category or categories of hazardous substances in a quantity or quantities which is or are equal to or exceed the threshold quantity, or an industrial activity which is so determined by the Director General in accordance with subregulation 7(2);

"manufacturer" means an employer or occupier having control of an industrial activity;

"officer" means an occupational safety and health officer appointed under section 5 of the Act;

"port authority" means any port authority established under any written law;

"preparation" means a mixture or solution of two or more substances;

"site" means-

(a) the whole of an area of land under the control of a manufacturer and includes a pier, jetty or similar structure, whether floating on water or not; or

(b) a structure, whether floating on water or not, which is under the control of manufacturer;

"threshold quantity", in relation to a given hazardous substance or a category or categories which is or are equal to the amount set out in Schedule 2.

Regulation 4. Limitation of power of officer.

All powers conferred and duties imposed upon the Director General under these Regulations may be exercised by an officer except those specified in subregulation 7(2) and regulation 13.

Regulation 5. Obligations of manufacturer and employee.

(1) Every manufacturer who undertakes an industrial activity shall-

(a) comply with the requirements of these Regulations;

(b) as soon as he becomes aware of an imminent danger which may affect the safety of persons or the environment, take immediate action to rectify the situation; and

(c) establish and maintain a good management system for controlling any major accident as described in the report made under subregulation 14(1) and regulation 16.

(2) Every employee shall-

(a) co-operate with the manufacturer in complying with the requirements of these Regulations;

(b) act in such manner so as not to endanger himself or to cause or be likely to cause bodily injury to himself or to other persons, or damage to life and property; and

(c) notify the manufacturer as soon as he becomes aware of any potential hazard he considers is capable of generating a major accident, and shall have the right to notify an officer of the potential hazard.

PART II - IDENTIFICATION AND NOTIFICATION OF AN INDUSTRIAL ACTIVITY

Regulation 6. Application.

This Part shall apply to an industrial activity in which there is involved or likely to be involved a hazardous substance.

Regulation 7. Identification and notification.

(1) Every manufacturer shall-

(a) identify an industrial activity within his control; and (b) submit to the Director General the Notification of Industrial Activity Form (hereinafter referred to as the "Notification") specified in Schedule 5-

(i) within three months after the commencement of these Regulations in respect of an existing installation or an installation which is under construction; or

(ii) in respect of a new installation after the commencement of these Regulations,

within a month before the construction thereof.

- (2) Upon receiving the Notification, the Director General may determine that the installation-
- (a) is a major hazard installation even though the quantity of the hazardous substance as listed in Part 1 of Schedule 2 or the substances and preparations falling within a category or categories specified in Part 2 of Schedule 2 is or are less than the threshold quantity if, in his opinion, the installation may cause a major accident; or
 - (b) is not a major hazard installation even though the quantity of the hazardous substance listed in Part 1 of Schedule 2 or the substances and preparations falling within a category or categories specified in Part 2 of Schedule 2 is or are equal to or exceed the threshold quantity if, in his opinion, the installation is incapable of causing a major accident.

Regulation 8. Notification of change.

The manufacturer shall immediately notify the Director General of any change in any of the particulars furnished in the Notification including an increase or a reduction in the maximum quantity of any hazardous substance which is or is likely to be at the site or in the pipeline, or the cessation of an industrial activity, by resubmitting the Notification.

PART III - DEMONSTRATION OF SAFE OPERATION FOR NON-MAJOR HAZARD INSTALLATION

Regulation 9. Application.

This Part shall apply to-

- (a) an industrial activity in which there is involved or likely to be involved-
 - (i) for a hazardous substance listed in Part 1 of Schedule 2, a quantity of the hazardous substance which is less than the threshold quantity specified therein; or
 - (ii) for substances and preparations falling within a category or categories specified in Part 2 of Schedule 2, a total quantity of the substances and preparations in the category or categories which is less than the threshold quantity specified therein and which is not determined as a major hazard installation under paragraph 7(2)(a); and
- (b) an installation which is determined as a non-major hazard installation by the Director General under paragraph 7(2)(b).

Regulation 10. Demonstration of safe operation.

A manufacturer who has control of an industrial activity to which this Part applies shall, at any time, at the request of the Director General, provide evidence including the production of documents to show that he has-

- (a) identified the possible major accident hazards; and
- (b) taken adequate steps to-
 - (i) prevent any major accident or minimize its consequences to persons and the environment; and
 - (ii) provide persons working on the site with the information, training and equipment necessary to ensure their safety; and
- (c) prepared and kept up to date an adequate on-site emergency plan detailing how major accidents will be dealt with.

Regulation 11. Review of demonstration of safe operation.

The Director General may require the manufacturer to submit documents on the demonstration of the safe operation of his industrial activity prepared in pursuance of regulation 10 and may review the documents; in the event the Director General is of the opinion that the documents submitted are not satisfactory, he shall direct in writing for the manufacturer to provide additional information within such

time as he may specify.

PART IV - REPORT ON INDUSTRIAL ACTIVITY AND PREPARATION OF EMERGENCY PLAN FOR MAJOR HAZARD INSTALLATION

Regulation 12. Application.

This Part shall apply to-

(a) an industrial activity in which there is involved or likely to be involved-

(i) for a hazardous substance listed in Part 1 of Schedule 2, a quantity of the hazardous substance which is equal to or exceed the threshold quantity specified therein; or

(ii) for substances and preparations falling within a category or categories specified in Part 2 of Schedule 2, a total quantity of the substances and preparations in the category or categories which is equal to or exceed the threshold quantity specified therein,

and which is not determined as a non-major hazard installation by the Director General under paragraph 7(2)(b); or (b) an industrial activity which is determined as a major hazard installation by the Director General under paragraph 7(2)(a).

Regulation 13. Registration of Competent Person.

(1) The Director General shall specify the qualifications of, and register, the persons to be appointed for the purposes of carrying out the functions of a Competent Person under this Part.

(2) The Director General shall maintain a Register of Competent Persons and shall cause to be published annually in the *Gazette* the names of the persons so registered and the revocation of any such registration.

Regulation 14. Report on industrial activity.

(1) A manufacturer shall not undertake an industrial activity to which this Part applies unless he has consulted a Competent Person to prepare a written report containing the information as specified in Schedule 6, and has sent a copy of the report to the Director General at least three months before commencing the activity or within such shorter period as the Director General may consent in writing.

(2) Where a manufacturer-

(a) has commenced an industrial activity before the commencement of these Regulations; or

(b) has commenced construction of an industrial installation for the purpose of an industrial activity six months before the commencement of these Regulations,

it shall be a sufficient compliance of subregulation (1) if the manufacturer sends to the Director General a copy of the report within twelve months after the commencement of these Regulations or within such longer period as the Director General may consent in writing.

(3) Where an industrial activity has been determined as a major hazard installation under paragraph 7(2)(a), the manufacturer shall send a copy of the report to the Director General within twelve months from the date of the determination or within such longer period as the Director General may consent in writing.

Regulation 15. Modification.

(1) Where a manufacturer has made a report in pursuance of subregulation 14(1), he shall not make any modification to the industrial activity to which the report relates which can materially affect the particulars in the report unless he has consulted a Competent Person to prepare a further written report to take into account the modifications and has sent a copy of the report to the Director General at least three months before making the modifications or within such shorter period as the Director General may consent in writing.

(2) Notwithstanding subregulation (1) a manufacturer shall be entitled to take urgent and remedial action with respect to an industrial activity in order to put an end to or prevent imminent danger to life

and property, and shall, as soon as possible, submit a report to the Director General to account for the action taken.

Regulation 16. Updating of report.

Where a manufacturer has made a report in pursuance of subregulation 14(1) or 15(1) and the industrial activity is continuing, the manufacturer shall within three years from the date of the last report consult a Competent Person to make a further report which shall have regard in particular to new technical knowledge which materially affects the particulars in the previous report relating to safety and development in the knowledge of hazard assessment, and shall within one month after the expiry of the three-year period or within such longer period as the Director General may consent in writing send a copy of the latest report to the Director General.

Regulation 17. Review of report.

The Director General may review the reports submitted to him pursuant to subregulations 14(1), 15(1) and regulation 16 and shall, if he is of the opinion that the information submitted is not satisfactory, direct the manufacturer in writing to submit further information within such time as he may specify.

Regulation 18. On-site emergency plan.

(1) A manufacturer who has control of an industrial activity to which this Part applies shall, after consulting a Competent Person, prepare and keep an up-to-date and adequate on-site emergency plan detailing how major accidents are to be dealt with on the site on which the industrial activity is carried on, and the plan shall include the name of the person who is responsible for safety on the site and the names of those who are authorised to take action pursuant to the plan in the event of an emergency.

(2) The manufacturer shall ensure that the on-site emergency plan prepared in pursuance of subregulation (1) is constantly updated to take into account any material change made in the industrial activity and that every person on the site who is affected by the plan is informed of its relevant provisions.

(3) The manufacturer shall prepare and submit the on-site emergency plan to the Director General-

(a) at least three months before the commencement of the industrial activity;

(b) in the case of an industrial activity which has commenced before the commencement of these Regulations, within three months of the commencement thereof or within such longer periods as the Director General may consent in writing; or

(c) in the case of an industrial activity which has been determined as a major hazard installation by the Director General under paragraph 7(2)(a), within three months from the date of the determination or within such longer period as the Director General may consent in writing.

Regulation 19. Updating of on-site emergency plan.

Where a manufacturer has prepared an on-site emergency plan in pursuance of subregulation 18(1) and the industrial activity concerned is continuing, the manufacturer shall update the on-site emergency plan as part of the report required under regulation 16.

Regulation 20. Review of on-site emergency plan.

The Director General may review the on-site emergency plan submitted to him pursuant to subregulation 18(1) and regulation 19, and shall, if he is of the opinion that the plan submitted is not satisfactory, direct the manufacturer in writing to improve the emergency plan within such time as he may specify.

Regulation 21. Off-site emergency plan.

(1) A manufacturer who has control of an industrial activity to which this Part applies shall inform the local authority or port authority of the area that his industrial activity is considered capable of producing a major accident hazard and of the need for the preparation of an off-site emergency plan for the area

surrounding his site which may be likely to be affected by a major accident.

(2) In pursuance of subregulation (1) the manufacturer shall-

(a) in the case of an industrial activity which has commenced before the commencement of these Regulations, inform the local authority or port authority within three months of the commencement thereof, or in the case of an industrial activity which has been determined as a major hazard installation by the Director General under paragraph 7(2)(a), within three months from the date of the determination;

(b) provide the local authority or port authority with the information relating to the industrial activity under his control as the local authority or port authority may reasonably require including the nature, extent and likely effects off-site of any possible major accident; and

(c) afford to the local authority or port authority upon request all reasonable facilities for the preparation and implementation of an off-site emergency plan.

(3) The local authority or port authority may upon receiving the information prepare and keep an up-to-date and adequate off-site emergency plan.

Regulation 22. Information to the public.

(1) It shall be the duty of a manufacturer who has control of an industrial activity to which this Part applies to ensure that persons outside the site who are likely to be in an area which, in the opinion of the Director General, is likely to be affected by a major accident occurring at the site, are supplied in an appropriate manner with at least the information specified in Schedule 3 without their having to request for it.

(2) Without prejudice to his duty under subregulation (1), the manufacturer shall endeavour to enter into an agreement with the local authority or port authority in whose area the industrial activity is situated for the local authority or port authority to disseminate the information specified in Schedule 3 to the persons concerned but the manufacturer shall remain responsible for the accuracy, completeness and form of the information supplied.

(3) The manufacturer shall ensure that the information supplied in accordance with subregulation (1) is updated and re-supplied at appropriate intervals.

(4) The manufacturer shall take all necessary steps to comply with subregulations (1) and (2) before commencing the industrial activity except that -

(a) in the case of an industrial activity which has already commenced before the commencement of these Regulations, it shall be a sufficient compliance if the manufacturer takes the necessary steps within six months after the commencement of the Regulations; or

(b) in the case of an industrial activity which has been determined as a major hazard installation by the Director General under paragraph 7(2)(a), it shall be a sufficient compliance if the manufacturer takes the necessary steps within six months from the date of the determination thereof.

PART V - NOTIFICATION OF MAJOR ACCIDENT

Regulation 23. Notification of major accident.

Where a major accident occurs on a site a manufacturer shall notify the nearest occupational safety and health office of the accident by the quickest means available and the manufacturer who makes the notification shall provide-

(a) the following information relating to the accident as soon as it becomes available:

(i) the circumstances of the accident;

(ii) the hazardous substances involved;

(iii) the date available for assessing the effects of the accident on persons and the environment; and

(iv) the emergency measures taken; and

(b) a statement of the steps envisaged to alleviate medium or long term effects of the accidents,

if any, and prevent the recurrence of such an accident.

PART VI - PENALTY

Regulation 24. Penalty.

(1) A manufacturer who commits an offence against any of the provisions of these Regulations for which no corresponding penalty is provided by the Act shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit or to a term of imprisonment not exceeding two years or to both.

(2) An employee who commits an offence against any of the provisions of these Regulations for which no corresponding penalty is provided by the Act shall, on conviction, be liable to a fine not exceeding one thousand ringgit or to a term of imprisonment not exceeding three months or to both.