

**A LEGAL INSIGHT
INTO
THE WORKPLACE SAFETY
AND
HEALTH ACT 2006**

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PRESENTATION OUTLINE

- **Intention Behind the Act**
- **Physical Health & Safety of Workers**
 - **Workplace Safety & Health Act 2006 (WSHA)**
 - **New Code of Practice**
- **Mental Health & Emotional Well-being**
 - **New Code of Practice**
 - **Tripartite Advisory**
- **Sentencing in The Context of WSHA**
 - **Common Charges**
 - **Sentencing Principles**
 - **Sentencing Precedents**

PARLIAMMENTARY INTENTION BEHIND ITS ENACTION

Three fundamental reforms in the Bill that will improve safety at the workplace:



1.

The Bill will strengthen proactive measures.

2.

The industry must take ownership of occupational safety and health standards and outcomes to effect a cultural change of respect for life and livelihoods at the workplace.

3.

This Bill will better define persons who are accountable, their responsibilities and institute penalties which reflect the true economic and social cost of risks and accidents.

NEW CODE OF PRACTICE

New Code of Practice, Workplace Safety and Health Risk Management ("COP")



- Launched by the MOM in December 2022.
- Distils good safety management principles and practices into actionable steps for companies to take in promoting workplace safety.
- Applies to companies in all industries; even those that have no manual work.
- New COP was gazetted.
- If a company commits a WSHA offence, courts may consider compliance to the COP in their judgement and adherence to the COP's principles may be a mitigating factor.



4 BROAD PRINCIPLES FOR COMPANY DIRECTORS TO ADHERE TO UNDER THE COP

1. Ensure WSH is integrated into business decisions and have clarity of roles and responsibilities of chief executive and individual members of the Board of Directors in leading WSH.
2. Continuously build a strong WSH culture, set the tone and demonstrate visible leadership in embodying and communicating highly effective WSH standards.
3. Ensure that WSH management systems are highly effective and reviewed regularly.
4. Empower workers to actively engage in WSH.



MEASURES ASSOCIATED WITH THE PRINCIPLES



1.

Ensure WSH is integrated into business decisions and have clarity of roles and responsibilities of chief executive and individual members of the Board of Directors in leading WSH.

Measures:

1. Assign and document WSH roles and responsibilities of individual Company Director(s).
2. Establish the WSH policy, standards and strategic goals for the organization.



MEASURES ASSOCIATED WITH THE PRINCIPLES



2.

Continuously build a strong WSH culture, set the tone and demonstrate visible leadership in embodying and communicating highly effective WSH standards.

Measures:

1. Publish organisation's WSH commitment, and review, endorse and track the organisation's WSH targets and performance regularly.
2. Set WSH as a regular agenda item in management/board meetings.
3. Ensure sufficient resource allocation to WSH.
4. Facilitate direct reporting of WSH issues to the Company Director(s).
5. Acquire WSH knowledge.
6. Conduct engagements to understand processes, workers' concerns and communicate the need to prioritise WSH.
7. Set and demand effective WSH standards and performance from vendors and partners.

MEASURES ASSOCIATED WITH THE PRINCIPLES



3.

Ensure that WSH management systems are highly effective and reviewed regularly.

Measures:

1. Ensure effectiveness of WSH management systems and maintain oversight of compliance of with safe work procedures.
2. Ensure suitable adequate and timely risk assessment.
3. Recognise and reward workers' efforts toward achieving good WSH performance.
4. Endorse immediate remedial/disciplinary actions to address workers' repeated non-compliance with safe work procedures.

MEASURES ASSOCIATED WITH THE PRINCIPLES



4. Empower workers



Measures:

1. Ensure processes are in place for workers to receive information on WSH risks and safe work procedures in a timely manner.
2. Set up reporting systems, encourage proactive reporting and ensure proper follow-up to address WSH issues.
3. Commit resources and protected time for workers to undergo WSH training and refresher courses.
4. Involve workers in the joint development and implementation of strategies/programmes to improve WSH.

MENTAL HEALTH AND EMOTIONAL WELL-BEING

- The WSHA does not define ‘safety’ or ‘health’
- It is unclear whether this legislation imposes a statutory obligation on employers to ensure employees' mental and emotional well-being.
- Several guidelines and advisories published by the Ministry of Manpower recommend certain standards for employers to adhere to to ensure the mental and emotional well-being of their employees.
- This includes;
 1. The New Code of Practice
 2. Tripartite Advisory



1. NEW CODE OF PRACTICE

- Provides guidance and examples of what control measures to manage mental well-being may include.
 - Eg. it suggests the creation of whistleblowing platforms for employees to report workplace harassment.



2. TRIPARTITE ADVISORY ON MENTAL WELL BEING AT WORKPLACES (“TRIPARTITE ADVISORY”)

- Jointly issued by the Ministry of Manpower (MOM), National Trades Union Congress (NTUC) and the National Employers Federation (SNEF).
- Gives recommendations and measures to support employee’s mental well-being.



RECOMMENDATIONS FOR EMPLOYERS



Tripartite Advisory



a) Review employee's mental state regularly

Conducting surveys or confidential online assessment tools



c) Implementing flexible work arrangements

- Allowing employees to work offsite via telecommuting,
- Allowing work hours to be adjusted to meet the needs of employees by implementing staggered working hours
- Allowing the workload of employees to be reduced according to their needs



b) Review Human Resource policies

Ensuring that there is not discrimination against employees suffering from mental health conditions



d) Establishing work-life harmony policy

In order to provide clarity on after-hours work communication and promote understanding of the need for proper rest outside work hours



e) Establish return – to – work policies

To support employees recovering from mental health conditions in allowing them to gradually transit back to work by providing time for treatments

WORKPLACE SAFETY AND HEALTH ACT 2006 (WSHA)

Common charges brought under the WSHA:

Sections 11, 12, 15(3) p/u section 50



WORKPLACE SAFETY AND HEALTH ACT 2006 (WSHA)

Duty of occupier of workplace

11. It is the duty of every occupier of any workplace to take, so far as is reasonably practicable, such measures to ensure that —

- (a) the workplace;**
- (b) all means of access to or egress from the workplace; and**
- (c) any machinery, equipment, plant, article or substance kept on the workplace,**

are safe and without risks to health to every person within those premises, whether or not the person is at work or is an employee of the occupier.

WORKPLACE SAFETY AND HEALTH ACT 2006 (WSHA)

12.—(1) It is the duty of every **employer** to take, so far as is reasonably practicable, such measures as are necessary to **ensure the safety and health of the employer's employees at work**.

(2) It is the duty of every **employer** to take, so far as is reasonably practicable, such measures as are necessary to ensure the **safety and health of persons (not being the employer's employees)** who may be affected by any undertaking carried on by the employer in the workplace.

(3) For the purposes of subsection (1), the measures necessary to ensure the safety and health of persons at work include —

- (a) providing and maintaining for those persons a work environment which is safe, without risk to health, and adequate as regards facilities and arrangements for their welfare at work;
- (b) ensuring that adequate safety measures are taken in respect of any machinery, equipment, plant, article or process used by those persons;
- (c) ensuring that those persons are not exposed to hazards arising out of the arrangement, disposal, manipulation, organisation, processing, storage, transport, working or use of things —
 - (i) in their workplace; or
 - (ii) near their workplace and under the control of the employer;
- (d) developing and implementing procedures for dealing with emergencies that may arise while those persons are at work; and
- (e) ensuring that those persons at work have adequate instruction, information, training and supervision as is necessary for them to perform their work.

WORKPLACE SAFETY AND HEALTH ACT 2006 (WSHA)

General penalties

50. Any person guilty of an offence under this Act (but not including the regulations) for which no penalty is expressly provided by this Act shall be liable on conviction —

(a) **in the case of a natural person, to a fine not exceeding \$200,000 or to imprisonment for a term not exceeding 2 years or to both;** and

(b) **in the case of a body corporate, to a fine not exceeding \$500,000,**

and, if the contravention in respect of which the person was so convicted continues after the conviction, the person shall (subject to section 52) be guilty of a further offence and shall be liable to a fine —

(c) in the case of a natural person, not exceeding \$2,000 for every day or part of a day during which the offence continues after conviction; or

(d) in the case of a body corporate, not exceeding \$5,000 for every day or part of a day during which the offence continues after conviction.

WORKPLACE SAFETY AND HEALTH ACT 2006 (WSHA)

15(3) Any person at work who, without reasonable cause, wilfully or recklessly does any act which endangers the safety or health of himself or herself or others shall be guilty of an offence.



s.11

Penalises any occupiers of the workplace who do not take any reasonable practicable steps to ensure that the workplace, access and exit to the workplace, objects such as equipment and materials etc. in the workplace are safe.

1 reported case in the past decade.



s.12(1)

Penalises employers for failing to take all reasonably practicable measures necessary to ensure the safety and health of employees at work.

4 reported cases in the past decade.



s.15(3)

Penalises any person at work who, without reasonable cause, willfully or recklessly does any act endangering the safety of himself or others.

3 reported cases in the past decade.

GENERAL TRENDS IN SENTENCING

- Previously, Courts would arrive at a starting point by considering;
 - the potential harm caused by the offence and,
 - the culpability of the offender.
- Calibration of the sentence on a case-by-case basis, which may take into consideration the actual harm caused by the offender.
- Causing of serious hurt such as death is a significant aggravating factor in most cases often results in an uplift of \$30,000 from the starting point of the sentence.
- Having a good safety record and being cooperative with the authorities during investigations, and pleading guilty early often mitigates a sentence.



PUBLIC PROSECUTOR V MANTA EQUIPMENT (S) PTE LTD [2022]

SGHC 157

Charge: s 12(1) Workplace Safety and Health Act

Surrounding Circumstances:

- Manta Equipment (S) Pte Ltd, was engaged to supply and erect, inter alia, a tower crane (with luffing jib) (“tower crane”) on the vessel Kaombo Sul (“the vessel”). The Deceased was deployed as part of the team involved in the erection of the tower crane on the vessel.
- A 60 m long jib was to be attached to the tower crane and as the Deceased and his co-worker were preparing to insert fixing pins to the jib foot, the vessel’s movement caused the jib connectors to dislodge from the jib.
- The jib foot sprung out of the connectors and jerked upwards striking the Deceased’s torso.
- The accused was held to have failed to adequately implement safe work procedures for its erection of a tower crane by failing to ensure that the jib strictly followed the manufacturer’s specifications.

PUBLIC PROSECUTOR V MANTA EQUIPMENT (S) PTE LTD [2022]

SGHC 157

A New Framework

		Culpability		
		Low	Moderate	High
Harm	High	S\$150,000 to S\$225,000	\$225,000 to S\$300,000	S\$300,000 to S\$500,000
	Moderate	S\$75,000 to S\$150,000	S\$150,000 to S\$225,000	S\$225,000 to S\$300,000
	Low	Up to S\$75,000	S\$75,000 to S\$150,000	S\$150,000 to S\$225,000

PUBLIC PROSECUTOR V MANTA EQUIPMENT (S) PTE LTD [2022]

SGHC 157

Culpability	Moderate, accused had been negligent in using his own methods of rigging despite having clear instructions from the manufacturer on how to rig the jib safely
Harm	High, death occurred
Mitigating factors	Pleaded guilty at an early stage and cooperated with investigations, Clean record, post-accident rectification works
Sentence	Fine of \$250,000



QUESTIONS?

