



**MALAYSIA'S ENHANCED
WORKPLACE SAFETY LAW:
UNDERSTANDING THE OSHA
2022 AMENDMENTS AND
REGULATIONS**

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Introduction

The introduction of the **Occupational Safety and Health (Amendment) Act 2022 ("OSHA 2022")** has significantly amended Malaysia's Occupational Safety and Health Act 1994 ("**OSHA 1994**") to enhance workplace safety standards across the nation. These amendments introduce new obligations for employers and expand OSHA's applicability to encompass a broader range of workplaces.

Historical Context

Before OSHA 1994, the Factories and Machinery Act 1967 governed workplace safety, focusing mainly on factories and machinery-related operations. However, in recognizing the limitations of this prescriptive approach, Malaysia later introduced OSHA in 1994 to adopt a more proactive and encompassing strategy, extending its reach to various industries beyond manufacturing, including construction, agriculture, and services.

What's New?

The **Occupational Safety and Health (Amendment) Act 2022 / OSHA 2022**, effective from **1 June 2024**, introduces pivotal changes:

1. **Expanded Scope:** Previously, OSHA 1994 was primarily applicable to specific industries such as manufacturing, construction, and wholesale and retail trades. The recent amendments extend their coverage to all workplaces across Malaysia, including remote working arrangements and co-working places.
2. **New Duties for Principals and Employers:**
 - a) **Principals:** Obligated to ensure the safety and health of contractors, subcontractors, and their employees engaged in work activities.
 - b) **Employers:**
 - (i) **Emergency Procedures:** Employers must develop and implement emergency response procedures for emergencies that may arise during the

course of work. The Guidelines on Occupational Safety and Health Management Systems issued by the Department of Occupational Safety and Health Malaysia (“**DOSH**”) provides a comprehensive guide on the adoption of an emergency action plan.

(ii) **Risk Assessments:**

Employers and self-employed individuals must conduct comprehensive risk assessments to identify and manage health and safety risks affecting any person who may be impacted by their operations. Employers should carry out such assessments with regard to the Guidelines for Hazard Identification, Risk Assessment and Risk Control.

(iii) **Occupational Safety and Health Coordinator:**

Businesses with five or more employees are mandated to appoint an Occupational Safety and Health (“**OSH**”) Coordinator to oversee safety and health matters at the **workplace**.

3. **Enhanced Employee Rights:**

Employees are empowered to remove themselves from situations presenting “imminent danger” if the employer fails to take steps to remove the hazard after being informed. Employees who exercise this right are explicitly protected against retaliation or unfair treatment.

“Imminent danger” in this case is defined as “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.”

4. **Increased Penalties:** Penalties for non-compliance have been substantially raised to deter violations, with fines reaching up to RM500,000 for certain offences.

Repeal of the Factories and Machinery Act 1967

Concurrently, the Factories and Machinery Act 1967 (“FMA”) was repealed, where regulations on occupational health and safety are now consolidated under a single legislative framework to streamline compliance and enforcement. In essence, the repeal has brought about the following effects:

- **Centralization under OSHA:** Powers previously granted under the FMA, such as licensing of inspectors and plant certification, are now consolidated under OSHA as a whole, streamlining regulatory authority under one primary legislation.
- **Abolishment of Prescriptive Powers:** The FMA gave the Minister broader discretion to authorize persons to carry out a wider range of functions. Under OSHA 2022, this is narrowed — for example, Section 7A of OSHA 2022 only allows licensing for plant inspections and issuance of certificates of fitness, not for “any function” as before.
- **Loss of Factory Registration Control:** Under the FMA, all factories

had to be registered and approved by the authorities. With the repeal, this registration requirement is removed, and only hazardous or specified plants require oversight under OSHA 2022.

- **Reduced DOSH Monopoly on Inspections:** The FMA placed primary inspection responsibility on DOSH officers. Through mechanisms like the Special Scheme of Inspection (SSI), OSHA now allows occupiers to take over some inspection duties, reducing DOSH's direct operational role.
- **Shift from Time-Based to Risk-Based Inspections:** The repeal reduces the government’s role in setting fixed inspection timelines. Now, risk-based inspections under the SSI shift much of the responsibility and discretion to the occupier and their certified team.

New Subsidiary Legislation

At the same time, the following subsidiary legislations have also come into effect on 1 June 2024:

- a) **Occupational Safety and Health (Plant Requiring Certificate of Fitness) Regulations 2024**

[P.U.(A) 99/2024] establish the legal framework for the inspection and certification of specific types of plants in Malaysia. The regulations mandate that certain types of plants, such as steam boilers, pressure vessels, and lifting machinery, must obtain a certificate of fitness before they can be operated. This requirement ensures that these plants meet the necessary safety standards to protect workers and the public.

- **Application for certificates of fitness:** Occupiers must submit a written notice to the Director General of the Department of Occupational Safety and Health (DOSH) or a licensed person, indicating their intent to operate a plant requiring a certificate of fitness;
- **Inspection Requirements:** Upon receiving the notice, the plant must undergo an inspection conducted by a DOSH officer or a licensed person. If the plant meets the prescribed safety standards, a certificate of fitness will be issued;

- **Validity of a certificate of fitness:** Valid for a period not exceeding 15 months from the date of issuance;
- **Maintenance and Record-Keeping:** Occupiers are responsible for maintaining the plant in a safe condition and keeping records of inspections, maintenance, and any incidents related to the plant's operation.

- b) **Occupational Safety and Health (Licensed Person) Order 2024 [P.U.(A) 100/2024]** establishes the framework for the licensing of individuals or entities authorized to perform specific functions under OSHA, particularly in relation to the inspection and certification of certain plants and machinery. The Order empowers the Minister of Human Resources to grant licenses to qualified persons, enabling them to conduct inspections on designated types of plants as prescribed by the Minister and to issue certificates of fitness for plants that meet safety and operational standards.

This licensing mechanism is integral to the implementation of the

Special Scheme of Inspection (“SSI”) under the **Occupational Safety and Health (Special Scheme of Inspection) Regulations 2025 (“SSI Regulations”)**, effective 21 January 2025. Under the SSI, occupiers can apply for a special inspection scheme (Class A or Class B) for their plants, and licensed persons play a crucial role in conducting these inspections and issuing the corresponding certificates of fitness.

Further Subsidiary Legislation: The SSI Regulations

Under the SSI Regulations, inspection of plants can be conducted either by:

- a) Periodical inspections¹ of a DOSH officer or licensed person (in the manner to be prescribed by the Minister of Human Resources); or
- b) For certain classes of plants, the occupier may apply for approval from

¹ “periodical inspection” means an inspection carried out in accordance with regulation 6 whereby the Director General may request additional information or documents from the occupier after receiving an SSI application. If the occupier fails to provide the requested materials within the specified or extended timeframe, the application will be considered withdrawn. Nevertheless, the occupier may still submit a new application later.

² “risk-based data” means— (a) in relation to steam boiler and pressure vessel, information on the details of its design and operation, including the composition of process fluid, properties of process fluid, operating temperature and pressure, building material, design specification, current thickness, type of damage mechanism that may affect the

the Director General of DOSH (“Director General”) to perform a **special scheme of inspection (“SSI”)**. Where approval is granted, inspections of the plants will be carried out in line with the SSI.

Through this scheme, the owner/occupier, specifically their internal risk-based team, will be responsible for the collection and submission of risk-based data.² Where the certificate of fitness is concerned, it now functions on a risk-based approach as opposed to a time-based approach. In doing so, the issuance of a certificate of fitness can be more efficiently and safely granted.

Under the SSI, an occupier may apply to the Director General seeking approval for a special inspection scheme, which is divided into two classes:

- Class A: for steam boilers and pressure vessels; or

function of the steam boiler and pressure vessel, inspection and maintenance; and (b) in relation to lifting machinery, information on the details of its design and operation, including building material, design specification, type of damage mechanism that may affect the function of the lifting machinery, inspection and maintenance.

- Class B: for all other plants requiring a certificate of fitness.

Overview of the Special Scheme of Inspection under the SSI Regulations

1. Application process

To apply for an SSI, occupiers must first submit an application at least six months before the current certificate of fitness expires. The application must include the prescribed fees as outlined in the First Schedule of the SSI Regulations.

Requirements	
Requirements for Class A SSI	Requirements for Class B SSI
<ul style="list-style-type: none"> • Establish and maintain an occupational safety and health (OSH) management system as agreed by the Director General. • List down all steam boilers and pressure vessels. • Ensure that the above plants are in safe working condition where each plant owns a valid certificate of fitness. • Provide information on remnant life, risk category, inspection intervals, and inspection plan. 	<ul style="list-style-type: none"> • Establish and maintain a plant management system following industry codes of practice. • List down all plants requiring a certificate of fitness • Categorise the plants based on installation time (more or less than 36 months from the application date). • Ensure that the above plants are in safe working condition where each

Requirements	
Requirements for Class A SSI	Requirements for Class B SSI
<ul style="list-style-type: none"> Form a risk-based team of at least five experts/persons qualified (including an engineer, corrosion expert, process/production expert, inspection expert, and safety & health officer) 	<p>plant owns a valid certificate of fitness.</p> <ul style="list-style-type: none"> Submit risk-based data and thickness measurements (For steam boilers and pressure vessels)
<ul style="list-style-type: none"> Submit risk-based data and thickness measurements using prescribed methodologies. Submit required documents in accordance with the Second Schedule. 	<ul style="list-style-type: none"> Provide information on remnant life, risk category, inspection intervals and inspection plan for steam boilers and pressure vessels. Ensure no fatality, serious injury, disease, or dangerous incident has occurred in the two years preceding the application. Form a risk-based team of at least five experts/persons qualified (including an engineer, corrosion expert, process/production expert,

Requirements	
Requirements for Class A SSI	Requirements for Class B SSI
	inspection expert, and safety & health officer)

Note: An occupier can only hold one class of SSI approval at a time. Approval for Class B will automatically revoke any existing Class A approval.

2. Validity Period:

- Class A SSI: Valid for 120 months (10 years) from the date of approval, unless revoked or terminated earlier.
- Class B SSI: Valid for 180 months (15 years) from the date of approval, unless revoked or terminated earlier.
- Certificate of Fitness: Under an SSI, the certificate of fitness's validity can extend up to 60 months (5 years), determined based on risk assessment.

3. Inspection Requirements

Special Inspections:

Apart from the initial special inspection which involves both internal inspection and external inspection³, the SSI Regulations provide for subsequent special inspections whereby:

- Class A requires both internal inspection and external inspection. If the occupier/owner believes that an internal inspection is impractical, they may request to the Director General for an inspection during operation. Where such request has been rejected, an internal inspection is mandatory.

³ "internal inspection" means an inspection carried out on the interior of a steam boiler and pressure vessel using whether a visual technique, non-destructive testing or both; "external inspection" means a visual inspection carried out on the exterior of a plant requiring certificate of fitness to assess conditions that may affect the integrity of the plant

requiring certificate of fitness and its support structure, including the safety equipment of the plant requiring certificate of fitness;

- Class B requires inspection during operation⁴ and external inspection.

Verification Inspections:

An occupier who has been approved for a special inspection scheme—either Class A or Class B—must undergo a verification inspection.

- Class A: Occupiers must apply for a verification inspection

within six months after a special inspection, along with the prescribed fee.

- Class B: Occupiers must apply for a verification inspection no more than six months before the next scheduled special inspection, along with the prescribed fee.

4. Duties of Occupiers

Common Duties for Class A & Class B	
<ul style="list-style-type: none"> ➤ Ensure no fatality, serious bodily injury, poisoning, disease, or dangerous incidents occur in relation to the plant requiring a certificate of fitness. ➤ Collect and maintain risk-based data every 12 months (at least). ➤ Use approved methods for calculating and assessing risk data. ➤ Notify the Director General within 30 days of any change in the leader of the risk-based inspection team. ➤ Ensure verification inspections are performed and team members remain competent. 	
Additional Duties for Class A	Additional Duties for Class B

⁴ "inspection during operation" means an inspection on the exterior of a steam boiler or pressure vessel which is in operation and the inspection is carried out using appropriate non-destructive testing methods to detect

defects in the steam boiler or pressure vessel based on the damage mechanism.

<ul style="list-style-type: none"> • Maintain an OSH management system. • Keep detailed records of equipment usage and maintenance. 	<ul style="list-style-type: none"> • Maintain a plant management system. • Conduct comprehensive risk-based data analysis for various equipment types.
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5. Revocation and/or Termination of SSI

Revocation:

- The Director General may revoke an SSI if the occupier provides false, misleading, or materially erroneous information or documents.

Termination:

An SSI may be terminated if:

- The occupier fails to comply with obligations under regulation 10 (Class A) or regulation 11 (Class B).
- There is a change in ownership of the plant under the SSI.
- The certificates of fitness for all plants under the SSI have been revoked or have expired without renewal.
- The occupier voluntarily withdraws from the SSI by

notifying the Director General in writing.

In cases of voluntary termination, the certificate of fitness will be deemed revoked either at the end of its validity or six months after termination, whichever occurs first.

6. Changes to the Plant Conditions

Where there are any changes relating to:

- Sale, lease, or transfer of ownership of a plant under SSI; or
- Alterations to the safe working pressure/load for steam boilers, pressure vessels, or lifting machinery,

the occupier must notify the Director General within 30 days of such changes.

For Class B SSI, if there are changes to the list of plants under the scheme, the occupier must

apply to amend the list within 48 months from the date the change occurred.

7. First Schedule: Fees

Item	Class A	Class B
Application Fees	RM51,000 for the first plant + RM1,000 per additional subsequent plant	RM81,000 for the first plant + RM1,000 per additional plant
Special Inspection Fees	<ul style="list-style-type: none"> • RM300–RM2,400 (based on heating surface area for steam boilers) • RM140–RM700 (based on capacity for pressure vessels) 	RM350–RM1,300 (based on type and load of lifting machinery)
Verification and Amendment Fees	RM25,000	RM40,000
Amendment of Plant List	RM1,000 per plant	RM1,000 per plant

Conclusion: What Should an Employer do?

Malaysia’s enhanced Occupational Safety and Health legislation underscores its unwavering commitment to worker safety and well-being. Coupled with its subsidiary legislation, the revamped legislation under

OSHA is in a better position to safeguard the safety of employed individuals.

Furthermore, the legislative updates above necessitate that employers and stakeholders:

- **Review and Revise Safety Management Systems:**

Update internal policies and safety procedures to reflect the broader scope and new obligations under OSHA 2022, including duties towards contractors and remote workers.

- **Undertake Robust Risk Assessments:** Conduct thorough and recurring risk assessments in accordance with DOSH guidelines, identifying hazards that could affect both employees and third parties interacting with the workplace.
- **Establish Emergency Preparedness Measures:** Implement and regularly test comprehensive emergency response plans tailored to the specific risks of the workplace.
- **Appoint Qualified OSH Coordinators:** For businesses with five or more employees, ensure the timely appointment of a competent OSH Coordinator to oversee compliance and manage safety-related activities.
- **Adapt to Risk-Based Inspection Frameworks:** If operating plants or machinery requiring certification, understand and prepare for participation in the Special Scheme of Inspection (SSI), including forming

qualified risk-based inspection teams and managing data submissions.

- **Invest in Employee Awareness and Training:** Educate employees on their expanded rights, such as the ability to withdraw from imminent danger without fear of retaliation, and ensure they are aware of safety protocols and reporting mechanisms.

This article was written by our Intellectual Property, Media, Sports & Gaming partners, Sri Sarguna Raj, Steven Cheok Hou Cher & Nicole Chong, with the assistance of Soo An Qi, Lim Chaw Zen and Michelle Yap Siew Hui (Senior Associate, Associate & Pupil). It contains general information only. It does not constitute legal advice or an expression of legal opinion and should not be relied upon as such.