# ISO 45001:2018 Lead Auditor Training

Understanding Legal Requirements and Compliance

Presented by:

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(Daman)

## Learning Outcomes

Understanding of the legal and regulatory requirement

requirement

Knowledge and skills necessary to conduct thorough and compliant audits

compliant audits

Legal
Requirements
and Compliance
topic in the
OSHMS Lead
Auditor Course

OSHMS Lead Auditor Course

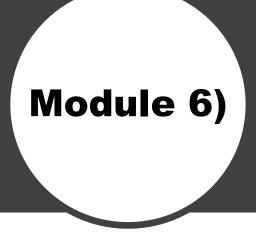
## **Training Expectation**

Understand the requirements of OSHA 1994, its amendment laws and related regulationes

Other relevant OSH-related laws understanding

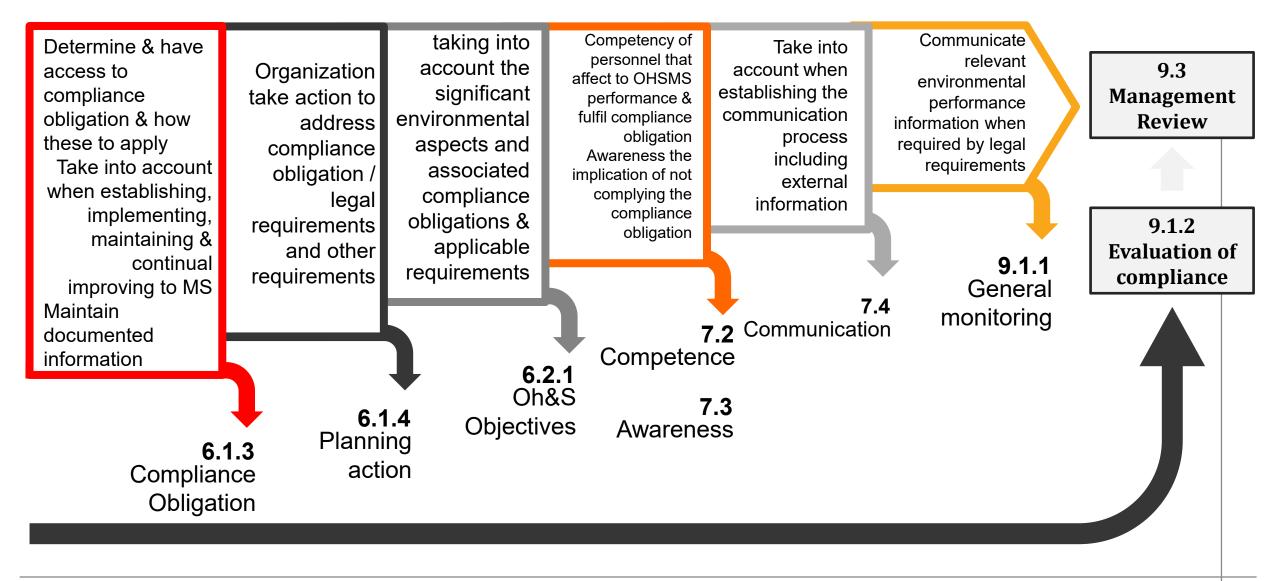
Ability to interpret the legal requirements and expectation for compliance

Able to audit on site as well as assess compliance based on the legal layers available for operations.



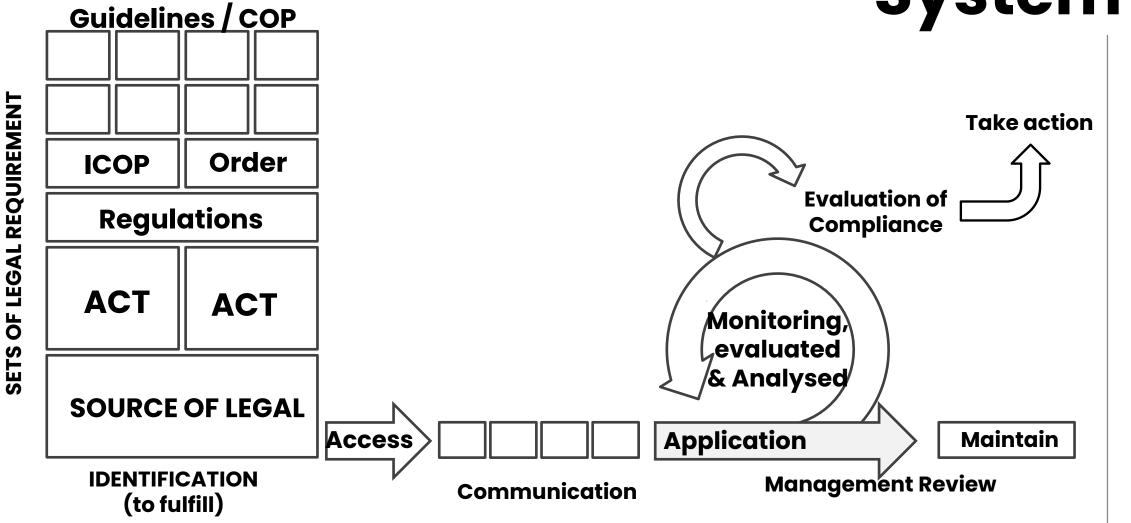
## Understanding Legal Requirements and Compliance

## Compliance Obligation & Legal Requirement

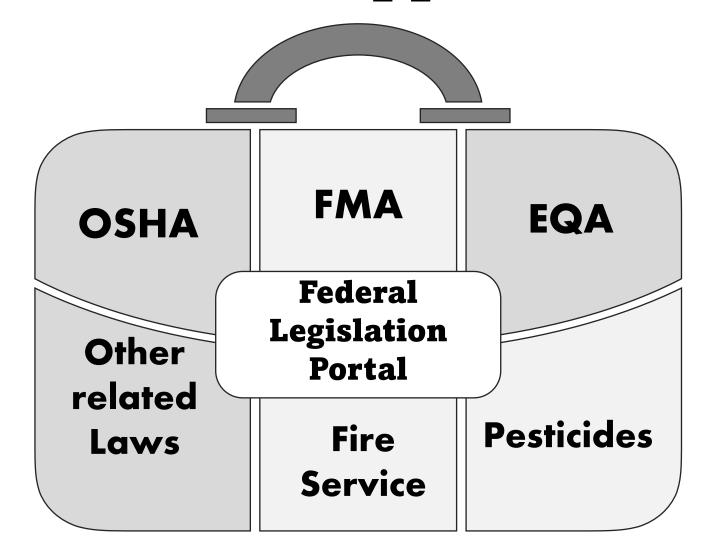




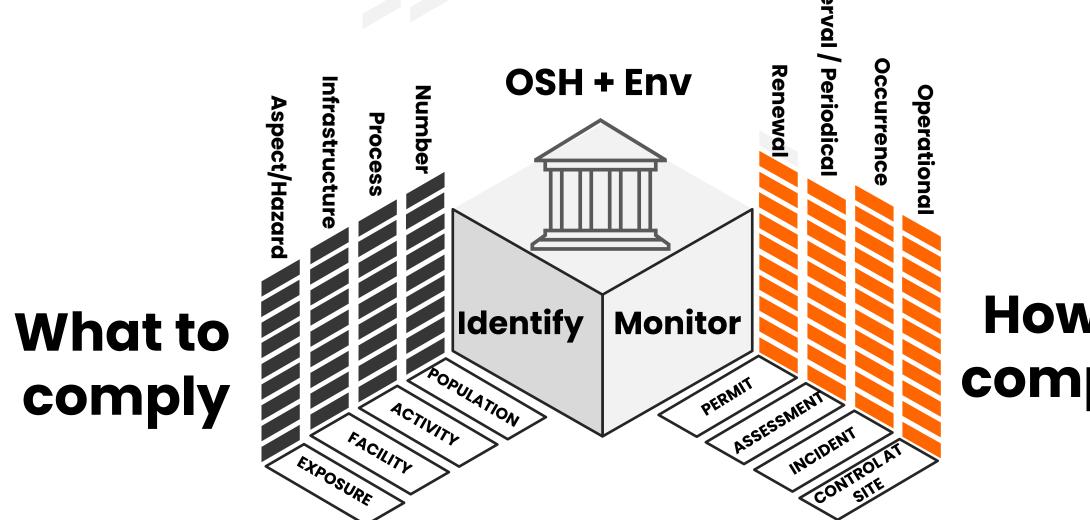
## Legal Requirement Management System



## Access to the Applicable Law



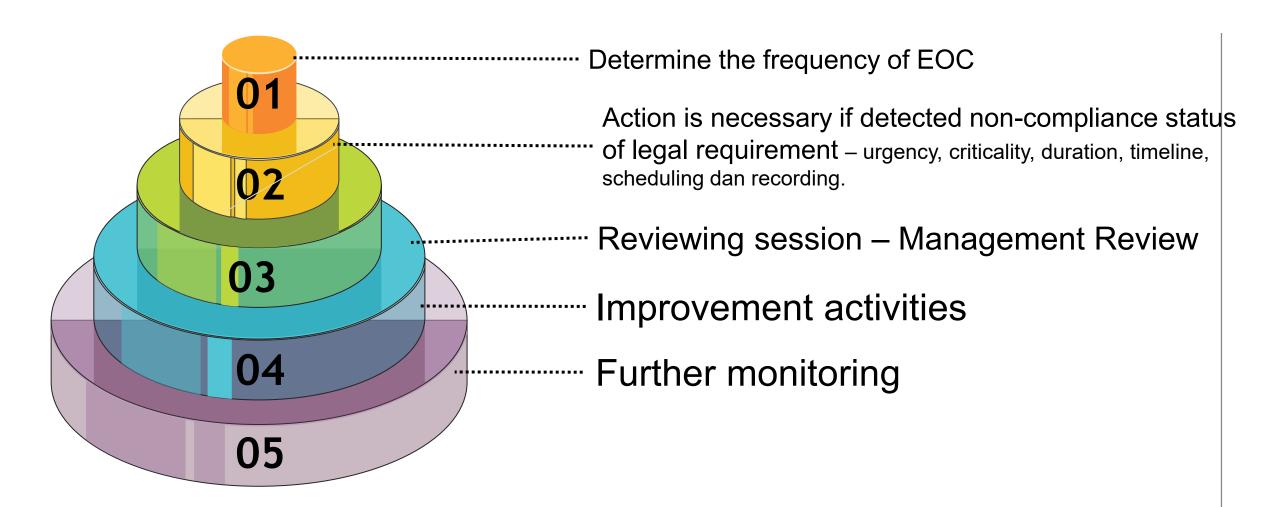
## Legal Identification & Monitoring

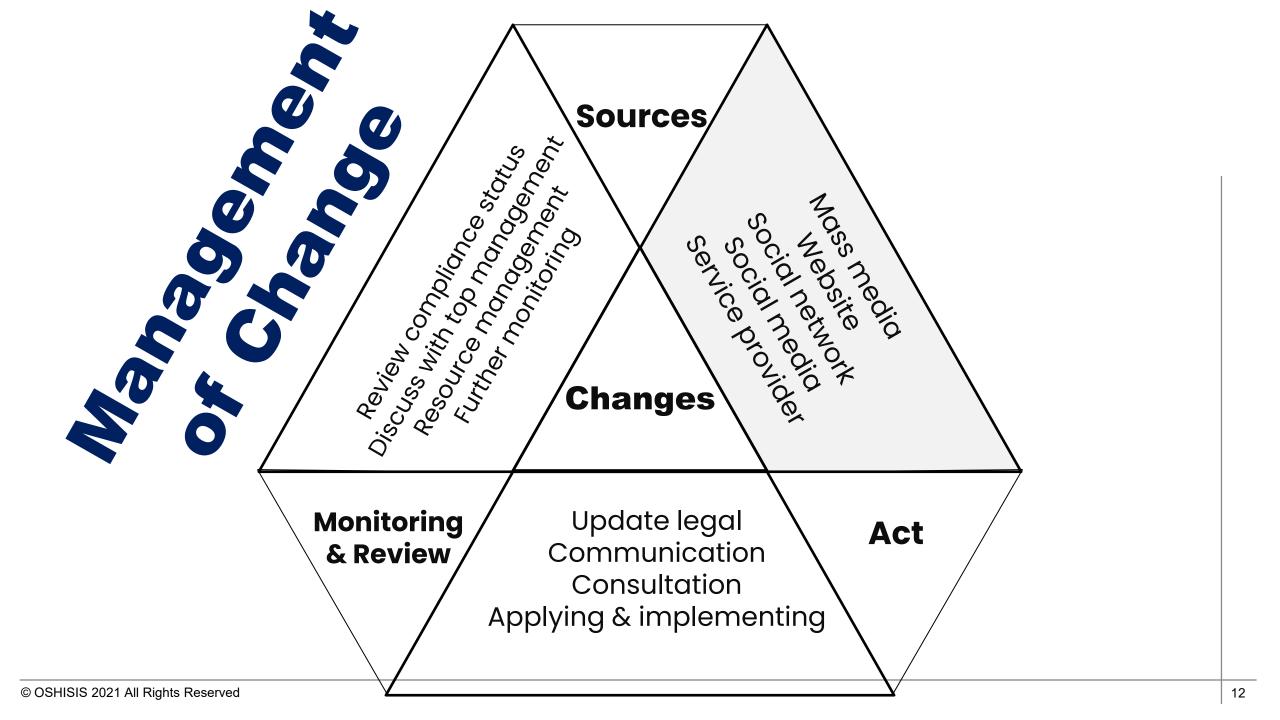


How to comply



## **Evaluation of Compliance**





## **OSHE LEGISLATION**

#### Contains Acts and Regulations:

- Enacted by the government
- Violations is a criminal offence
- Fine or prison sentence, or both
- Prosecution by government officials (Deputy Public Prosecutor) in Criminal Court

Common law allows judges to render decisions based on the rulings of earlier cases.

Common Law

OSHE Legislation

B

Results from decisions made by judges and civil court.

- Enable the injured parties to make claims against the responsible parties.
- Trial applications made by attorney appointed by the injured parties.
- Convicted compensations in the forms of money.

Statutory Law

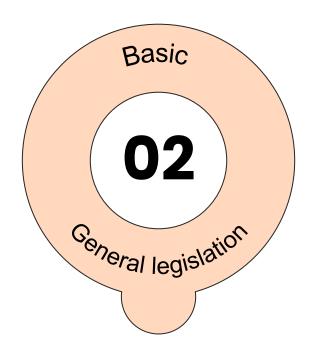
Statutory law refers to the written law established by the legislative branch of

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### LEGISLATION CATEGORY



- Minerals Enactment
- ❖ Atomic Energy Licencing Act 1984
- Pesticide Act 1974
- Petroleum Act (Safety) Measures) 1984



- Factory and Machineries Act 1967
- Occupational Safety and Health Act 1994

© OSHISIS 2021 All Rights Reserved Electrical Supply Act 1990

## Conclusions

Common Law

- **■**Law of TORT
- Results from decisions made by judges and civil court.
- ■Enable the injured parties to make claims against the



- Enacted and enforced by the government
- Conviction resulting fines or prison.

Statutory Law

# Gazette the Law

How Malaysian Law are Made?

The law was passed

**Assented by YDPA** 

Bill debated

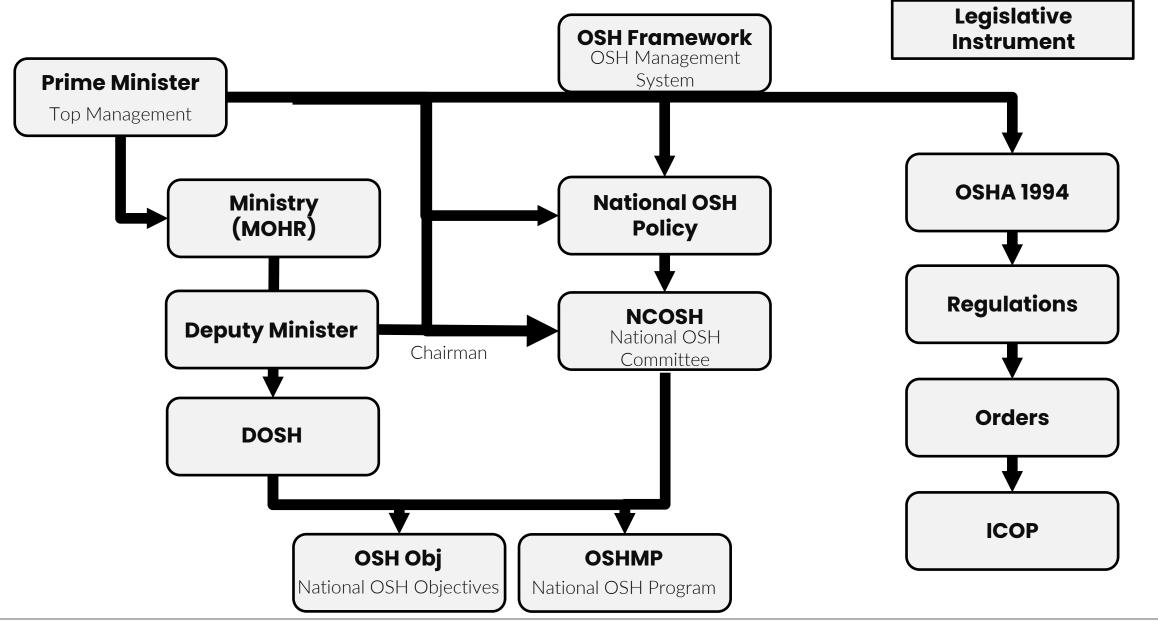
**Bill Reading in the House** 

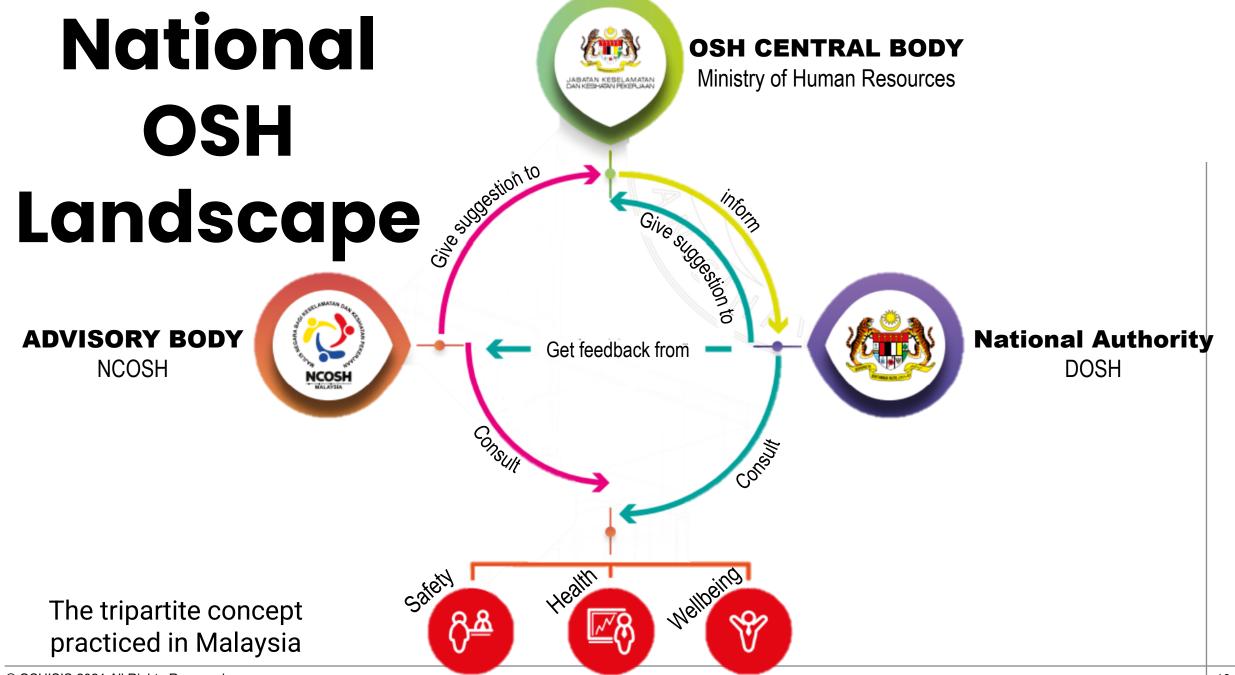
After the other Houses passed the Bill, it must then be presented to the Yang di-Pertuan Agong for his assent under the Article 66(3) of the Federal Constitution

- First Reading stage or as an introduction purpose
- several stages of 'Reading' in both Houses of Parliament
- Content of the Bill will be debated amongst the member of the House in 2<sup>nd</sup> stage of Reading
- 3<sup>rd</sup> Reading for technical discussion.

Bill is originated

## **National OSH Governance**









## NATIONAL OSH

STRAITS TIMES

Safety Policy

By Hashini Kavishtri Kannan - February 28, 2019 @ 9:46am

### POLICY

Trending a slap on the wrist for modifying motorcycle engines, exhaust pipes NATION The body of the last victim found in a



#### KENYATAAN DASAR KESELAMATAN DAN KESIHATAN PEKERJAAN NEGARA

Kerajaan Malaysia, melalui Majils Negara bagi Keselamatan dan Kesihatan Pekerjaan (MNKKP) dengan kerjasama pemegang taruh khususnya pertubuhan majikan dan kesatuan sekerja telah merangka dan newujudkan Dasar Keselamatan dan Kesihatan Pekerjaan (KKP) Negara.

Matlamat utama Dasar KKP Negara adalah untuk meningkatkan tahap keselamatan dan kesihatan pekerjaan menerusi pengurusan risiko yang mampan di tempat kerja dalam melindungi majikan dan pekerja di Malaysia disamping meningkatkan produktiviti dan daya saing negara.

kesihatan pekerjaan yang merupakan hak asasi pekerja diutamakan bagi mewujudkan persekitaran kerja yang selamat, sihat dan kondusif.

Justeru itu, kerajaan komited untuk:

**◎ ① · · ·** · ·

- Meningkatkan tahap KKP Negara melalul pelbagai kaedah serta pendekatan ke arah memantapkan Budaya Pencegahan di tempat keria:
- Mengawal selia dan menguatkuasakan perundangan KKP di tempat kerja;
- Meningkatkan penglibatan dan kerjasama agensi kerajaan, majikan, pekerja, persatuan dan kesatuan industri, pemegang taruh serta pihak berkepentingan melalui MNKKP sebagai badan 'tripartite' tertinggi negara untuk memantapkan pengurusan dan tadbir urus KKP negara;
- Memantapkan struktur institusi bagi perlaksanaan sistem bersepadu KKP di peringkat nasional yang merangkumi penetapan dasar, penyediaan piawaian, inspektorat KKP nasional serta institusi penyelidikan dan latihan;
- Memastikan majikan untuk menyediakan tempat kerja di bawah kawalannya mempunyai sistem kerja
- Memastikan pekerja memberikan perhatian bagi keselamatan dan kesihatan dirinya serta orang lain yang
- Memastikan pihak bertanggungjawab yang merekabentuk, mengilang, mengimport dan membekal produk, bahan dan peralatan bagi kegunaan di tempat kerja bagi memastikan produk yang dibekalkan adalah selamat dan tanpa risiko kesihatan berserta informasi yang tepat dan lengkap; dan
- Menjalin kolaborasi dan kerjasama untuk menangani isu KKP dengan negara luar dan organisasi

Dasar ini terpakai kepada semua tempat kerja, majikan dan pekerja yang tertakluk di bawah Akta Keselamatan dan Kesihatan Pekerjaan 1994 (Akta 514) dan perlu disemak semula secara berkala.

> PERDANA MENTER MALAYSIA (15 Januari 2019)

**DPM launches National Occupational Health and** 

Kerajaan Malaysia mengiktiraf pekerja sebagai aset terpenting negara dengan memastikan keselamatan dan

- Menyedia, menyemak dan mengemaskini profil KKP Negara untuk mendapat gambaran yang menyeluruh dan bagi tujuan penandaarasan:
- yang selamat dan sihat serta menjaga kebajikan pekerjanya semasa bekerja;
- mungkin terjejas oleh tindakan atau peninggalannya semasa bekerja;

KENYATAAN

#### DASAR KESELAMATAN & KESIHATAN PEKERJAAN NEGARA

Kerajaan Malaysia, melalui Majlis Negara bagi Keselamatan dan Kesihatan Pekerjaan (MNKKP) dengan kerjasama pemegang taruh khususnya pertubuhan majikan dan kesatuan sekerja telah merangka dan mewujudkan Dasar Keselamatan dan Kesihatan Pekerjaan (KKP) Negara.

Matlamat utama Dasar KKP Negara adalah untuk meningkatkan tahap keselamatan dan kesihatan pekerjaan menerusi pengurusan risiko yang mampan di tempat kerja dalam melindungi majikan dan pekerja di Malaysia di samping meningkatkan produktiviti dan daya saing negara.



(File pix) Deputy Prime Minister Datuk Seri Dr Wan Azizah Wan Ismail (standing, centre) at the launch of the National Occupational Health and Safety (OSH) Policy at Sepang, Selangor last night, Pix by NSTP/Mohd Fadli Hamzah

SEPANG: Deputy Prime Minister Datuk Seri Dr Wan Azizah Wan Ismail launched the National Occupational Health and Safety (OSH) Policy here, on Thursday night.

Approved by Cabinet and signed by Prime Minister Tun Dr Mahathir Mohamad on Jan 15, the new policy is part of the government's Occupational Safety and Health Master Plan 2016-2020, which was formulated to revolutionise the way the country's human resources are protected.

Dr Wan Azizah said the new policy will apply sustainable risk management at all workplaces to ensure a high level of occupational health and safety among employers and employees, while simultaneously boosting their productivity and competitiveness.

"It will no longer be just lip service. (With this new policy, the authorities) will take action against those



PERDANA MENTERI MALAYSIA

(15 Januari 2021)



### Convention No.187:

**Objectives** 

## C187: 3 mains Objectives

Article 2(1)

Promote continuous improvement of occupational safety and health to prevent occupational injuries, diseases and deaths.

Article 2 (2)

Achieving progressively a safe and healthy working environment through a national system and national programmes on OSH

Article 2 (3)

Periodically consider what measures could be taken to ratify relevant occupational safety and health Conventions of the ILO.







#### **Long Term OSH Milestone**

JABATAN KESELAMATAN

OSH Ownership

Self-Regulation

Preventive Culture

Inclusive OSH

#### SPBP

- Strategy 1: Develop OSH Policies, Legislation, Codes of Practice and Guidelines
- Strategy 2: Strategic and Effective Law Enforcement.
- Strategy 3: Increase OSH Awareness.

2005 - 2010

#### OSHMP 15

- Strategy 1 : Enhancing Government Leadership and Practice
- Strategy 2 : Enhancing Government Leadership and Practice
- Strategy 3: Industry Leadership and Business Community Involvement.
- Strategy 4 : Strong Local and International Cooperation

2011 - 2015

#### OSHMP 20

- Strategy 1 : Government Leadership
- Strategy 2 : Empowering OSH Management at the Workplace
- Strategy 3 : OSH partnerships and networks
- Strategy 4: Mainstreaming of Industrial Hygiene
- Strategi 5 : OSH strategic alliance on OSH Locally and Internationally.

#### OSHMP 25

- Strategy 1 : OSH
   Empowerment In Public Sector
- Strategy 2 : Strengthening Self-regulation Practice in The Workplace.
- Strategy 3: Promotion of OSH Education & Research.
- Strategy 4 : Empowerment Of Occupational Health.
- Strategy 5: Improving OSH Compliance in The SME Sector.
- Strategy 6 : Strengthening Osh Through Technology
- Strategy 7: Improvement of Work Related to Roads (WRRS), Informal Sector and Future Jobs.

2016 - 2020

2021 - 2025

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HALAMAN UTAMA



RINGKASAN STATISTIK





KLASIFIKASI INDUSTRI



PERINCIAN KECEDERAAN



PENYAKIT PEKERJAAN





## DASHBOARD

STATISTIK KECEDERAAN DAN PENYAKIT PEKERJAAN 2023

### **OSHMP** 2025 Lagging **Indicator**



#### **DEATH** RATE

To reduce the occupational death rate to 2.93 deaths for every 100,000 employees in 2025.



#### **ACCIDENT** RATE

To reduce the occupational accident rate to 2.13 accidents for every 1,000 employees in 2025.



#### DISEASE REPORTING

Increase in occupational diseases and poisoning reporting as much as 30% in 2025.

#### 2019 Occupational Accident Rate

#### **Benchmark**



5.36\*\*

5.09















3.83



2.20

1.56

Figure 2: Countries that posed the benchmarks for occupational accident rate as of 20194

Accident rate (per 1,000 employees)



\*\* Data as of 2018

#### **OSHMP 2025 Leading Indicator**

#### KPI<sub>1</sub>

#### **OSH LEADING INDICATOR**

85% of the workplace audited achieved satisfactory OSH levels.

#### KPI 2

#### **EMPLOYER SELF-ASSESSMENT ON THE IMPLEMENTATION OF OSH CORE PROGRAMME**

90% of the workplace which made annual self-assessment declarations have implemented the OSH core program.

#### KPI3

#### **EMPLOYEES AND** COMMUNITY **ENGAGEMENT**

Increase of 20% of OSH NGO perception index towards the level of OSH enculturation in the organization.







#### STATISTIK KEMALANGAN PEKERJAAN NEGARA 2021



Suku Tahun (Q1 - Q4 2021)

Jumlah Kecederaan Pekerjaan Tahunan







Jumlah Po \*termasuk ekspatriat dan p

Jumlah Ke

Kadar Ke

21.233

Jumlah Kecederaan Bukan Maut Pekerjaan

1.41

Kadar Kecederaan Bukan Maut Pekerjaan setiap 1,000 pekerja

STATISTIK KEMALANGAN **PEKERJAAN NEGARA 2022** 

#### **KECEDERAAN PEKERJAAN (2004 - 2022)**

Suku Tahun (Q1 - Q4 2022)

Jumlah Kecederaan Pekerjaan Tahunan

Otr 1

Qtr 2

Otr 3

Otr 4





15,391,700

#### Jumlah Pekerja di Malaysia

\*termasuk ekspatriat dan pekerja asing yang berkemahira

34.216

Jumlah Kecederaan Pekeriaan

2.22

Kadar Kecederaan Pekeriaan

setiap 1,000 pekerja

33.899

Jumlah Kecederaan Bukan Maut Pekerjaan

Jumlah

2.20

Kadar Kecederaan Bukan Maut Pekeriaan

setiap 1,000 pekerja

#### STATISTIK KECEDERAAN **PEKERJAAN NEGARA 2023**

15,813,368

#### Jumlah Pekerja di Malaysia

\*termasuk ekspatriat dan pekerja asing yang berkemahiran rendah

38.950

Jumlah Kecederaan Pekerjaan

2.46

Kadar Kecederaan Pekerjaan setiap 1,000 pekerja

Jumlah Kecederaan Maut Pekerjaan

324

Pekerjaan 2.44

setiap 1,000 pekerja

Kadar Kecederaan Bukan Maut Pekerjaan

Kadar Kecederaan Maut Pekerjaan setiap 100,000 pekerja

2.05

## Suku Tahun (Q1 - Q4 2023) Jumlah Kecederaan Pekerjaan Tahunan 174.6

**KECEDERAAN PEKERJAAN (2005 - 2023)** 

#### **KECEDERAAN MAUT PEKERJAAN (2005 - 2023)**

Jumlah Kecederaan Pekerjaan - Kadar Kecederaan Pekerjaan



\*Nota: Nilai kadar pada tahun 2020-2022 disemak semula berdasarkan anggaran data penduduk semasa daripada Banci Penduduk dan Perumahan 2020

Kadar Keced

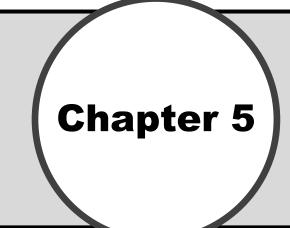
38,626 Jumlah Kecederaan Bukan Maut

#### Fatality Rate (Target ≤ 2.93 Deaths / 100 000 Workers By 2025)

Year	Actual rate	Gap to target	Direction vs previous year
2021	2.00	-0.93 (better)	_
2022	2.06	-0.87 (better)	<b>▲</b> (+0.06)
2023	2.05	-0.88 (better)	<b>▼</b> (-0.01)

#### Accident Rate (target ≤ 2.13 accidents / 1 000 workers by 2025)

Year	Actual rate	Gap to target	Direction vs
			previous year
2021	1.43	-0.70 (better)	
2022	2.22	+0.09 (worse)	<b>▲</b> (+0.79)
2023	2.46	+0.33 (worse)	<b>▲</b> (+0.24)

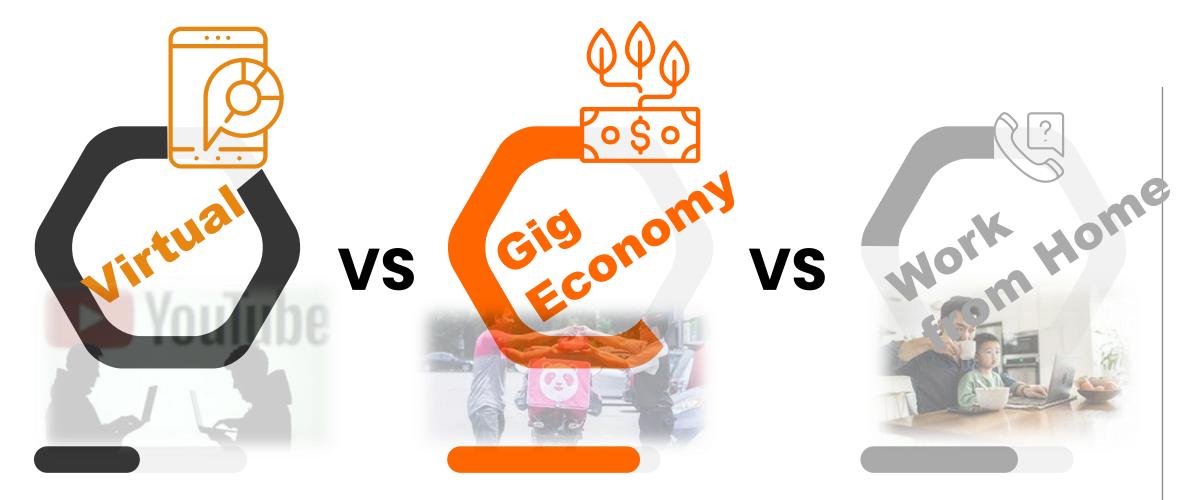


## Acts and Regulations - OSH

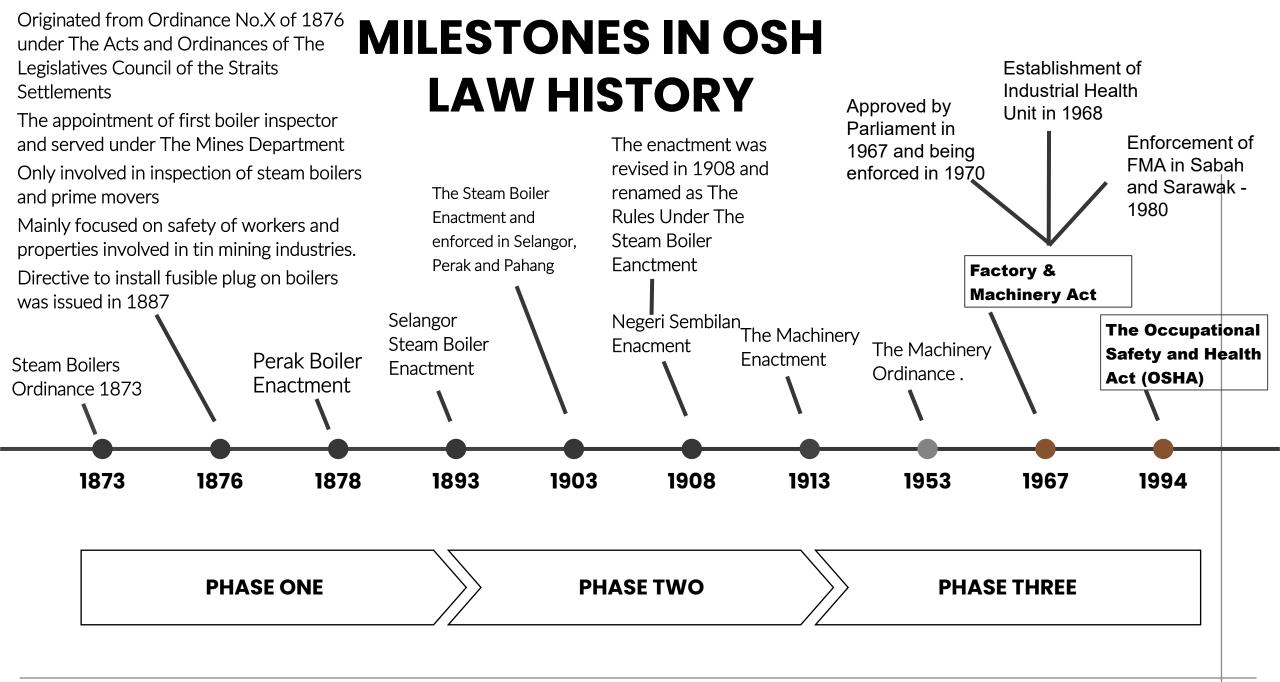


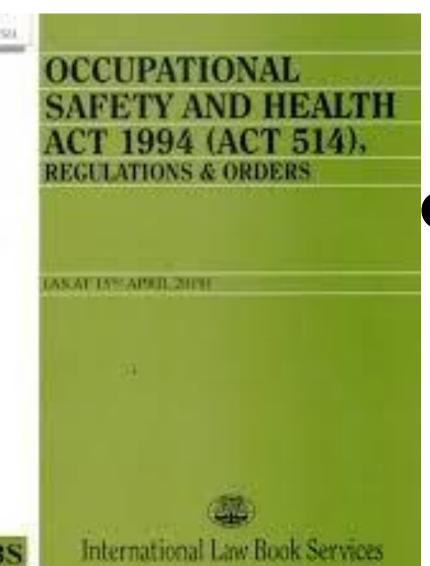


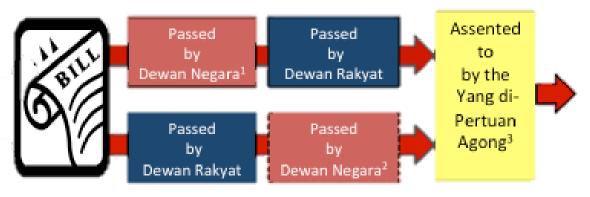
## **Current Business Trend**



Occupational Safety + Occupational Health + Occupational Hygiene + Wellbeing

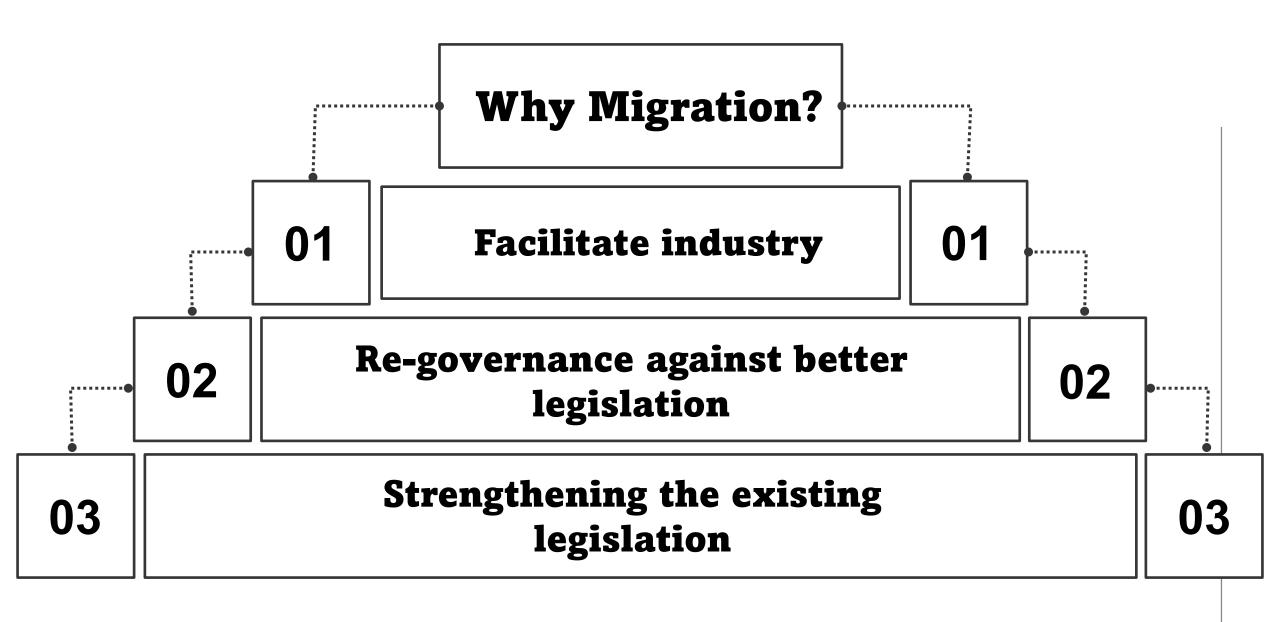






# Occupational Safety And Health (Amendment) Act 2022

Factories and Machinery (Repeal) Act 2022 on 16 March 2022



## **OSHA 1994 Legal Standing**

#### Act

- General rule
  - Assented by Yang di-Pertuan Agong
  - Endorsed by parliament

#### Regulation

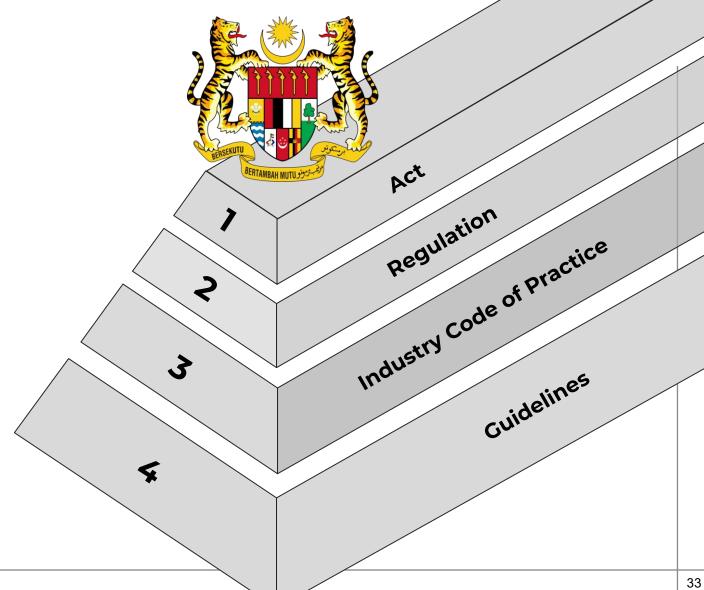
- Details of act
- Endorsed by minister

#### **ICOP**

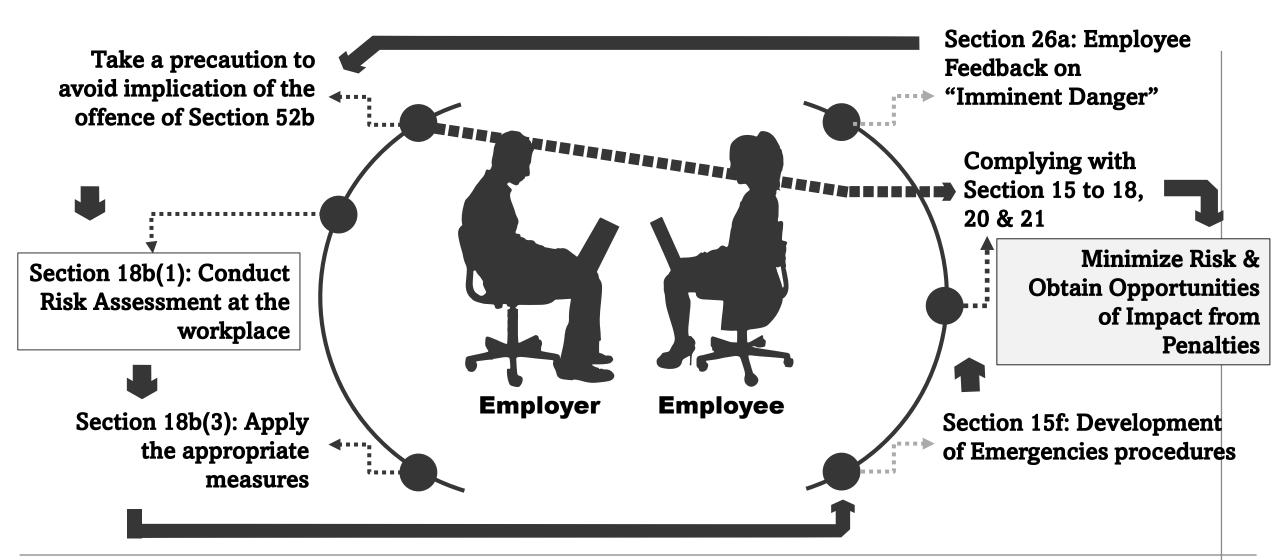
- Any code, standard, rule,
- Specification related to OSH
- Approved by minister

#### **Guidelines**

- technical advisory document by national commission
- Detailed information
- No legal standing



## Interaction of clauses to comply OSHA Amendment 2022







OSHA (AMENDMENT) 2022 AND FMA (REPEAL) 2022

#### PRESENTATION OUTLINES

- 1. INTRODUCTION
- 2. REPEALING OF FMA, WHAT'S THE IMPACT TO THE INDUSTRY?
- 3. AMENDMENT OF OSHA, WHAT'S THE IMPACT TO THE INDUSTRY?
- 4. ENFORCEMENT DATE OF OSHA (AMENDMENT) 2022 & FMA (REPEAL) 2022

### 1. INTRODUCTION

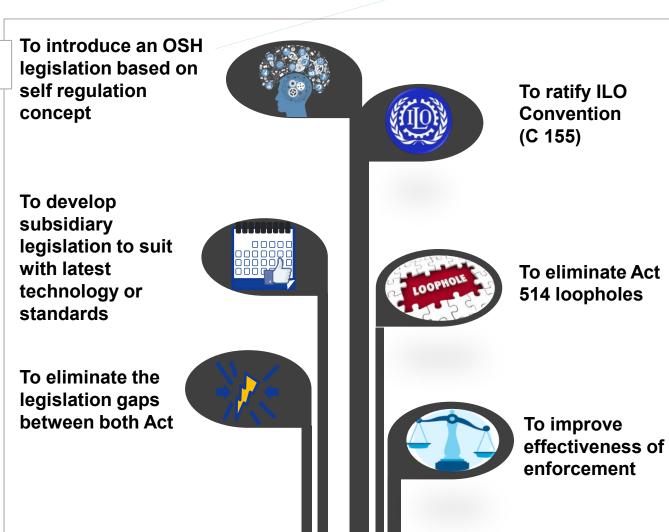


#### **OBEJCTIVES OF AMENDMENT OF OSHA & REPEAL OF FMA**

#### Factories and Machinery Act 1967 [Act 139]

An Act to provide for the control of factories related to:

- Safety, Health & Welfare of the person in the factories;
- Registration & inspection of machineries;
- Matters connected with factories & machineries;
- Prescriptive in philosophy or concept.



#### Occupational Safety & Health Act 1994 [Act 514]

An Act for controlling the safety & health risk in connection with or arising from the activities of persons at work related to:

- Ensuring the safety, health & welfare of persons at work;
- Protecting persons other than employees from the safety & health risk;
- To promote an occupational environment for persons at work which is adapted to their physiological psychological needs;
- To provide the means for progressive maintenance & improvement of safety & health standards;
- Self regulation concept.

#### **CHRONOLOGY OF THE DEVELOPMENT OF OSHA (AMENDMENT) 2022**



**PUBLIC DIALOGUE** 

Dialogue session to gather input from stakeholders (Employers, Employees, Academician, NGOs & OSH Practitioners)



**DRAFTING** 

**PUBLIC COMMENTS** 



**CABINET APPROVAL** 



**PARLIAMENT** 

**GAZETTE** 

May 2011

2011 - 2015

Drafting the bill.

DOSH internal policy review meeting.

2017 - 2019

Review draft by AGC

May 2015

Public comments on the first draft

Aug 2015

Presentation to NCOSH

Jan 2019

Presentation to National Labour Advisory Council (NLAC)

Sept 2020

Circulation of Memorandum Jemaah Menteri (MJM) to Ministries / Agencies

Oct 2020

The proposed bill received Cabinet approval

Nov 2020

1st reading in Dewan Rakyat (2<sup>nd</sup> Nov 2020).

Oct 2021

2<sup>nd</sup> reading & approval by Dewan Rakyat. (28/10/2021)

Dec 2021

2<sup>nd</sup> reading & approval in Dewan Negara.

2022

Occupation Safety and Health Act (Amendment) 2022 & Factories and Machinery Act (Repeal) 2022 gazetted (16th March 2022).

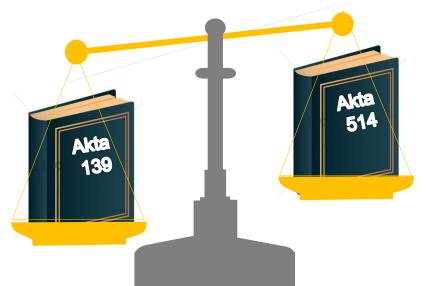
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#### **ACT 139 AND ACT 514**

#### Factories and Machinery Act 1967 [Act 139]

- 55 years and amended thrice in 1973,
  1978 & 2006
- 70 Sections and 3 Schedules
- 13 Regulations
- 6 orders

FMA (Repeal) 2022
Whole Acts and Regulations
will be repealed



#### Occupational Safety and Health Act 1994

#### [Act 514]

- 28 years and never amended.
- 67 Sections and 3 Schedules
- 8 Regulations
- 2 Orders

Existing OSHA	OSHA (Amendment) 2022		
	Deleted	Amended	Added
67 Sections 3 Schedules	2 Sections	35 Sections	27 Sections 2 Schedules
	Total : 92 Sections and 5 Schedules		

# 2. REPEALING OF FMA, WHAT'S THE IMPACT TO THE INDUSTRY?



# FACTORIES AND MACHINERY (REPEAL) ACT 2022

- What will happen to the action made under the FMA 1967 [Act 139]?
- What will happen to the pending application under the FMA 1967 [Act 139]?
- What will happen to the legal proceeding started under the FMA 1967 [Act 139]?

#### LAWS OF MALAYSIA

**Act 835** 

FACTORIES AND MACHINERY (REPEAL) ACT 2022

ARRANGEMENT OF SECTIONS

#### Section

- Short title and commencement
- 2. Interpretation
- 3. Repeal of the Factories and Machinery Act 1967
- 4. Action, etc., made under repealed Act
- 5. Pending application, etc.
- 6. Continuation of legal proceeding, etc.



# What will happen to the action made under the FMA 1967 [Act 139]?

#### 1. Section 4(1)

Any registration, order, notice, direction, written authority, approval, certificate of fitness, Special Scheme Inspection or certificate of competency will be dealt under the OSHA 1994 [Act 514].

New Regulations under OSHA will prescribe what happen to each action. I.E. Certificate of fitness (CF) for machineries to remain valid until expiry date on the CF.

#### 2. Section 4(2)

Notice form JKJ 110 (Subsection 19(2) or Notice form JKJ 26 (Subsection 39(3) & 40(4)) will be dealt under the FMA 1967 until its revocation.



# What will happen to the pending application under the FMA 1967 [Act 139]?

## Dealt under FMA 1967 [Act 139] until completion

#### Section 5(a)

Application of certificate of competency (CoC) or written authority under subsection 29(2) Act 139

#### Section 5(b)

Application of written permission in relation to the use of any premises as a factory under subsection 34(2) Act 139

#### Section 5(c)

Application for a written approval in relation to installation of machinery under subsection 36(1) Act 139



#### Section 5(d)

Initial inspection under subsection 36(3) Act 139

#### Section 5(e)

Pending appeal under subsection 36(6) Act 139

#### Section 5(f)

Periodical inspection under section 40 Act 139

#### Section 5(g)

Application for approval in relation to a special scheme of inspection under subsection 40(5) Act 139



# What will happen to the legal proceeding started under the FMA 1967 [Act 139]?

Section 6: Any pending legal proceeding started before coming into operation the FMA (Repeal) 2022, may be instituted, continued or enforced under the FMA 1967 [Act 139]

Any investigation, compounds and prosecution shall be continued under the FMA 1967 [Act 139] until completion.







#### PROVISIONS UNDER FMA 1967 MIGRATED INTO THE OSHA (AMENDMENT) 2022

Installation of machinery
Inspection of machinery

Certificate of fitness for machinery

Special Scheme Inspection (SSI)

Notice of occupation place of work

Licensed person

Director General Special Order

## 3. AMENDMENT OF OSHA, WHAT'S THE IMPACT TO THE INDUSTRY?



#### SALIENT PROVISIONS IN OSHA (AMENDMENT) 2022

1. Application 2. Risk assessment 3. Duties of principal 4. Rights of employee 5. Occupational health services 6. OSH Coordinator

7. OSH Training 8. Machinery Integrity 9. Licensed person 10. Regulate OSH **Practitioners** 11. Empower NCOSH 12. Increasing the penalty

1

#### **Application**



Apply to all place of work **except**:

- Domestic servant
- Armed forces (ATM)
- Work on board ships

#### **Amendment**;

S1(2) Subject to subsection (3), this Act shall apply to all places of work throughout Malaysia including in the public services and statutory authorities.

S1(3) Nothing in this Act shall apply to the work specified in the **First Schedule**.

"FIRST SCHEDULE [Subsection 1(3)] Non-application

- 1. Domestic employment in relation to a person who employs another, or is employed, as a domestic servant within the meaning of the Employment Act 1955 [Act 265]
- 2. Armed forces
- 3. Work on board ships governed by the Merchant Shipping Ordinance 1952 [Ord. No. 70 of 1952], the Sabah Merchant Shipping Ordinance 1960 [Ord. No. 11 of 1960] or the Sarawak Merchant Shipping Ordinance 1960 [Ord. No. 2 of 1960]".

 $\langle$  2  $\rangle$ 

#### Risk Assessment

Specific provision imposes the duty to employer, self-employed person or principal to conduct risk assessment and implement risk control at the place of work.

- Hazard Identification
- Risk Analysis / Risk Evaluating
- Risk Control



#### **Duty to conduct and implement risk assessment**

**18B.** (1) Every employer, self-employed person or principal **shall conduct a risk assessment** in relation to the safety and health risk posed to any person who may be affected by his undertaking at the place of work.

- (2) Where a risk assessment indicates that risk control is required to eliminate or reduce the safety and health risk, the employer, self-employed person or principal **shall implement such control**.
- (3) For the purposes of this section, "**risk assessment**" **means** the process of evaluating the risks to safety and health arising from hazards at work and determining the appropriate measures for risk control.

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3

#### **Duties of principal**

Imposes duties to the "principal".

 Explain the duties of the developer/owner towards his contractors or sub-contractors, employees etc.



To ensure, issues related to OSH is foreseen and taken into consideration at the initial planning and design stage.

**18A.** (1) It shall be the **duty of every principal** to take, so far as is practicable, such measures as are necessary to ensure the safety and health of—

- (a) any contractor engaged by the principal when at work;
- (b) any subcontractor or indirect subcontractor when at work; and
- (c) any employee employed by such contractor or subcontractor when at work.

(2) The duty imposed on the principal in subsection (1) **shall** only apply where the contractor, subcontractor or employee referred to in that subsection is working under the direction of the principal as to the manner in which the work is carried out.

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#### **Rights of employees**



Improve the rights of employee conforming to the Article 13, ILO C155

 Employees' right to remove themselves from the place of work if there are imminent danger that could risk their safety and health.

- 26A. (1) An employee, after informing his employer or his representative that he has reasonable justification to believe there exist an imminent danger at his place of work, shall have the right to remove himself from the danger or the work if the employer fails to take any action to remove the danger.
- (2) An employee who removes himself from the danger in accordance with subsection (1) shall be protected against undue consequences and shall not be discriminated against.

For the purposes of this section, "imminent danger" means a serious risk of death or serious bodily injury to any person that is caused by any plant, substance, condition, activity, process, practice, procedure or place of work hazard.

#### 5

#### Occupational Health Services

- The provision of services for the protection of employee health while working
- Promotion of occupational health and well-being at the place of work;
- Prevention of occupational disease and occupational poisoning.



#### **Occupational Health Services**

- 28. (1) Where it appears to the Minister that in any of the <u>place of work</u> or class or description of <u>place of work</u>
  - (a) cases of illness have occurred which he has reason to believe may be due to the nature of the process or other conditions of work;
  - (b) by reason of changes in any process or in the substance used in any process or, by reason of the introduction of any new process or new substance for use in a process, there may be risk of <u>adverse effect</u> to the health of persons employed in the process; or
  - (d) there may be risk of <u>adverse effect</u> to the health of persons employed in any of the occupations specified in the Third Schedule, or from any substance or material brought to the <u>place of work</u> to be used or handled therein or from any change in the conditions in the <u>place of work</u>,

he may make regulations requiring such arrangements for the occupational health service.

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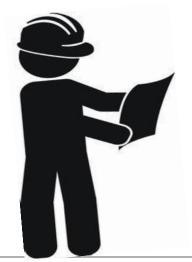
#### **Appointment of OSH-C**

The need to appoint an employee to act as an Occupational Safety and Health Coordinator (OSH-C).

 To assist employers in coordinating OSH legislation and OSH programs in the place of work.

#### NEW SECTION 29A: OCCUPATIONAL SAFETY AND HEALTH COORDINATOR

29A (1) An employer whose place of work is NOT included in any class or description of place of work as published in the Gazette under subsection 29(1) shall appoint one of his employees to act as an occupational safety and health coordinator if he employs five or more employees at his place of work.



Employers who have appointed a Safety and Health Officer (SHO) even though the workplace is not included in the SHO Order under S.29, **do not need** to appoint OSH-C

#### AMMENDMENT SECTION 29: SAFETY AND HEALTH OFFICER (SHO)

Act 514 (BEFORE AMENDMENT)	Act 514 (AFTER AMENDMENT)	
Safety and Health Officer	Safety and Health Officer	
<b>s.29</b> . (1) This section shall apply to such class or description of <b>industries</b> as the Minister may, by order published in the Gazette, specify.	<b>s.29</b> . <b>(1)</b> (1) This section shall apply to such class or description of <b>place of work</b> as the Minister may, by order published in the Gazette, specify.	
(2) An occupier of a place of work to which this section applies shall <b>employ a competent person</b> to act as a safety and health officer at the place of work.	(2) An occupier of a place of work to which this section applies shall <b>appoint a person who is competent</b> to act as a safety and health officer at the place of work.	
S.29(4) to replace	S.29 (4) A person shall be appointed as a safety and health officer only for one place of work at any one time unless permitted otherwise by the Director General;	



#### **OSH Training**

The needs for certain "class or description of persons" to attend prescribed OSH training.

 Ensure those prescribed employees gain enough exposure and knowledge before performing work activities.



#### **NEW SECTION 31A:**

Occupational Safety and Health Training Courses.

- (1) The **Minister** may, **by order** published in the Gazette, require any **class or description of persons to attend an occupational safety and health training course** as specified in the order that is conducted by a **registered training provider**.
- (2) The **employer** of any person required to attend any training course under subsection (1) **shall ensure** that **the person has completed such training course before allowing that person to perform any work for which the training is required.**

**Director General** may, issue **instructions** to the prescribed employees **attending the refresher course**.

8

#### **Machinery Integrity**

Incorporate management elements of machinery integrity, machinery inspection, Certificate of Fitness and Special Scheme of Inspection



9

#### **Licensed Person (OBL)**

Provision to enable Licensed Persons to be appointed to carry out plant inspections and issue Certificates of Fitness.

Improving plant management by industry.
 Address the issue of machinery inspection backlog

Part VIA: Notification of Occupation of Place of Work, Installation and Inspection of Plant, Etc.

#### NOTICE OF OCCUPATION OF PLACE OF WORK

Periodical Inspections of factory is abolished

## PRESCRIPTION OF PLANT REQUIRING CERTIFICATE OF FITNESS

INSTALLATION OF PLANT
CERTIFICATE OF FITNESS
PERIODICAL INSPECTION OF PLANT

To be stipulated in the Certificated Machinery Regulations which is being drafted.

#### SPECIAL SCHEME OF INSPECTION

Regulations related to Special of Scheme Inspection is maintained and improved

SPECIAL ORDERS OF DIRECTOR GENERAL

Part VIIA. COMPETENT PERSON AND REGISTERED TRAINING PROVIDER.

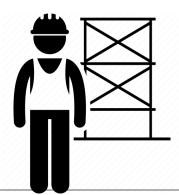
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#### **OSH Practitioner**

Registration, monitoring and accountability of OSH practitioners (Competent Persons, Training Providers, Competent Firms) are standardized under the legislation.

 To increase the commitment and level of professionalism of OSH practitioners.







#### Application of registration

Renewal of registration

Validity of registration

Cancellation of registration

#### FIFTH SCHEDULE

[Paragraph 31B(1)(a)]

#### Activities

- to fabricate, install, erect, dismantle, test, inspect, maintain, repair or service any plant or engineering control equipment
- to operate, handle or be in charge of any plant
- to carry out medical surveillance and health examination
- to conduct chemical health risk assessment for any chemical that is hazardous to health
- to conduct indoor air quality assessment
- to monitor or test work environment, plant or place of work including chemical exposure monitoring, noise monitoring and audio metric testing
- to conduct any occupational safety and health training, assessment or examination".

#### Purpose of provisions:

To regulate competent person and registered training provider and take legal action if fails to carry out their duties.

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#### **Empowering NCOSH**

Improving the effectiveness of NCOSH

- Maximum membership of 25 people (government, employers, employees, NGOs, academics and professionals)
- Inline with the complexity industrial development..



Representative	Existing Act 514 (members)	Amendment Act 514 (members)
Employers	3 (organizations that represent employers	5 (organizations that represent employers)
Employees	3 (organizations that represent employees)	5 (organizations that represent employees)
government	≥ 3	5 (include DG of MOH & representative of the Ministry or Department)
Organisation / Profesional Body	≥ 3 including 1 woman	≥ 3 including 1 woman
Agency under MOHR	Non-member(observer)	KSU KSM, DG JKKP, ED NIOSH, KE PERKESO
Total	12 < member< 15 (include Chairman and Deputy Chairman)	22 < member< 25 (include Chairman, Deputy Chairman and Secretary)

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#### Increasing the penalty - deterrent

	Existing	Amendment Act 514
General penalty	RM10K	RM100K
	-	Imprisonment : 1 year
Employers, Principal, etc. duties.	RM 50K	RM 500K
	Imprisonment : 2 years	Imprisonment : 2 years
Employees duties	RM 1K	RM 2K
	Imprisonment : 3 months	Imprisonment: 3 months
Competent Person	-	RM 100K
	RM 50K	RM 500K
Failure to comply with	Imprisonment : 5 years	Imprisonment: 2 years
Notice	Further fine for each day offence continues - RM 500	Further fine for each day offence continues – RM 2K





#### Comparison

- Other local Acts (i.e: Act 127, Act 520) which introduce same concept of legislations imposed maximum penalty of RM 500K.
- Other countries OSH Act impose high amount of penalty.

#### LIST OF SUBSIDIARY LEGISLATIONS

No	Subsidiary Regulations
1	OSH Construction Industry Management Regulations - OSHCIM
2	Risk Management Regulations – RM & ICOP RM
3	Safety and Health Officer Regulations - SHO & SHO Orders
4	Safety, Health and Welfare Regulations - <b>SHW</b>
5	Certificated Machinery Regulations
6	Special Scheme Inspection Regulations - SSI
7	Working at Height Regulations - WAH
8	Exemption for Certificated Machinery Order
9	Class or description of persons to attend OSH Training Order S 2021 All Rights Reserved

No	Subsidiary Regulations	
10	Provision and Use of Work Equipment Regulations - PUWER	
11	Lifting Operation and Lifting Equipment Regulations – LOLER	
12	Use and Standards of Exposure of Chemicals Hazardo to Health Regulations ( <b>USECHH</b> )	ıs
13	Control of Industrial Major Accident Hazards Regulation (CIMAH)	S
14	Notification of Accident, Dangerous Occurrence, Occupational Poisoning and Occupational Disease Regulations (NADOPOD)	
15	Classification, Labelling and Safety Data Sheet of Hazardous Chemicals Regulations ( <b>CLASS</b> )	
16	Safety and Health Committee Regulations (SHC)	
17	Personal Protective Equipment Regulations (PPE)	
18	Prohibition of Use of Substances Order	61

# 4. ENFORCEMENT DATE OF OSHA (AMENDMENT) 2022 & FMA (REPEAL) 2022



#### FORCE?

#### **OSHA (AMENDMENT) [Act A1648]**

#### LAWS OF MALAYSIA

#### **Act A1648**

#### OCCUPATIONAL SAFETY AND HEALTH (AMENDMENT) ACT 2022

An Act to amend the Occupational Safety and Health Act 1994.

[

**ENACTED** by the Parliament of Malaysia as follows:

#### Short title and commencement

- **1.** (1) This Act may be cited as the Occupational Safety and Health (Amendment) Act 2022.
- (2) This Act comes into operation on a date to be appointed by the Minister by notification in the *Gazette*.

#### FMA (REPEAL) [Act 835]

#### LAWS OF MALAYSIA

#### Act 835

#### FACTORIES AND MACHINERY (REPEAL) ACT 2022

An Act to repeal the Factories and Machinery Act 1967.

**ENACTED** by the Parliament of Malaysia as follows:

#### Short title and commencement

- **1.** (1) This Act may be cited as the Factories and Machinery (Repeal) Act 2022.
- (2) This Act comes into operation on a date to be appointed by the Minister by notification in the *Gazette*.

# ENFORCEMENT DATE OF OSHA (AMENDMENT) 2022 & FMA (REPEAL) 2022

- ➤ Amendment of OSHA and Repeal of FMA will be enforce together on the same date.
- ➤ The enforcement date also will take into consideration the readiness of **new subsidiary legislations** in substituting Regulations repealed under FMA.
- Readiness of MyKKP online service system.
- Expected enforcement date will be in June 2023.

The announcement of the enforcement date will be published through Gazette.

"chemicals hazardous to health" means any chemical or preparation which

- is listed in Schedule I or II of the Regulations;
- possesses any of the properties in Part B of Schedule I of the OS&H (CPL) Regulations 1997;
- comes within the definition of "pesticide" under the Pesticides Act 1974; or
- is listed in the First Schedule of the EQ (Scheduled Wastes) Regulations 1989.



Apply to all places of work except chemicals which are

- defined as radioactive materials under the Atomic Energy Licensing Act 1984;
- foodstuffs;
- hazardous to health solely by virtue of their explosive or flammable properties, or solely because they are at a high or low temperature or a high pressure; and
- pharmaceutical products.

# (Use and Standards of Exposure of Chemicals Hazardous to Health) Regulations 2000

Exclusion of work activity

- for "monitoring of exposure at the place of work" (regulation 26), shall not extend to nonemployees unless those persons are on the premises and carrying out work for the employer; and
- for "health surveillance programme" (regulation 27), shall not extend to non-employees.



# (Notification of Accident, Dangerous Occurrence, Occupational Poisoning and Occupational Disease) Regulations 2004

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- Compliance with these regulations shall be deem to have complied with the provisions of:
  - regulation 13 of the Petroleum (Safety Measures) (Transportation of Petroleum by Pipelines) Regulations 1985; and
  - regulation 23 of the Occupational Safety and Health (Control of Industrial Major Accident Hazards) Regulations 1996
- Where an accident or dangerous occurrence causing death, serious bodily injury or serious damage to property, no person unless authorized by DOSH shall remove, interfere or disturb the scene of the incident, except to the extent of saving lives, prevent further injury, maintain access to the site or prevent further damage or serious loss of property or environment



The Noise Exposure Regulations define excessive noise as daily noise exposure level exceeding 82 dB(A) or daily personal noise dose exceeding 50% or maximum sound pressure level exceeding 115 dB(A) at any time or peak sound pressure level exceeding 140 dB(C).

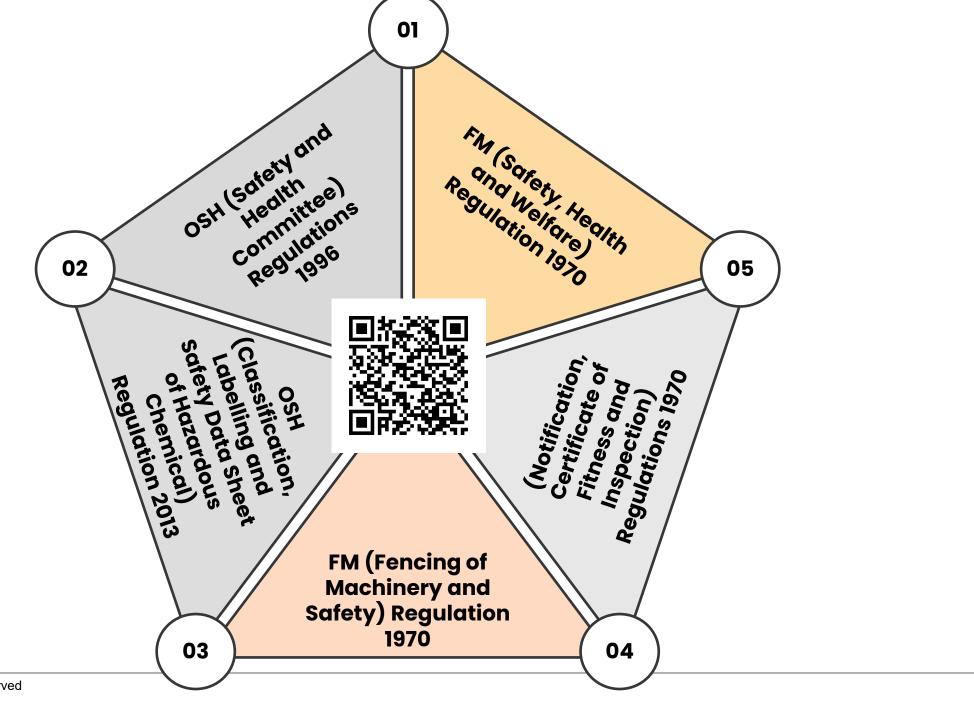
In exercise of the power conferred by section 66 of OSHA 1994



Daily personal noise dose means the cumulative noise exposure of an employee corrected for a normal working day of 8 hours

#### **OSH (Noise Exposure) Regulation 2019**

# Other OSH related Law



#### **OSH Related Law**

