

**Baker  
McKenzie.**

# Work Health and Safety - Asia Pacific

## Summary of Key Issues 2019



# AUSTRALIA



## Have there been any key OHS developments in your jurisdiction over the last 12 months?

Yes.

Reckless conduct prosecutions under work health and safety legislation are increasing rapidly and prison sentences and substantial fines are being imposed in several recent cases.

Regulators are focussing on issuing notices on company officers – requiring them to establish that they have exercised due diligence in relation to their business/undertaking.

Prosecutions against company officers, individual managers and employees are increasing and substantial penalties have been imposed against individuals in some cases.

Workplace bullying orders can be made under the Fair Work Act where the Fair Work Commission refers a matter to a Work Health and Safety inspector for investigation.

## Please list 2 – 3 key emerging safety issues in your jurisdiction.

- Reckless conduct
- Bullying
- Stress

## Can directors / officers of a company be personally prosecuted in your jurisdiction? If yes, what is the maximum penalty that can be imposed?

Yes - up to \$600,000 and/or 5 years imprisonment under the work health and safety legislation.

## Can a company / individuals be prosecuted for criminal negligence / industrial manslaughter in relation to safety matters?

The offence of manslaughter exists in all states and can be applied in an industrial context against a corporation. However, such claims are rare. This is because the work health and safety laws in states and territories have criminal sanctions for breaches of such laws – including terms of imprisonment. The test under OHS laws is somewhat easier to prove than the offence of manslaughter.

# AUSTRALIA

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# CHINA



## Have there been any key OHS developments in your jurisdiction over the last 12 months?

There has not been any material development relating to OHS requirements in China over the last 12 months.

Below are the three most recent regulations relating to OHS:

- (a) On 4 January 2017, the State Council issued the Plan on Occupational Disease Prevention for Years 2016 to 2020 (the **Plan**). This Plan follows the Guidance on Pushing Forward Reform and Development in Work Safety announced in December 2016 (the **Guidance**). Together, the Plan and the Guidance, which are broad guidelines rather than finalized laws and regulations, signal China's clear intent to reduce occupational disease hazards and workplace accidents;
- (b) On 28 July 2017, the Ministry of Human Resources and Social Security issued a guideline to adjust the work-related injury insurance benefits which would be paid by the work injury social insurance fund; and
- (c) On 17 February 2019, the State Council issued the Regulations on Emergency Response to Production Safety Incidents (effective 1 April 2019). The emergency response regulations impose new emergency response obligations on governments and production operation companies. The persons-in-charge of production operation companies are now responsible for all emergency responses for production safety incidents.

## Please list 2 – 3 key emerging safety issues in your jurisdiction.

- Occupational disease prevention
- Increased claims for work injury benefits
- Work safety accident prevention

## Can directors / officers of a company be personally prosecuted in your jurisdiction? If yes, what is the maximum penalty that can be imposed?

Yes, if they are deemed as being directly responsible. The most severe fines range up to 100% of the primary responsible manager's annual income from the previous year. Possible imprisonment.

## Can a company / individuals be prosecuted for criminal negligence / industrial manslaughter in relation to safety matters?

Yes. Depending on the level of severity of the accident, the fines can be up to RMB 20 million and operations can be shut down.

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# CHINA

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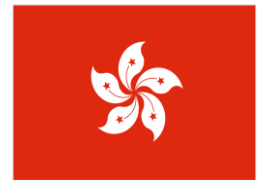
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# HONG KONG



## Have there been any key OHS developments in your jurisdiction over the last 12 months?

No. Nothing material.

On 19 March 2019, the Labour Department launched an online occupational safety and health (OSH) complaint platform so that employees and members of the public can report to the department unsafe operations and environments at workplaces by using online forms accessible to mobile electronic devices or computers.

We have seen prosecution for breach of sections 8(1) and (2) of the Occupational Safety and Health Regulation (i.e. responsible person failing to ensure that means of escape are properly maintained) made under the Occupational Safety and Health Ordinance.

## Please list 2 – 3 key emerging safety issues in your jurisdiction.

- Work injury in an office setting, or while on business trips; suspected abuse of work injury protections
- Workplace stress / mental illness (e.g. depression)
- Infectious diseases / occupational diseases

## Can directors / officers of a company be personally prosecuted in your jurisdiction? If yes, what is the maximum penalty that can be imposed?

Yes. Under s 33 of the Occupational Safety and Health Ordinance and s. 14 of the Factories and Industrial Undertakings Ordinance, a director (or manager, secretary or other similar officer of the company) can be prosecuted if an offence is committed "*with the consent or connivance of, or was attributable to any neglect on the part of*" such director (or manager, secretary or other similar officer of the company).

- HK\$200,000 and imprisonment for 6 months for intentionally, knowingly or recklessly failing to provide a safe working environment.
- HK\$200,000 and imprisonment of up to 12 months for failure to comply with an "improvement notice" issued by the Labour Department.
- HK\$500,000 and imprisonment of up to 12 months for failure to comply with a "suspension notice" issued by the Labour Department.

## Can a company / individuals be prosecuted for criminal negligence / industrial manslaughter in relation to safety matters?

Yes. The offence of manslaughter exists. However, such criminal prosecutions are uncommon.

# HONG KONG

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# INDONESIA



## Have there been any key OHS developments in your jurisdiction over the last 12 months?

On 27 April 2018, the Minister of Employment issued Regulation No. 5 of 2018 on Work Place Occupational Health and Safety (**Regulation 5**).

Regulation 5 replaces the following regulations and decrees:

- (a) Minister of Labor Regulation No. 7 of 1964 on Conditions of Health, Cleanliness and Lighting in Work Place;
- (b) Minister of Manpower and Transmigration Regulation No. Per.13/Men/X/2011 on Threshold Value of Physical Factors and Chemical Factors in Work Place; and
- (c) Minister of Manpower and Transmigration Circular Letter No. SE.01/MEN/1978 on Threshold Value for Work Climate and Threshold Value for Loudness at Work Place.

Regulation 5 sets out the minimum occupational health and safety standards that must be implemented in the work environment, including, among other things:

- (a) physical factors that relate to the activity of the employees from the utilization of machinery, equipment, material and environmental condition, which could cause obstruction and health issue for the employees, including, work climate, noise level, microwave radiation, UV radiation, static magnetic field, air pressure and lighting;
- (b) chemical factors that relate to the activity of the employees from the utilization of chemical material which could cause health issue for the employees, including, chemical contamination in the air in the form of gas, steam and particles;
- (c) biological factors that relate to the activity of the employees from the utilization of living organisms (such as animals or plants as well as microorganisms) which could cause health issue for employees;
- (d) ergonomic factors that relate to the activity of the employees from the imbalance of work facilities provided by the employer, including, working process, working position, work equipment and lifted weights; and
- (e) psychological factors that relate to the activity of the employees in relation to the relationship between personnel in the work premises, and the role of the employees.

As with the previous regulations, Regulation 5 sets out the following requirements related to work place OSH:

- (a) physical factors and chemical factors must be controlled so that they remain below the applicable thresholds;
- (b) biological factors, ergonomic factors and work psychology factors must fulfil the applicable standards;
- (c) clean and healthy cleaning and hygiene facilities must be provided at the work place; and
- (d) availability of competent and authorized OSH personnel within the work place.



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- (e) Regulation 5 also includes detailed technical specifications on the physical factor threshold, lighting standards, chemical factor threshold, biological exposure index standards, ergonomic factor standards, psychology factor standards and guidance for development of OSH personnel. Most of these were already addressed in the previous regulations revoked by Regulation 5.

### **Please list 2 – 3 key emerging safety issues in your jurisdiction.**

There are a small number of seminars, workshops or discussions that relate to managing stress level at work and mental health, but these are usually low-key (and often in limited communities) such that they are not really considered as "emerging issues" in Indonesia.

From some Company Regulations (the equivalent of an employee manual or handbook) we have recently reviewed, some only briefly address OHS (e.g. employees are also required to maintain a safe and healthy working environment). Some are more specified in addressing requirements relating to OHS, for example employees must use and maintain in good condition personal protection equipment provided by the employer, employees must report any health and safety incidents in the work place to the appropriate personnel within the employer and smoking is prohibited anywhere within the premises of the employer.

### **Can directors / officers of a company be personally prosecuted in your jurisdiction? If yes, what is the maximum penalty that can be imposed?**

Under Law No. 1 of 1970 on Work Safety (**Work Safety Law**), "management" (which has the obligations as set out below) is defined as a person who has the duty to directly lead a work place or an independent part of a work place.

From the definition of "management" above, the "directors" of a company could be considered as the "management" of a company. This is because under the Indonesian Company Law the Board of Directors has the duty and authority to manage the company.

Under the Work Safety Law, the "management" of a work place is required to:

- (a) Display in writing at places that can be clearly seen and read in the workplace all work safety requirements, a copy of the Work Safety Law and any of its implementing regulations which are applicable for the relevant workplace;
- (b) Display at places that can be clearly seen and read in the workplace all required work safety symbols and other safety developmental materials;
- (c) Provide, free of charge, all self-protection equipment required for employees as well as other persons who enter the workplace, along with the necessary use instructions.
- (d) Display and explain to all new employees:
  - the conditions and dangerous events that could occur at workplace;
  - all security and protection equipment required at workplace;
  - personal protective equipment for the new employees; and
  - safe working methods and attitude;

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- (e) Conduct development program for all employees on accident prevention, fire prevention and fire-fighting methods, as well as the increase of work health and safety and first-aid assistance for an accident; and
- (f) Fulfil and observe all terms and conditions applicable to the business and work place.

If the "management" of the work place does not comply with the above requirements, the management could be subject to imprisonment of a maximum 3 months or a fine of a maximum Rp.100,000.

As under the Company Law, the Board of Directors is the authorized representative of a company and has the duty and authority to manage the company, the above sanction under the Work Safety Law could be imposed on the Board of Directors. That is, a member of the Board of Directors could be liable to serve the term of imprisonment.

### **Can a company / individuals be prosecuted for criminal negligence / industrial manslaughter in relation to safety matters?**

Possibly.

Law No. 13 of 2003 on Labor (**Labor Law**) does not specifically provide sanction for an employer who is negligent in ensuring the health and safety of its employees.

However, as mentioned in the previous column, the management of a work place could be subject to imprisonment or fine if they do not fulfil their obligations.

If an employee dies because of the employer's negligence in ensuring their health and safety at the work place, the employer (if the employer is a company, the Board of Directors) could be subject to criminal sanctions under the Indonesian Criminal Code.

The following are samples of Articles of the Indonesian Criminal Code that could be relevant to an employer's negligence in ensuring the health and safety of its employees:

- **Article 359**

Under Article 359, anyone who due to their fault causes the death of a person may be subject to imprisonment of a maximum 5 years or detention of a maximum 1 year.

- **Article 360(1)**

Under Article 360(1), anyone who due to their fault causes a person to suffer severe injury may be subject to imprisonment of a maximum 5 years or detention of a maximum 1 year.

- **Article 360(2)**

Under Article 360(2), anyone who to their fault causes a person to suffer an injury so that the person becomes temporarily ill or temporary unable to perform his duties or job may be subject to imprisonment of a maximum 9 months or detention of a maximum 6 months or a fine of a maximum Rp4,500.

Although the Article 360 (2) of the Criminal Code refers to the fine of Rp4,500, based on Supreme Court Regulation No. 2 of 2012 on Adjustments on Limitation of Light Criminal Action and amount

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of Fine in the Criminal Code, the amount is multiplied by 1,000, so that the maximum fine would be Rp4,500,000.

It should be noted that the judge in a criminal proceedings has the authority to determine the actual sanction to be imposed.

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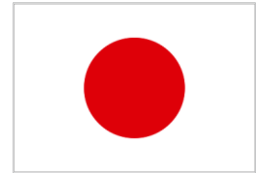
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# JAPAN



## Have there been any key OHS developments in your jurisdiction over the last 12 months?

Yes.

Amendments to the Industrial Safety and Health Act (**ISHA**), which came into force on 1 April 2019, require employers to track employees' working hours (both the managerial and non-managerial employees) based on the method prescribed in the amended Ordinance on Industrial Safety and Health, which states that employees' time should be recorded using an objective method, including but not limited to, timecards and recording based on log-in and log-out information on a computer.

Amendments to the ISHA also include an increased role of an industrial physician and tightened rules on consultations with the industrial physician when employees work long hours.

## Please list 2 – 3 key emerging safety issues in your jurisdiction.

- Working hours / work-life balance
- Maternity harassment /power harassment
- Stress /mental health

## Can directors / officers of a company be personally prosecuted in your jurisdiction? If yes, what is the maximum penalty that can be imposed?

Yes. 3,000,000 Japanese yen or 3 years imprisonment under the ISHA. This maximum penalty is applicable only to cases of manufacturing, importing, assigning, transferring or using prohibited chemical substances designated by the law and its supplemental regulations (such as benzidine).

## Can a company / individuals be prosecuted for criminal negligence / industrial manslaughter in relation to safety matters?

Yes. The offence of manslaughter exists in the Criminal Code and can be applied in an industrial context against individuals when applicable in addition to the offence in ISHA.

To the contrary there is no offence of manslaughter against corporations in the Criminal Code and corporations can only be prosecuted for manslaughter in relation to safety matters only in ISHA.

# JAPAN

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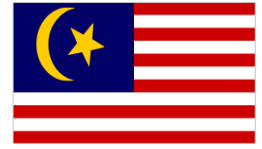
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# MALAYSIA



## **Have there been any key OHS developments in your jurisdiction over the last 12 months?**

No. There have not been any significant developments relating to occupational safety and health (**OSH**) requirements in Malaysia.

The most recent regulations relating to OSH is the Occupational Safety and Health Regulations on Noise Exposure 2019 (**Regulations**). Employers must ensure that its employees will not be exposed to excessive noise under the Regulations.

## **Please list 2 – 3 key emerging safety issues in your jurisdiction.**

None.

## **Can directors / officers of a company be personally prosecuted in your jurisdiction? If yes, what is the maximum penalty that can be imposed?**

Yes.

The maximum penalty under the Occupational Safety and Health Act 1994 (**OSHA**) for key company personnel, including directors of a company, is a fine not exceeding RM 50,000 or imprisonment for a term not exceeding 5 years, or both. Where the offence persists following enforcement actions by the authorities, there will be a further fine of RM 500 for each day which the offence continues.

## **Can a company / individuals be prosecuted for criminal negligence / industrial manslaughter in relation to safety matters?**

Yes, for individuals. It is unclear as to whether a company can practically be prosecuted for such offences.

# MALAYSIA

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# PHILIPPINES



## Have there been any key OHS developments in your jurisdiction over the last 12 months?

Yes.

Republic Act No. 11058 (**RA 11058**) was recently passed into law, and its implementing rules and regulations (Department Order No. 198-18) became effective on 25 January 2019. RA 11058 and Department Order No. 198-18 strengthen compliance with Philippine Occupational Safety and Health Standards (**OSHS**), and provide penalties for violations thereof. Among their salient provisions are: (1) OSHS duties of employers, workers and other persons, (2) covered workplaces, (3) composition and number of required occupational health personnel and facilities, and (4) enumeration of prohibited acts and their corresponding penalties.

## Please list 2 – 3 key emerging safety issues in your jurisdiction.

- Harassment in the workplace
- Mental health promotion

## Can directors / officers of a company be personally prosecuted in your jurisdiction? If yes, what is the maximum penalty that can be imposed?

Under RA 11058, the employer and any person who manages, controls or supervises the work being undertaken shall be jointly and solidarily liable for compliance with RA 11058.

Wilful failure or refusal of an employer to comply with the required OSHS or with a compliance order issued by the Secretary of the Philippine Department of Labour and Employment (**DOLE**) shall make such employer liable for an administrative fine not exceeding PhP100,000.00 per day until the violation is corrected, counted from the date the employer is notified of the violation or the date the compliance order is duly served on the employer. The amount of fine imposed will depend on the frequency or gravity of the violation committed or the damage caused. An employer who wilfully fails or refuses to comply with the required OSHS or with a duly issued compliance order, and engages in any of the aggravating acts to aid, conceal or facilitate such noncompliance shall also be liable for a maximum of PhP100,000.00 administrative fine separate from the daily fine imposed above.

Further, if a director or officer obstructs, impedes, delays or renders ineffective the compliance orders of the DOLE (issued after a finding of non-compliance), the same shall be considered an unlawful act and may be punished with a fine of not less than PhP 1,000.00 nor more than PhP10,000.00 or imprisonment of not less than three months nor more than three years, or both fine and imprisonment at the discretion of the court.

## Can a company / individuals be prosecuted for criminal negligence / industrial manslaughter in relation to safety matters?

Individuals may, in theory, be prosecuted for criminal negligence in relation to safety matters. However, we have not encountered a Supreme Court ruling squarely dealing with this issue. As regards the



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company itself, it does not appear, based on the language of the Revised Penal Code, that a company may be prosecuted for criminal negligence.

However, there are Supreme Court rulings where the employee or employee's heir successfully brought a claim of negligence, which is civil in nature, against the employer-company due to health and safety concerns and was awarded compensation and damages.

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# SINGAPORE



## Have there been any key OHS developments in your jurisdiction over the last 12 months?

A workplace safety and health report was recently released in April 2019 which indicated that the Singapore government would like to reduce by the year 2028 the workplace fatal injury rate by 30% on a sustained basis (i.e. from a 3-year average of 1.4 per 100,000 workers in 2018 to 1.0 per 100,000 workers within the next 10 years). The 3 broad strategies which have been identified to achieve the goal are to:

- (a) strengthen workplace safety and health ownership;
- (b) enhance focus on workplace health; and
- (c) promote technology-enabled workplace safety and health.

One of the key proposed recommendations under the report is to make the safety track records of ***all*** companies available publicly to help businesses make an assessment of potential partners and contractors before awarding contracts, since there are benefits in choosing partners and contractors with a stronger safety performance. Currently, the Ministry of Manpower does publish names of companies with stop-work orders, fatal work injuries, convictions under Workplace Safety and Health Act (**WSHA**), but these records are limited to around 120 of the worst-performing companies each year.

With effect on 1 January 2018, the Commissioner of Labour may prepare and publish a learning report on any accident, dangerous occurrence or occupational disease in a workplace that is the subject of an investigation. This is in line with the recent push for a culture change towards workplace.

The judge in a recent case (*Nurun Novi Saydur Rahman v Public Prosecutor and another appeal* [2019] 3 SLR 413; [2018] SGHC 236) undertook a review of the sentencing practice under section 15(3A) of the WSHA (negligent acts of endangerment). The judge indicated that the sentencing practice has resulted in a clustering of sentences at the lower end of the sentencing range, which does not accord with Parliament's intention to effect a cultural change and deter risk-taking behaviour. The judge decided on an enhanced sentence in the case as a result (i.e. S\$15,000 (~US\$11,000) to 26 weeks imprisonment (noting the notional conversion rate of 1 week imprisonment is a S\$5,000 fine, where a fine and imprisonment are both imposed)).

## Please list 2 – 3 key emerging safety issues in your jurisdiction.

- Increase in flexible work arrangements which has raised questions on employer's responsibility for employees working remotely.

## Can directors / officers of a company be personally prosecuted in your jurisdiction? If yes, what is the maximum penalty that can be imposed?

Yes. Part X of the WSHA sets out the general offences and penalties for workplace related safety and health issues. Section 48 of the WSHA provides that an officer of a body corporate may be held liable for the offence in question unless he proves that:

- (a) the offence was committed without his consent or connivance; and

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(b) he had exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances.

The WSHA prescribes different penalties for specific offences. However, section 50 of the WSHA provides, in general, that a person guilty of any offence under the WSHA may be liable to a fine not exceeding S\$200,000 and to imprisonment for a term not exceeding 2 years or both. Enhanced penalties apply for repeat offenders.

### **Can a company / individuals be prosecuted for criminal negligence / industrial manslaughter in relation to safety matters?**

Under the Penal Code (**PC**), it is possible for individuals to be prosecuted for criminal negligence. Such offences include, amongst others, endangering personal safety by a negligent act (section 336(b) of the PC), causing hurt by a negligent act (section 337(b) of the PC), causing grievous hurt by a negligent act (section 338(b) of the PC) and causing death by a negligent act (section 304(b) of the PC).

In practice, however, it is often simpler and easier for individuals, such as officers of the company, to be prosecuted under the provisions of the WSHA instead of the PC. This is because once an offence under the WSHA has been shown to have been committed by a body corporate, the burden of proof is effectively reversed and the onus is placed on the officer to prove that the offence in question was committed without his consent or connivance, and that the officer had exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances.

In respect of companies and other corporate entities, the general rule under Singapore law is that an employee must be the "controlling" or "directing mind and will" of the company for his criminal actions to be attributed to the company and for the company to be held criminally liable. However, this is difficult to prove in practice, and is one of the reasons why there are very few criminal prosecutions of companies in Singapore.

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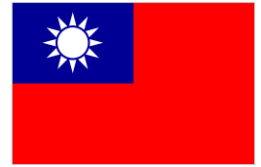
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# TAIWAN



## **Have there been any key OHS developments in your jurisdiction over the last 12 months?**

No, nothing material.

However, following the large-scale amendment of Occupational Safety and Health Law (**OSHL**) on 3 July 2013, Enforcement Rules of the Occupational Safety and Health Act and Regulations Governing Occupational Safety and Health were amended accordingly on 26 June 2014 and 19 February 2016 respectively.

## **Please list 2 – 3 key emerging safety issues in your jurisdiction.**

- Employer liability for remote working arrangements
- Increased scrutiny for workplace and facilities safety
- Death from overwork/ Work-related stress

## **Can directors / officers of a company be personally prosecuted in your jurisdiction? If yes, what is the maximum penalty that can be imposed?**

Yes.

Maximum fine of NT\$300,000 and/or maximum 3 years of imprisonment according to Article 40 of OSHL.

## **Can a company / individuals be prosecuted for criminal negligence / industrial manslaughter in relation to safety matters?**

Yes, according to Articles 6, 37, 40 of OSHL.

# TAIWAN

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# THAILAND



## Have there been any key OHS developments in your jurisdiction over the last 12 months?

Yes.

There is a new ministerial regulation prescribing standards for administration, management and performance of occupational safety, health and the environment in relation to confined space B.E. 2562 (2019) and a ministerial regulation prescribing standards for administration, management and performance of occupational safety, health and the environment in relation to fire prevention and control (no. 2) B.E. 2561 (2018).

## Please list 2 – 3 key emerging safety issues in your jurisdiction.

- Increased scrutiny/enforcement of OHS laws, especially those relating to safety trainings.

## Can directors/ officers of a company be personally prosecuted in your jurisdiction? If yes, what is the maximum penalty that can be imposed?

Yes. If a violation of the OHS law (i.e. Occupational Safety, Health and Environment Act B.E. 2554 (2011)) is due to an order or performance of any person, or a neglect of order, a neglect of duty as required as a managing director or of any person who is responsible for carrying out the business of the company, such personnel shall be subject to the same penalty as that imposed on the company.

A maximum penalty is a 1-year imprisonment and/or a fine of Baht 400,000.

## Can a company / individuals be prosecuted for criminal negligence / industrial manslaughter in relation to safety matters?

The offence of manslaughter exists and can be applied in an industrial context against a corporation. However, such claims are rare in practice. This is because the OHS laws in Thailand have criminal sanctions for breaches of OHS laws – including terms of imprisonment. The test under OHS laws is somewhat easier to prove than the offence of manslaughter.

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## Have there been any key OHS developments in your jurisdiction over the last 12 months?

There has not been any significant developments relating to occupational safety and hygiene (OSH) requirements in Vietnam over the last 12 months.

On 8 October 2018, the Government issued Decree No. 140/2018/ND-CP amending certain regulations on OSH, mainly regarding the licensing procedures applicable to institutions providing OSH trainings. On 26 December 2018, the Ministry of Labor, Invalids and Social Affairs (**MOLISA**) further elaborating provisions of this Decree.

On 17 October 2018, the Ministry of Labor, Invalids and Social Affairs issued Circular No. 17/2018/TT-BLDTBXH on enterprises' self-inspection of compliance with the labor law. This Circular requires the employer to self-inspect its compliance with the labor law at least once a year. Workplace activities subject to self-inspection include, among others, OSH activities.

## Please list 2 – 3 key emerging safety issues in your jurisdiction.

- Serious work related accidents (often fatal accidents) especially in construction, mining and electricity industries due to the employers' failure to comply with regulations on OSH during the course of work
- Food poisoning at many manufacturing companies due to low quality of food providers causing thousands of employees to be sick
- Unsatisfactory working conditions applicable to female employees in terms of occupational safety and hygiene

## Can directors / officers of a company be personally prosecuted in your jurisdiction? If yes, what is the maximum penalty that can be imposed?

Arguably yes. In terms of OHS, directors/officers of a company can be personally prosecuted for the crime of violating occupational rules or administrative rules. Although the crime does not directly address OHS, its legal verbiage is broad and can be interpreted to apply to OHS-related violations.

From 1 January 2018, when the new Penal Code took effect, the offenders may be subject to:

- (a) 1-5 years of imprisonment (in case of involuntary murder causing 01 person to death);
- (b) 5-12 years imprisonment (in case of involuntary murder causing 02 or more people to death); and
- (c) prohibition from doing their jobs for 1-5 years.



# VIETNAM

## Work Health and Safety - Asia Pacific Summary of Key Issues

### Can a company / individuals be prosecuted for criminal negligence / industrial manslaughter in relation to safety matters?

From 1 January 2018, under the new Penal Code, a company can be subject to criminal liability for certain crimes prescribed under Art 76 of this Code. These crimes do not include OSH-related matters.

For individuals: Arguably yes.

Please also refer to the answer to question 3.

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