

Question 1

Discuss with examples, what are the situations that a work supervisor can be convicted under this Section. Section 15(3) states that any person at work who, without reasonable cause, willfully or recklessly does any act which endangers the safety or health of himself or others shall be guilty of an offence.

Discuss with examples, what are the situations that a work supervisor can be convicted under this Section.

Answer:

It is the responsibility of a work supervisor to check and ensure that the workers are following the required work rules. He can be convicted if he is found to be negligent of his duty.

For example, while on a construction site on a high rise building, the supervisor is supposed to check if the workers are wearing adequate safety equipment like safety helmets and other protective gear. If any of the workers get into serious accidents due to not wearing the required safety gear, it is considered as negligence of duty by the supervisor and he can be convicted.

Similarly, in an industrial production facility, the supervisor is supposed to check if all the equipment is working properly and none of them is faulty. If any of them are found to be faulty and the worker is allowed to work using it without it being repaired, resulting into some kind of mishap, then again the supervisor can be convicted.

If a supervisor notices strange behavior from a worker and doesn't report it to the concerned authorities, which finally results into some kind of incident, then he can be convicted.

Question 2

The WSH Act is moving from a prescriptive based legislation to a performance based legislation.

Describe with examples, the difference between the two, and discuss whether the move to a performance based legislation, is a positive move to improve workplace safety in Singapore.

Answer:

An example of the WSH act moving from a prescriptive based legislation to a performance based legislation is illustrated by the change in the law that earlier prescribed that factory windows must be 10% of the floor size. Now, a duty is placed on employers to ensure that there is sufficient ventilation at the workplace. The Act emphasizes the importance of proactively managing WSH by requiring stakeholders to identify and mitigate risks and hazards at the workplace before they occur.

This move is positive towards improving workplace safety because it also recognizes that a broad range of stakeholders have a part to play in ensuring the safety and health of workers and other persons who may be affected by the work being carried out. It therefore assigns liability to those who create, and have management or control over WSH risks, which includes not only stakeholders such as occupiers and employers, but also principals, workers, manufacturers and suppliers, as well as persons who erect, install or maintain equipment and machinery.

Question 3

Section 14(A) of the WSHA require occupier to take all reasonably practicable measures to ensure that the contractor they appoint has the necessary expertise to carry out the work, and has sufficient experience and training.

Explain your understanding of the above and list some recommendations that you will give to the occupier in fulfilling the above requirements.

Answer:

Understanding: This section helps to safeguard the occupier against fraud by the contractor he employs, given that he has valid documentary proof of the contractor's expertise, experience and training. It also helps his case if a mishap occurs while the contractor is working on the job.

Some recommendations to the occupier:-

1. The occupier should ensure that the contractor has adequately trained manpower to carry out the specific work desired.
2. He should check that the contractor has the proof of executing similar jobs earlier.
3. The documentary proof of the qualifications and the training of the manpower should also be checked.

Question 4

Discuss the relationship between the Acts of Parliament, Subsidiary Legislation, Approved Code of Practices, and Code of Practices.

What are the legal obligations of an occupier/employer towards each of them?

Answer:

Subsidiary legislation is any order in council, proclamation, rule or regulation having legislative effect. A code of practice provides detailed information about how to achieve the standards required under the WHS laws. Approved code of practice is the same as code of practice but with specific legal standing.

If subsidiary legislations aren't followed, criminal proceedings can be initiated against the employer. If the employer has only failed to observe an approved code of practice, he isn't liable to any criminal proceedings.

Question 5

What are the reasons that employers are not complying with the requirements under the Workplace Safety and Health Act?

What are some suggestions that you will give to these employers to avoid contravening the Workplace Safety and Health Act?

Answer:

The reasons why employers are not complying with the requirements are mainly financial and production. The safety equipment and protection gear cost a lot of money. So, if they comply, they will have to spend a lot more from their own pockets. Also, in high risk jobs, the workers would have to wear a lot of protection equipment leading to inconvenience in working and hence reduction in output at the individual level. This would be very detrimental to large scale industries. Similarly, if workers have fixed working hours (say 8 hours), then they can't make them work for more and have greater production.

Suggestions that can be given:-

1. The huge penalty that the employer would have to pay in case legal proceedings are initiated as a result of a mishap (by the relatives of the injured or deceased) would be much larger than the total cost spent to buy the protective gear and equipment.

2. The bad reputation caused by the above would also reduce the demand for the produced goods or the delivered service again affecting the income adversely.
3. In case of a big disaster (which is highly probable in large scale industry), the above will follow along with a large decrease in manpower.

So, it's more advantageous in the long run and also has lower risk to comply with the WSH Act.

Question 6

What are the requirements under the Workplace Safety and Health (Risk Management) Regulations pertaining to the review of risk assessments?

Why is it important to review risk assessment in accordance to the few situations listed in the regulations?

Answer:

The following is the regulation:-

In every workplace, the employer, self-employed person and principal shall conduct a risk assessment in relation to the safety and health risks posed to any person who may be affected by his undertaking in the workplace.

The requirements are:-

1. In every workplace, the employer, self-employed person and principal shall review and, if necessary, revise the risk assessment referred to above at least once every 3 years.
2. The employer, self employed person and principal shall review and revise the risk assessment referred above –
 - a. Upon the occurrence of any bodily injury to any person as a result of exposure to a hazard in the workplace; or
 - b. When there is a significant change in the work practices or procedures.

The regulation is obviously necessary to reduce the risk that workers face while working. It should be reviewed every three years because the equipments may get old, and more hazards may be realized. The workers need to protection from those hazards.

In case there is an occurrence of bodily injury due to exposure of hazard, the protection needs to be strengthened or changed and hence the risk assessment should be reevaluated.

In case, there is a significant change in work practices or procedures, the hazards may also change significantly, hence the earlier protection might become less efficient or even useless in some ways. Hence a reassessment is required.

Question 7

Section 41 of the WSHA empowered the inspector to enter, inspect and examine at all reasonable times any place which he has reasonable cause to believe to be a workplace.

In a situation of a factory, on a Friday afternoon, whereby all employees are out attending the company's Annual Dinner and Dance event. The only person who stayed behind is a security officer, who denied a workplace inspector of his entry.

Discuss in light of Davies v Winstanley (1931), the legal implication on the Occupier with regard to the WSHA.

Answer:

A Friday afternoon, is a reasonable time for employees to be working, but since they were out on an “official event” organized by the company itself, it can be said that it was an unreasonable point of time for an inspection of the workplace. So, legally, the occupier should not be held guilty.

Question 8

Discuss the advantages and disadvantages of adopting a safety and health management system.

What are the keys to an effective SHMS?

Answer:

The advantages of adopting SHMS are:-

1. Lowers worker compensation cost- Since there will be lesser accidents, the employer will have to pay lower medical compensation for the workers.
2. Increased productivity- Workers will not have any health related issues due to the hazards of the work. Hence they will be able to give more output in the same amount of time.
3. Increased morale- The employees have the assurance that they are safe from the job related hazards, so they will be able to work without worrying about anything.
4. Lower absenteeism- Since the work is sort of free from hazards, more people will decide not to cut days and work hard in order to earn more money.
5. Increased compliance- Due to wonderful working conditions, the employees will be happy to comply with the demands of the employer.

The only disadvantage of SHMS is that there are costs for implementation of a good safety management system. Not only in training, but in the administrative side, to determine which regulations and other requirements apply to your business, and how to best implement the requirements called for in these regulations and guidelines.

There are five key elements to an effective SHMS:-

1. Management committee
2. Employee involvement
3. Workplace analysis
4. Hazard prevention and control
5. Safety and health training