

ACT 514
OCCUPATIONAL SAFETY AND HEALTH ACT 1994

PART I - PRELIMINARY

Section 3. Interpretation.

(1) In this Act, unless the context otherwise requires-

"contract of service" means any agreement, whether oral or in writing and whether express or implied, whereby one person agrees to employ another as an employee and that other agrees to serve his employer as an employee and includes an apprenticeship contract;

"Council" means the National Council for Occupational Safety and Health established under section 8;

"employee" means a person who is employed for wages under a contract of service on or in connection with the work of an industry to which this Act applies and-

(a) who is directly employed by the principal employer on any work of, or incidental or, preliminary to or connected with the work of, the industry, whether such work is done by the employee at the place of work or elsewhere;

(b) who is employed by or through an immediate employer at the place of work of the industry or under the supervision of the principal employer or his agent on work which is ordinarily part of the work of the industry or which is preliminary to the work carried on in or incidental to the purpose of the industry; or

(c) whose services are temporarily lent or let on hire to the principal employer by the person with whom the person whose services are so lent or let on hire has entered into a contract of service;

"employer" means the immediate employer or the principal employer or both;

"government" means the Federal Government, the Government of a State or a local government;

"immediate employer", in relation to employees employed by or through him, means a person who has undertaken the execution at the place of work where the principal employer is carrying on his trade, business, profession, vocation, occupation or calling, or under the supervision of the principal employer or his agent, of the whole or any part of any work which is ordinarily part of the work of the trade, business, profession, vocation, occupation or calling of the principal employer or is preliminary to the work carried on in, or incidental to the purpose of, any such trade, business, profession, vocation, occupation or calling, and includes a person by whom the services of an employee who has entered into a contract of service with him are temporarily lent or let on hire to the principal employer;

"industry" means the public services, statutory authorities or any of the economic activities listed in the First Schedule;

"occupier", in relation to a place of work, means a person who has the management or control of the place of work;

"officer" means the occupational safety and health officer appointed under subsection 5(2) and includes the Director General, Deputy Directors General, Directors, Deputy Directors and Assistant Directors of Occupational Safety and Health;

"place of work" means premises where persons work or premises used for the storage of plant or substance;

"plant" includes any machinery, equipment, appliance, implement or tool, any component thereof and anything fitted, connected or appurtenant thereto;

"practicable" means practicable having regard to-

(a) the severity of the hazard or risk in question;

(b) the state of knowledge about the hazard or risk and any way of removing or mitigating the hazard or risk;

(c) the availability and suitability of ways to remove or mitigate the hazard or risk; and

(d) the cost of removing or mitigating the hazard or risk;

"premises" include-

(a) any land, building or part of any building;

(b) any vehicle, vessel or aircraft;

(c) any installation on land, offshore installation or other installation whether on the bed of or floating on any water; and

(d) any tent or movable structure;

"prescribed" means prescribed by this Act or the regulations;

"principal employer" means the owner of an industry or the person with whom an employee has entered into a contract of service and includes-

(a) a manager, agent or person responsible for the payment of salary or wages to an employee;

(b) the occupier of a place of work;

(c) the legal representative of a deceased owner or occupier; and

(d) any government in Malaysia, department of any such government, local authority or statutory body;

"secretary" means the secretary appointed under subsection 12(1);

"self-employed person" means an individual who works for gain or reward otherwise than under a contract of employment, whether or not he himself employs others;

"substance" means any natural or artificial substance, whether in solid or liquid form or in the form of a gas or vapour or any combination thereof;

"substance for use at work" means any substance intended or supplied for use, whether exclusively or not, by persons at work;

"supply", in relation to any plant or substance, means the supply by way of sale, exchange, lease, hire or hire-purchase, whether as principal or agent for another;

"trade union" means any association or combination of workmen or employers within the meaning of the Trade Unions Act 1959 [Act 262].

(2) For the purposes of this Act, risks arising out of the activities of persons at work shall be treated as including risks attributable to the manner of conducting an undertaking, the plant or substances used for the purposes of an undertaking and the condition of premises so used or any part of them.

(3) For the purposes of this Act-

(a) "work" means work as an employee or as a self-employed person;

(b) an employee is deemed to be at work throughout the time when he is at his place of work but not otherwise; and

(c) a self-employed person is at work throughout such time as he devotes to work as a self-employed person.