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## New Mandatory Safety Management Systems for the Workplace for Several Industries (Thailand)

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### Background

On 11 April 2022, the Ministerial Regulation Prescribing the Standard for Safety Management Systems of 2022 dated 9 February 2022 (the “**Ministerial Regulation**”) was published in a Royal Thai Government Gazette. The Ministerial Regulation was issued under the Occupational Safety, Health, and Environment Act of 2011 (the “**OSHA**”) and entirely revokes prior regulation on the safety management systems stipulated under the Ministerial Regulation Prescribing the Standard for Administration and Management of Occupational Safety, Health, and Environment (No.2) of 2010 dated 24 June 2010, which did not detail each component of the safety systems required for workplaces, and, as a consequence, such previous regulation failed to become practically effective. Therefore, the Ministerial Regulation will introduce new requirements for safety management systems with more details for practical approach. It shall become effective from 10 June 2022.

### 1. Target Industries

This Ministerial Regulation is applicable to any employer who has fifty (50) or more employees in specific types of industries (as annexed to the Ministerial Regulation; please see the table below).

The current regulation, i.e. the Ministerial Regulation Prescribing the Standard for Administration and Management of Occupational Safety, Health and Environment of 2006 dated 16 May 2006, requires that business operators employ safety officer(s) for station in the work place. It would appear, from our review, that most of the industries stipulated therein shall be required to have the safety management systems under this Ministerial Regulation as well. These industries include manufacturing, construction, hotel, hospital, department store, etc. However, please note that financial institutions and certain offices, which are presently required to have a safety officer in the workplace under the current regulation, are excluded from this Ministerial Regulation, which we believe may correspond to the draft of the incoming ministerial regulation to overhaul the safety officer appointment in the workplace, which was recently approved by the Cabinet on 1 February 2022. Moreover, this Ministerial Regulation is expanded to cover a wider range of businesses than the business under the current regulation. Those newly covered industries include retail or wholesale businesses<sup>1</sup>, trade exhibitions and convention centres, zoos, and amusement parks, etc.

### 2. Safety Management Systems Standard

According to the Ministerial Regulation, each entrepreneur in the Target Industries shall be required to procure at least one well-recognized standard certification related to safety management systems, such as, the standard certified by:

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<sup>1</sup> Based on our best understanding, not every trading business will be categorized as retail or wholesale business, which are subject to this Ministerial Regulation, and it appears to focus on retail or wholesale businesses, in particular those which offer choices of goods/products to customers without being the intermediary, such as a grocery supermarket or a hypermarket.

- TISI (Thai Industrial Standards Institute);
- ISO (International Standardization for Organization);
- ILO (International Labour Organization);
- BSI (British Standards Institution);
- ANSI (American National Standards Institute);
- OSHA (Occupational Safety and Health Administration under the United States' Department of Labour);  
or
- Any another equivalent standards which may be later certified by the Director-General of the Department of Labour Protection and Welfare.

For the entrepreneurs who have already been certified by any of the above well-recognized standards, the enactment of this Ministerial Regulation should not create any new burden for them. However, please note that the standard which will be acceptable under this Ministerial Regulation must be related to safety management systems only, e.g., ISO 45001, TIS 18000.

### 3. Safety Management Systems Requirements

Alternatively, for those entrepreneurs in the Target Industries who are not ready to, or do not plan to, obtain the well-recognized standards related to safety management systems mentioned above, they may set up a safety management systems in the workplace themselves so long as it at least consists of the following:

#### 3.1 Policy on occupational safety, health and environment

The employer must prepare a policy with respect to occupational safety, health, and environment, and, at minimum, make such policy available for reading in Thai, and review it at least once a year. This policy must be signed, affixed with the company's registered seal, and dated completely and accurately.

#### 3.2 Organizational management regarding occupational safety, health, and environment

The employer must arrange at least one member of personnel to be responsible for implementation of the safety management systems and provide training in relation thereto for its personnel. The employer must also prepare and update the documents in relation to safety management systems and keep it at the business establishment for at least two (2) years being ready for inspection by the officer. Every contractors and related persons must also be informed of the danger and occupational safety, health and environment standard.

#### 3.3 Action plan on occupational safety, health, and environment

The employer must prepare an action plan with respect to occupational safety, health, and environment consisting of information regarding at least (i) the review of the general environment in the workplace, such as hazardous chemicals, levels of heat, light and noise, and the working conditions of the employees, (ii) the use of the outcome of such review to prepare an action plan and the designation of a responsible person, budget, timeframe, and criteria for evaluation, (iii) the implementation with the action plan, (iv) the evaluation of the result of the implementation, and (v) the improvement of the action plan based on result of evaluation in (iv).

#### 3.4 Evaluation and review of safety management system

The employer must inspect and measure the performance of the safety management systems. If there is any occurrence of incident, sickness, occupational disease, or property damage, the employer must investigate the situation in order to determine any necessary rectification and prevention measures. The employer must evaluate and review its safety management systems at least once a year.

#### 3.5 Improvement and development of the safety management systems

The employer shall continuously improve and develop its safety management systems.

To ensure the effectiveness of the safety management systems, every employees in a company must be allowed to participate in the operation of the safety management systems by being allowed to give their comments and being able to access the information of the safety management systems to the extent that it

does not violate personal data privacy. The entrepreneurs of the Target Industries are also required to arrange for a communication channel for their employees in order for them to provide comments, recommendations, or lodge complaints in relation to the occupational safety, health, and environment.

#### 4. Penalty

Any entrepreneur who fails to procure the well-recognized standard or arrange the safety management systems under this Ministerial Regulation shall be liable for imprisonment for a term of not exceeding one (1) year and/or a fine not exceeding Baht 400,000 (Four Hundred Thousand Baht only). This liability may extend to directors, managers, or any other responsible parties of the entrepreneur who is a juristic person.

#### Conclusion

This Ministerial Regulation is expected to enhance the safety management systems and promote Thai businesses to adapt the well-recognized standards, which may subsequently increase the competitiveness of Thai businesses in the global market. As this Ministerial Regulation is applicable to a wide range of industries, many entrepreneurs, especially those whose business has not already been certified by one of the above-mentioned well-recognized standards in relation to safety management systems, should prepare for the enforcement of this Ministerial Regulation since it shall be subject to more stringent occupational safety and health regulation starting from 10 June 2022 onward.

Please feel free to contact us if you have any comments or questions.

#### **List of types of industries annexed to the Ministerial Regulation**

1. Industry on Mining under Minerals Law
2. Industry on Petroleum Business under Petroleum Law
3. Industry on Petrochemicals
4. Industry on Petroleum Refineries
5. Industry on Natural Gas Separation
6. Industry on Printing
7. Industry on Food Products
8. Industry on Beverages
9. Industry on Tobacco Products
10. Industry on Textiles
11. Industry on Garments
12. Industry on Leathers
13. Industry on Wood Products
14. Industry on Paper or Paper Processed Products
15. Industry on Chemicals or Chemical Product Production
16. Industry on Pharmaceutical Products or Medical Supplies
17. Industry on Rubber Products
18. Industry on Plastic Products
19. Industry on Non-Metallic Mineral Products
20. Industry on Metals or Metal Products
21. Industry on Electronic Devices
22. Industry on Electrical Appliances or Electrical Devices
23. Industry on Machinery or Machine Tools
24. Industry on Vehicles, Vehicle Parts, or Vehicle Accessories
25. Industry on Furniture
26. Industry on Jewelry
27. Industry on Musical Instruments
28. Industry on Sports and Fitness equipment
29. Industry on Toys
30. Industry on Medical Equipment and Tools
31. Industry on Electricity Power Generation, Transmission, or Distribution

32. Industry on Gas Production or Filling
33. Industry on Coke Production
34. Industry on Steam Production, Storage, or Distribution
35. Industry on Livestock or Cultivation
36. Service Station under Fuel Trade Law
37. Fuel Depot under fuel control law
38. Wastewater Treatment or Waste Disposal Services under Enhancement and Conservation of National Environmental Quality Law
39. Industry on Recycling and Reuses
40. Industry on Mineral Dressing, Mineral Mining on a Minor Scale or Mineral Panning under Minerals Law
41. Construction, Modification, Repairing or Demolition under Building Control Law
42. Industry on Transports
43. Air Navigation Services under Air Navigation Law
44. Warehouse Businesses, Silo Businesses or Cold Storage Businesses under Warehouse, Silo, and Cold Storage Law
45. Telecommunication Businesses under Law on Organization to Assign Radio Frequency and to Regulate the Broadcasting and Telecommunications Business Operation
46. Machinery Installations, Repairing, or Maintenances
47. Hotel under Hotel Law
48. Condominium Juristic Person Businesses under Condominium Law
49. Department Stores, Retail Businesses or Wholesale Businesses
50. Trade Exhibitions and Convention Centres
51. Hospitals
52. Testing and Analysis on Physical, Chemical, Biological or Engineering Operations
53. Automobile Distribution and Maintenance or Repairing
54. Zoos or Amusement Parks

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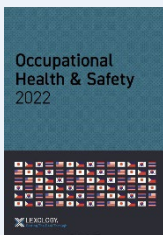
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