

## Student Manual for Lecture 3 – Health and Safety Legislation

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### Introduction

This lecture focuses on the essential aspects of health and safety legislation, which is a critical foundation for ensuring safe and compliant workplaces. As part of your Occupational Health and Safety (OHS) diploma, today's session will introduce you to the core legal principles that shape health and safety regulations, particularly in Malta, the European Union, and globally. By the end of this lecture, you should have a solid understanding of how laws are developed, enforced, and applied to protect workers.

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### Understanding the Legal System and Its Role in OHS

Law can be defined as a set of rules that govern human conduct. In the context of occupational health and safety, laws set the minimum standards that all employers must adhere to in order to protect workers. These standards are not just arbitrary rules; they serve as the legal foundation for creating a safe work environment.

We are all subject to various laws throughout our lives—laws that govern traffic, public behaviour, and, in our case, workplace safety. Just as society requires traffic laws to prevent chaos on the roads, workplaces require OHS laws to prevent accidents, injuries, and fatalities.

Health and safety laws are designed not only to establish the minimum acceptable standards but also to encourage employers to go beyond these requirements and strive for continuous improvement in safety practices.

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### Historical Foundations of the Maltese Legal System

Malta's legal system is a unique blend of influences from various foreign powers, including the Knights Hospitaller, the French Napoleonic Code, and British colonial rule. Each of these periods introduced elements into Malta's legal framework, which today is a combination of civil law, drawn from Roman and Napoleonic traditions, and British common law procedures.

One key moment in Malta's legal history was the introduction of the **Code de Rohan** in 1784, Malta's first codified law. Later, under British rule, the Maltese legal system was influenced by British procedural fairness, including trial by jury and the rights of the accused. These historical developments have shaped not only civil and criminal law in Malta but also how the country approaches workplace safety regulations.

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## Development of Malta's Legal Codes and Key Figures

Sir Adrian Dingli, a pivotal figure in Maltese legal history, was instrumental in drafting Malta's legal codes in the mid-19th century. He spearheaded the creation of the **Code of Organisation and Civil Procedure** and the **Criminal Code**, which laid down the legal principles still in effect today. Although heavily influenced by continental law, Dingli's work also incorporated elements of British law, particularly the introduction of trial by jury and procedural fairness for the accused.

In the realm of OHS, this dual system means that workplace safety violations can result in both civil and criminal penalties. Employers who fail to comply with safety laws might be sued in civil court for damages or prosecuted under criminal law for more serious offences like gross negligence or willful violations that result in injury or death.

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## Criminal and Civil Law in OHS

In Malta, there are two primary branches of law relevant to OHS: **criminal law** and **civil law**.

- **Criminal law** deals with offences that threaten society as a whole. In the context of workplace safety, criminal penalties can apply when a company or individual knowingly or negligently violates safety regulations, leading to harm or death. Punishments include imprisonment, fines, or both.
- **Civil law** governs disputes between private individuals or entities. In workplace safety, civil law might come into play in cases of compensation claims, where an employee seeks damages for injuries sustained due to an employer's negligence.

Employers must ensure compliance with both legal frameworks to avoid not only penalties but also the reputational damage that can come from legal battles over workplace safety violations.

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## Health and Safety Laws: A Response to Industrial Disasters

The origins of modern health and safety legislation can be traced back to the **Industrial Revolution**, a time when rapid industrialisation led to significant workplace hazards. A series of tragic disasters, such as the **Triangle Shirtwaist Factory Fire (1911)** in the United States, the **Seveso Disaster (1976)** in Italy, and the **Piper Alpha Disaster (1988)** in the UK, highlighted the urgent need for stronger safety laws.

These disasters spurred governments to introduce laws aimed at preventing such tragedies in the future. For instance, the **Seveso Directive** in the EU introduced

stringent regulations for the control of hazardous substances, while the **UK Offshore Installations (Safety Case) Regulations** were established after the Piper Alpha oil rig disaster to ensure safety in the offshore oil industry.

In Malta, we are not immune to such tragedies. The **Jean Paul Sofia tragedy** in 2022 led to the public outcry that paved the way for **Act 33 of 2024**, a comprehensive overhaul of Malta's health and safety laws.

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## **Maltese Legislative Framework for OHS**

The **Occupational Health and Safety Authority Act (OHS Act 2000)** has been the cornerstone of workplace safety in Malta for over two decades. This act sets out the general responsibilities of employers to ensure a safe and healthy working environment for all employees. The law aligns with European Union directives, which ensure that all member states implement a consistent level of worker protection.

Several **Legal Notices** support the OHS Act by providing specific regulations on various aspects of workplace safety. Some of the key Legal Notices include:

- **L.N. 91 of 2000:** Protection of Young Persons at Work, which safeguards younger workers from hazardous tasks.
- **L.N. 92 of 2000:** Protection of Maternity, which outlines protections for expectant and nursing mothers.
- **L.N. 44 of 2002:** Minimum Workplace Requirements, ensuring basic standards for ergonomics and hygiene.
- **L.N. 88 of 2018:** Construction regulations, which focus on safety in Malta's high-risk construction industry.

With the introduction of **Act 33 of 2024**, Malta's OHS framework is set to become even more robust. This new legislation introduces the role of the **Health and Safety Reporting Officer (HSRO)** and raises penalties for non-compliance.

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## **From Act 27 of 2000 to Act 33 of 2024: Key Improvements**

The transition from **Act 27 of 2000** to **Act 33 of 2024** represents a significant strengthening of OHS legislation in Malta. Some key improvements include:

- **Increased penalties:** Fines for non-compliance have been raised, with serious violations now attracting fines of up to **€50,000**.

- **Introduction of the HSRO:** Certain businesses are now required to appoint a Health and Safety Reporting Officer. This individual is responsible for monitoring compliance and reporting violations, adding a new layer of accountability.
- **Expansion of administrative penalties:** The Occupational Health and Safety Executive now has greater powers to issue fines directly, streamlining enforcement.
- **Criminal liability for HSRO:** If the HSRO fails to report or address safety issues, they may face criminal penalties, ensuring both employers and safety officers remain vigilant.

These changes reflect a more modern and proactive approach to workplace safety, with stricter enforcement and higher standards across all industries.

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## Global Health and Safety Legislation

Beyond Malta and the EU, other global regulations also play a role in shaping workplace safety. Notable examples include:

- **OSHA (1970)** in the United States, which sets stringent industry-specific regulations.
- **Health and Safety at Work Act (1974)** in the UK, which adopts a principle-based approach, focusing on general duties of care.
- **China's Work Safety Law (2002)**, which places a strong emphasis on worker protection in high-risk industries.

Understanding these global regulations is increasingly important in a world where companies operate across borders. As OHS professionals, you may need to ensure that your company's practices not only comply with local laws but also align with international standards.

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## Enforcement and Practical Compliance

Laws are only as effective as their enforcement. In Malta, the **Occupational Health and Safety Authority (OHSA)** is the primary body responsible for ensuring compliance with OHS regulations. The OHSA conducts inspections, enforces laws, and issues penalties for violations.

Act 33 of 2024 introduces potential imprisonment for offences against health and safety at work, just as Act 27 of 2000 does. However, Act 33 increases the severity of both fines and imprisonment penalties:

- **Under Act 27 of 2000**, offences could lead to **imprisonment for up to two years** or fines ranging from €465 to €11,646, or both.
- **Under Act 33 of 2024**, the penalty is harsher. For any offence against the Act or its regulations, a person can face **imprisonment of up to four years** and fines ranging from **€1,000 to €50,000**. On subsequent convictions, the fines increase to **€2,000 to €50,000**, and imprisonment can range from **one to four years**.

This marks a substantial escalation in both fines and the duration of imprisonment for non-compliance. Additionally, the Court has the authority to cancel or suspend permits or licenses associated with the convicted workplace, further enhancing the consequences for repeated or severe violations.

Aspect	Act 27 of 2000	Act 33 of 2024
Maximum Fines	Fines vary based on the severity of the breach. Generally lower, up to €10,000.	Fines significantly increased, up to €50,000 for major breaches like non-appointment of HSRO.
HSRO Responsibilities	No specific mention of HSRO responsibilities.	HSRO must report non-compliance and is criminally liable for failure to do so.
Employer's Liability	Employers remain liable even with external contractors.	Employers remain fully liable, but the HSRO is also accountable for their designated duties.
Administrative Penalties	Limited administrative penalties; mostly reliant on judicial processes.	Extensive administrative penalties; the Executive has the authority to issue fines and directives.
Criminal Liability for HSRO	Not explicitly mentioned.	Explicit penalties for HSRO negligence, with potential criminal liability for non-compliance.
Offences Covered	General employer and employee breaches of health and safety.	Covers a wider range of offences, including administrative breaches like failure to follow directives.

Globally, enforcement agencies like the **Health and Safety Executive (HSE)** in the UK and **OSHA** in the US play similar roles, ensuring that safety laws are upheld across industries. Companies must proactively ensure compliance through regular audits, inspections, and fostering a culture of safety.

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## **Conclusion**

Health and safety legislation is fundamental to protecting workers and preventing workplace injuries. As future OHS professionals, it is crucial that you understand both local and international legal frameworks, as well as the enforcement mechanisms that ensure these laws are followed. Whether it's implementing safety measures, conducting audits, or responding to violations, your role will be essential in ensuring that workplaces remain compliant and, most importantly, safe.