

Expectations and Challenges Towards Complying with the Occupational Safety and Health Act 1994: Practice in KUKUM

Lt Kol (B) Azuddin bin Bahari¹, Razi bin Ahmad²
dan Faridah binti Wahab³
Kolej Universiti Kejuruteraan Utara Malaysia,
Jalan Arau-Kangar,
02600 Jejawi, Perlis
azuddin@kukum.edu.my¹, razi@kukum.edu.my²,
faridah@kukum.edu.my³

Abstract: Occupational Safety and Health (OSH) Act 1994 or Act 514, requires the workers, employers, societies and government to be involved in ensuring a safe and conducive working environment at the work place against risks to safety or health arising out of the activities of persons at work. This Act applies throughout Malaysia to the industries specified below:

- a. Manufacturing.
- b. Mining and Quarrying.
- c. Construction
- d. Agriculture, Forestry and Fishing
- e. Utilities – Electricity; Gas; Water; and Sanitary Services
- f. Transport, Storage and Communications
- g. Wholesale and Retail Trade
- h. Hotels and Restaurants
- i. Finance, Insurance, Real Estate and Business Services
- j. Public Services and Statutory Authorities

This Act does not apply to work on board ships governed by the Merchant Shipping Ordinance 1952, the Merchant Shipping Ordinance 1960 of Sabah or Sarawak or the armed forces. The Act do not particularly state that universities are to abide to the law. Hence are universities required to abide to the OSH Act 1994?

This paper will look into the following aspects i.e. the requirement of the law, expectation and challenges, and how in practice KUKUM endeavor to comply with the OSH Act 1994. It is hope through this working paper; KUKUM will be able to share its knowledge with other institution of higher learning in order to provide and ensure a safe and conducive working environment at the work place against risks to safety or health arising out of the activities of persons at work.

Keywords: OSH Act 1994, practice in KUKUM.

1. Introduction

On 30th December 2005, a cement mould fell from a condominium building under construction in Sri Hartamas and crushed management consultant Liew Boon Hong to death and injuring his wife and the driver. The whole country was aroused by the unpleasant incident. This unpleasant incident was highlighted as headline in all the newspaper. Everybody bellow for harsh measures. The authorities pledge improved enforcement and stiff penalty. Taking place on the similar period of time, in Kampung Sungai Gatom, Labis saw the illegal disposal of ammonia. The leaking of ammonia gas caused breathing problem. The whole village has to be evacuated. This issue too turns out to be acknowledged countrywide. Each time an unpleasant incident occurs, we can be expecting a string of response as well as hearing public outcry. However, all this observations and public anxiety die down after some time.

With the above mentioned issues as the central point, the Department of Occupational Safety and Health (DOSH) is talking of taking stiff action towards effective implementation of the Occupational Safety and Health (OSH) Act 1994. On this note to, DOSH is also monitoring the adherence of the act on government agencies. To ensure this implementation is enforce in the government agencies, on 20 March 2006, a team from DOSH, Alor Star carries out inspection in KUKUM to observe the adherence of the act.

Issues on OSH

Presently, there are 18 public universities in the country. Apart from public universities, there are innumerable numbers of private universities, universities colleges and branch campuses of foreign universities and various

private colleges. As a result this signifies that the student populations are extremely large. All these universities offered various scientific, technical, non technical and engineering courses. Consequently, students will be exposed to hazards whilst undertaking their “practical-oriented/lab intensive” study in the lab or workshops. In this instant, Kolej Universiti Kejuruteraan Utara Malaysia (KUKUM) for example offered various engineering courses via its schools is not spared.

At this juncture, are universities are to abide to the law i.e. the OSH Act 1994. The next questions are students in the universities, contractors who undertake tender and other contractual work in universities and visitors to universities; are they too are subjected by the act? Lastly, “What are the expectations and challenges towards complying with the OSH Act 1994” especially in KUKUM?

These are questions that will be look at in implementing OSH programmed in KUKUM, Let take a look at KUKUM’s practice toward the subject in discussion. It is hopeful through this working paper; KUKUM will be able to share its knowledge with other institution of higher learning in order to provide and ensure a safe and conducive working environment at the work place against risks to safety or health arising out of the activities of persons at work.

2. Objectives

The paper will highlight:

- a. The importance of cultivating the culture of safety, health and welfare of persons at work.
- b. The responsibilities of employer, employees, students, staffs, contractors and visitors to universities towards OSH Act 1994

3. Definitions

Occupational Safety and Health are two terminologies which are interrelated to each other. Occupational refer to one’s trade, employment or routine work. Occupational Safety refers to “no danger” or to conditions which is unlikely to cause harm, not expose to danger or injury to the worker. Thus the focus of occupational safety is towards elimination of condition which will cause injury. While occupational health, a branch of the occupational medicine, look into the aspect of health of the worker at the workplace i.e. while doing the work, the effect of work towards health and welfare.

4. Overview of OSH Act 1994

“An Act to make further provisions for securing the safety, health and welfare of persons at work, for protecting others against risks to safety or health in connection with the activities of persons at work, to establish the National Council for Occupational Safety and Health, and for matters connected therewith”¹

[24th February 1994]

The government on 25 February 1994 enacted the OSH Act. The OSH Act 1994 or Act 514 requires the workers, employers, societies and government to be involved in ensuring a safe and conducive working environment at the work place against risks to safety or health arising out of the activities of persons at work.

In Malaysia, the Ministry of Human Resources, through Department of Occupational Safety and Health (DOSH), enforce the OSH Act 1994 while the National Institute of Occupational Safety and Health (NIOSH) conduct training activities. The Act was derived from the philosophy of the Roben’s Commission which emphasis on self regulations, duties of employer, employee and designer/manufacturer. The Act was promulgated base on the philosophy and principle of self regulation, consultation and cooperation. The Act’s underlying principle is that maintaining health and safety should be the responsibility of those who create the hazards and those who work with them.

This Act applies throughout Malaysia to the industries specified below:²

- a. Manufacturing.
- b. Mining and Quarrying.
- c. Construction
- d. Agriculture, Forestry and Fishing
- e. Utilities – Electricity; Gas; Water; and Sanitary Services

¹ Occupational Safety and Health Act enacted on 24th February 1994

² Occupational Safety and Health Act 1994 Section 1

- f. Transport, Storage and Communications
- g. Wholesale and Retail Trade
- h. Hotels and Restaurants
- i. Finance, Insurance, Real Estate and Business Services
- j. Public Services and Statutory Authorities

This Act does not apply to work on board ships governed by the Merchant Shipping Ordinance 1952, the Merchant Shipping Ordinance 1960 of Sabah or Sarawak or the armed forces.

The other prevailing act which concerns the Safety and Health at the workplace is the “Factories and Machinery Act 1994”. Both the act ought to be look into when complying with the requirement of the Occupational Safety and Health at workplace. However, Section 2 of the OSH Act 1994 states that “in the event of any conflict or inconsistency between the provision of this Act and that of any other written law pertaining to occupational safety and health, the provisions of this Act shall prevail and the conflicting or inconsistent provisions of such other written law shall, to the extent of the conflict or inconsistency, be construed as superseded.”.

The OSH Act 1994 is structured to consist of the ACT, REGULATIONS and CODE OF PRACTICE. The aim of the Act³:

- a. to secure the safety, health and welfare of persons at work against risks to safety or health arising out of the activities of persons at work;
- b. to protect persons at a place of work other than persons at work against risks to safety or health arising out of the activities of persons at work;
- c. to promote an occupational environment for persons at work which is adapted to their physiological and psychological needs;
- d. to provide the means whereby the associated occupational safety and health legislations may be progressively replaced by a system of regulations and approved industry code of practice operating in combination with the provisions of the Act designed to maintain or improve the standards of safety and health.

Section 4, OSH Act 1994

Contents of the Act

The OSH Act 1994 consists of 15 sections. Among the major provisions are:

- a. Part II - Appointment of enforcement officers; Establishment of a national council for occupational safety and health;
- b. Part IV - General Duties of employers and Self-Employed Persons.
- c. Part V- General Duties of designers, manufacturers and suppliers.
- d. Part VII – Safety and Health Organizations
- e. Part VIII – Notification of Accidents, Dangerous Occurrence, Occupational Poisoning and Occupational Diseases and Inquiry.
- f. Part XI – Enforcement and Investigation.
- g. Part XII – Liability for Offences.

Regulations, Orders and Codes of Practice

Other than the Act there are regulations and orders. There are 9 regulations and orders. The OSH Act 1994 also provides approved codes of practice. Industry codes of practice are as guidance in compliance with the Act. These codes of practice are not statutory requirements.

5. The Present Scenario

In Malaysia, statistics from SOCSO indicate 405,675 industrial accident occurs during the period 2000 – 2004.⁴ Statistics of industrial accident is as at **Appendix 1**. From the statistics in 2000, a total of 95,006 industrial accidents was reported. Over the year, from 2001, statistic indicate the number of industrial accidents decreasing over the period to 69,132 reported cases in year 2004. This is a good indication which indicate that employers and employees are aware of the needs of safe and conducive workplace.

³ Occupational Safety and Health Act 1994 Section 4

⁴ Statistics PERKESO 2000 - 2004

It is estimated that Malaysia incur a loss in direct cost of labour amounting to RM 3 billion due to industrial accidents. SOCSO has to pocket RM 608 million in 2000 towards compensations and other related costs. Thus, industrial accidents and occupational diseases brought suffering, pain, loss of limb, death and economic losses to the victims and their families.

The DOSH reported that in 2000 there were 2,292 cases of industrial accidents which were reported to the Department. The number of reported cases was 3,172 in 2001, with 3,032 in 2002 and 3304 in 2003. The number increase to 3,534 in 2004. With the above mentioned issues as the central point, DOSH is talking of taking stiff action towards effective implementation of the OSH Act 1994. On this note to, DOSH is also monitoring the adherence of the act on government agencies.

6. Challenges and Expectations

KUKUM is the 17th University. KUKUM is located in Kangar with its campus distributed in areas surrounding it i.e. distributed campus. This is to mean that KUKUM does not have a permanent campus. KUKUM is housed in rented building all over Kangar and its areas surrounding it.

KUKUM caters for students who are inclined towards practical-based education as teaching and learning is done via the “practical-oriented/lab intensive” approach. Consequently by this nature, students and staff come into contact with machines, chemicals and other equipments while on their “practical-oriented/lab intensive” study. To mention as an example, the School of Computer and Communication Engineering, put emphasis on hardware design of embedded system, focusing on electronic side of engineering. While, the School of Microelectronic Engineering, its programmed focuses on integrated circuit design and integrated circuit fabrication which include semiconductor technology micro fabrication process technology, microelectronic, reliability and failure analysis.

With the above mention situation, implementing Occupational Safety and Health Programmed and to inculcate the culture of safety, health and welfare of persons at work is a challenge to KUKUM. KUKUM has a duty as envisage in Section 15 of the OSH Act towards its employees. To KUKUM “Challenge is represented by the belief that change is a normal part of life. Hence change is seen as an opportunity for growth and development rather than a threat to security”⁵

Workers are suppose to leave to work daily and go back home safe and sound as well as in good health. Subsequently, there is no basis what so ever worker should be part of workplace casualty. The expectation of staffs, students etc is for the employer to provide a safety and conducive workplace as required by Section 15 of the Act. On the hand, staffs, students etc are to abide by Section 26 of the Act. Hence there are two way mutual benefits.

Consequently, as we proceed on, readers will be highlighted on the practices in KUKUM which will address the challenges and expectations in complying the Occupational Safety and Health Act.

7. Practice of Occupational Safety and Health in KUKUM

The honorable Rector recognizes the magnitude of Occupational Safety and Health. Hence to implement the prerequisite of the Occupational Safety and Health Act 1994 and support the national agenda as endeavor by the Act, let’s take a look at KUKUM’s practice toward the subject in discussion. It is hopeful through this working paper; KUKUM will be able to share its knowledge with other institution of higher learning in order to provide and ensure a safe and conducive working environment at the work place against risks to safety or health arising out of the activities of persons at work.

KUKUM’s approach in addressing the aforementioned agenda is through “to assure as far as practicable all staffs, students, visitors to KUKUM and contractors doing contractual work in KUKUM are safe and healthful working condition”. KUKUM like other Universities and Government Agencies is committed towards compliance of OSH Act 1994. Like other Universities and Government Agencies various policy are being plan for implementation. This paper will highlight several important feature of the practice in KUKUM i.e. institution of OSH Unit, put into action OSH Programmed at the workplace, Emergency Response Programme and Programme on Awareness, Dissemination of information and training .

8. Institution of OSH Unit in KUKUM

OSH Unit is set up in February 2004. This signifies the commencement of the commitment of KUKUM toward setting up of an efficient welfare, safety and health management system. The setting up of OSH Unit is in accordance to the requirement of Part IV - General Duties of employers and Self-Employed Persons of OSH Act 1994. The OSH Unit is answerable to Rector and responsible to carry out all OSH Programmed plan by KUKUM

⁵ Organizational Behavior, McGraw Hill/Irwin 2006, Page 698

as well as to ensure the OSH Act 1994, as far as practicable is observe. Hence, each and every one in KUKUM is required to support the planned OSH Programmed. The organization of the OSH Unit KUKUM can be download from KUKUM,s portal

9. OSH Programme in KUKUM

OSH Policy. Other Commitments of KUKUM towards compliance OSH Act is the “KUKUM’s Policy on Occupational Safety and Health”. The policy is formulated in accordance to Section 16 of the Act. KUKUM’s Policy on Occupational Safety and Health is at **Appendix 2.**

OSH Safety Committee. In accordance to Section 30 of the Act, a Safety Committee is formed in KUKUM. The roles and task of this committee is in accordance to the Act. This committee headed by the Rector sits once in every 3 months.

Auditing and Monitoring. As mention earlier on, students and staff come into contact with machines, chemicals and other equipments while on their “practical-oriented/lab intensive” study in the engineering lab or during their lectures in classrooms. Thus to ensure a safety and conducive workplace for the aforesaid OSH Unit carries out routine and planned inspections on all KUKUM’s workplace. The planned inspections are conducted once in every 3 months. All observations are recorded.

Accident Reporting and Investigation

“Zero” accident in KUKUM is the aim. At present the aim is achievable. Nevertheless KUKUM expect the objective of “Zero” accident to be maintain. KUKUM like other agencies have procedures on accident reporting and investigation. Procedure on reporting of accidents and the various forms is available in KUKUM Portal under “Departmental Forms.”

Hazardous Waste Disposal.

At hand in KUKUM, some of the teaching and learning activities in the engineering lab i.e. Printed Circuit Board, Micro fabrication “Clean Room” and the School of Production Engineering, engineering lab use chemicals widely. In each of this lab engineering activity, some form of hazardous waste is being produced. The waste produce is cannot be disposed of freely. What is the practice in KUKUM towards disposal of hazardous waste?

Towards this end KUKUM is working closely with DOE and Kualiti Alam Sdn Bhd to dispose of the schedule waste produce by the engineering lab in line with the Environmental Quality (Scheduled Wastes) Regulations, 1989 and the Occupational Safety and Health Act 1994 that is OSH (Control of Industrial Major Accident Hazard) Regulation 1996, OSH (Classification, Packaging and Labeling of Hazardous Chemicals) Order 1997, OSH (Prohibition of Use Of Substance) Order 1999 and OSH (Use and Standards of Chemicals Hazardous to Health) Regulation 2000.

In the case of hazardous waste produce by the Printed Circuit Board, Micro fabrication “Clean Room” and the School of Production Engineering, engineering lab, there are various procedure to follow before it can be dispose off. First, wastes need a code number. This code is issued by DOE. Then it follows by appointing an agent to dispose of the waste. The appointed contractor/agent to dispose the aforesaid waste is Kualiti Khidmat Alam Sdn. Bhd. KUKUM is now waiting for the agent to dispose off the schedule waste produce. This agent act as the “middle man” for KUKUM to process and to dispose of the hazardous waste produce by the above mention lab in accordance to the code number specified by DOE. All the schedule waste will be dispose of in the premise of Kualiti Alam Sdn. Bhd which is located in Bukit Nanas, Negeri Sembilan.

Emergency Response Programme

KUKUM’s possessions and equipment must be safeguarded against threat to terrorism, violence, fire, arson, bombing and natural disasters. Essential as well as speedy actions must be taken when incidents happen in KUKUM’s locality. Security Department KUKUM is responsible to take the necessary actions as to ensure KUKUM’s premise is free from the aforementioned disasters. However, to assist Security Department, the honorable Rector has form “Pasukan Bertindak Kecemasan KUKUM” also called PBKK or KUKUM Emergency Response Team. The members of the team are the staff of KUKUM. The task of this team is to assist where

possible in Disasters Management. Additional, in managing disasters KUKUM have draw up emergency procedures and in addition have acquire various basic equipments on fire fighting.

Awareness, Dissemination of information and Training Programme

Under Section 15 of the OSH Act, Section 15 spell out the duty of every employer, so far as practicable, the safety, health and welfare at work of all his employees. This responsibility as far as practicable is inclusive of Awareness, Dissemination of information and Training Programme. Safety culture should be practice so as to reduce accident at the workplace. Under this awareness, dissemination of information and training programme, KUKUM has implemented various programme aim at the staff and students. However, the paper will highlight on only 2 aspect i.e. "Staff's training, and Occupational Safety and Health Management Modules.

Staff's Training on OSH and other related Course

All Teaching Staff, Technicians and Letures that are assign to Engineering lab are required to attend Workplace Safety Course. The aim of the course is to expose to all concern on aspects such as Chemical Safety: Classifications, Packaging and Labeling of Hazardous Chemicals Hazard identification, Risk Assessment and Control, Accident Investigation and Reporting. Other courses that was conducted for staffs and students are Fire Fighting, First Aid and Operating Ambulance.

Occupational Safety and Health Management Modules

To further enhance the understanding on the subject of safety and health and to cultivate safety culture among students, KUKUM offered the course on Occupational Safety and Health Management. The paper is an "Option" paper with two credit hours carry out by The Centre of Communication & Entrepreneurship Skill (Pusat Kemahiran, Komunikasi dan Keusahawanan) or a.k.a. PKKK. The paper is offered to any students who are interested in the subject. The module of Occupation Safety and Health Management focus on four focal areas i.e.:

- a. Part 1 - Managing Occupational Safety and Health (6 hours is allocated)
- b. Part 2 - Related Occupational Safety and Health Legislations and Regulations, Safety and Health Standards (8 hours is allocated)
- c. Part 3 - Occupational Health (6 hours is allocated)
- d. Part 4 - Occupational Safety (8 hours is allocated)

It is expected that students on the conclusion of the module are capable to set up the OSH system and procedures for the organization; Proficient to implement and monitor OSH programmed successfully; and finally Be responsive of universal safety and health requirement and take the essential preventive measures to avoid injuries and diseases.

10. Miscellaneous Information's

Inspection by DOSH. On 20 March 2006, a team from DOSH, Alor Star carries out inspection in KUKUM. Areas which were examine are Safety and Health Policy; Minutes of Meeting of Safety Committee; Work safe Procedure; Documents on Personal Protective Equipments and First Aid Box supplied; Documents on Notification of Accidents; Dangerous Occurrence, Occupational Poisoning and Occupational Diseases, and Inquiry; Records on staff training; Maintenance Records; Records on CSDS/MSDS; and lastly Other related documents. Constructive comments and suggestions on health and safety and fighting were suggested to be implemented by KUKUM.

Inspection by Fire and Rescue Department Malaysia. Beside the team from DOSH is a team from the aforementioned department also has conduct inspection in KUKUM from 22 May to 31 May 2006. The inspection was performed in all KUKUM's site. The focus was on safety of buildings and fire fighting equipments. Constructive comments and suggestions on building safety and fighting equipments were suggested for KUKUM to be put into practice. All observations from the inspections will be deal with in due time.

Lesson learned from the inspection

Lesson learned from both the inspection is that, if there is no instruction which written, it is deem that cannot be done. Additionally if there is record but it is not dually signed, it indicates that work was not done. KUKUM will use this as a guide in implementing OSH Act 1994.

11. Conclusion

KUKUM has highlighted the expectations and challenges towards complying with the OSH Act 1994. It is hopeful through this working paper; KUKUM will be able to share its knowledge with other institution of higher learning in order to provide and ensure a safe and conducive working environment at the work place against risks to safety or health arising out of the activities of persons at work. KUKUM invite comments and advices from all concern so as to improve OSH compliance.

Appendix

1. Statistics of Reported Industrial Accident
2. KUKUM,s Policy on Occupational Safety and Health

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Appendix 1

STATISTIC OF REPORTED INDUSTRIAL ACCIDENTS 2000 – 2004

BIL	INDUSTRIES/YEAR	2000	2001	2002	2003	2004
1	Agriculture, Forestry and Fishing	11,893	12,424	9,456	6,947	5,677

2	Mining and Quarrying	626	573	545	536	533
3	Manufacturing	41,331	35,642	33,523	29,780	26,690
4	Utilities – Electricity, Gas, Water and Sanitary Services	537	442	516	510	496
5	Construction	4,873	4,593	5,015	4,654	4,445
6	Commerce (Wholesale and Retail Trade)	15,452	13,774	13,685	13,395	12,948
7	Transport, Storage and Communications	4,778	4,382	4,439	4,104	4,151
8	Finance, Insurance, Real Estate and Business Services	687	602	567	572	605
9	Services	6,581	5,950	5,924	5,617	5,295
10	Public Services and Statutory Authorities	8,248	7,487	8,140	7,743	8,325
Total		95,006	85,869	81,810	73,858	69,132

Source: <http://www.perkeso.gov.my/melayu/statistik3.htm>

Appendix 2

KUKUM's POLICY ON OCCUPATIONAL SAFETY AND HEALTH

KUKUM beriltizam dalam memastikan dan mewujudkan suasana kerja yang selesa dan selamat untuk semua staf, pelajar dan pelawat yang berkunjung dan berurusan dengan KUKUM.

KUKUM berhasrat untuk mencapai matlamat ini dengan mempraktikkan amalan membudayakan keselamatan dan kesihatan pekerjaan di tempat kerja. KUKUM juga akan mengambil tindakan tertentu untuk mengurangkan kerugian dan kerosakan harta benda serta mengelak dari berlakunya kemalangan dan kecederaan kepada para pekerja dan pelajar.

Dasar keselamatan dan kesihatan pekerjaan ini hendaklah dipatuhi dan diamalkan oleh semua Dekan, Pengarah, Ketua Jabatan dan Penyelaras Unit serta seluruh warga KUKUM. Seterusnya, semua lapisan pentadbiran di atas hendaklah merancang matlamat, sasaran dan pelan tindakan aktiviti-aktiviti keselamatan dan kesihatan pekerjaan yang hendak dilaksanakan dan seterusnya sentiasa melaksanakan penilaian ke atas aktiviti-aktiviti yang dirancang dan akan dilaksanakan. KUKUM akan memperuntukkan sumber termasuk kewangan bagi semua aktiviti-aktiviti keselamatan dan kesihatan pekerjaan untuk mencapai satu tahap perlakuan yang terbaik serta hasil yang berterusan.

KUKUM juga akan sentiasa melaksanakan kajian semula atas pekerjaan yang dikendalikan oleh staf dan pelajar. Ini adalah bagi menentukan tahap keselamatan dan kesihatan pekerjaan sentiasa diawasi. KUKUM juga memperakui pentingnya diadakan rundingan dan kerjasama di antara pekerja dan majikan. Ini bertujuan untuk mewujudkan suasana yang harmoni untuk menghasilkan satu kaedah yang praktikal terhadap aspek keselamatan dan kesihatan pekerjaan di tempat kerja. Aspek ini penting kerana pekerja lebih mengetahui selok-belok pekerjaan yang mereka lakukan.

Pelaksanaan keselamatan dan kesihatan pekerjaan di tempat kerja bergantung sepenuhnya kepada kesediaan serta komitmen semua staf KUKUM untuk menerima dan mengamalkan budaya kerja yang selamat dan selesa serta berusaha untuk menentukan persekitaran pekerjaan yang selamat dan sihat.

Lt. Kol. Prof. Dato' Dr. Kamarudin Hussin
Rektor