



THE MALTA CHAMBER

PRESS RELEASE

15 July 2024

The Health and Safety at Work Act – A Possible Step Forward

Proper proactive enforcement and timely drafting of corresponding legal notices should be the next step

The Malta Chamber of Commerce, Enterprise and Industry has repeatedly highlighted the urgent attention that needs to be given to health and safety to effectively prevent accidents and deaths. Laws and regulations need to reflect the nature of the work and the corresponding risk. Laws and regulations must also address abuse, and enforcement must be carried out in a proactive and timely manner.

Apart from submitting its views during the public consultation process and at MCESD last year, the Malta Chamber participated and contributed during the Second Reading Stage at the “Consideration of Bills Committee” in Parliament last week (<https://youtu.be/QxIHNPfnZJA>). Amongst a number of other points, The Malta Chamber called for clarity on the applicability and role of the newly introduced Health & Safety Reporting Officer (HSRO). The Malta Chamber insisted that:

- (a) The HSRO role should not be a blanket requirement based solely on the nature of the business and its size as originally proposed but should be dependent on the risk inherent in the nature of the work and how it is being executed. The original Bill was ushered with the caveat that the HSRO will not apply to all businesses. It hinted at large business and certain industries, without defining large in the context of the Bill, and without specifying which industries. The victims of tragic occupational accidents that we have seen in recent years were, in most cases, working with small companies or in high-risk unregulated environments. Risk management requires mitigating measures corresponding to the risks inherent to the operations and the way they are carried out, and this will differ from one company to another depending on competence more than size.
- (b) The requirement of an HSRO should be imposed to address repeated abuses and to curb irresponsible practices by high-risk operators who systematically try to get away with it. The Bill as originally drafted would have shifted the burden of policing on the HSRO across the board, which would have been unfair on operators who fully comply with existing health and safety obligations and adopt a proactive approach to risk management. Blanket impositions of the requirement of an HSRO would dramatically increasing personnel costs, especially because the HSRO role will be tough to fill. Proactive and properly co-ordinated enforcement needs to be carried out by the Authority, irrespective of the introduction of the HSRO role.
- (c) Clarity is required on how the new role of the HSRO would fit with that of the Health and Safety officer/practitioner which already exists in companies that are in line with current occupational health and safety. Accidents keep happening, among other reasons, because some

businesses do not adhere to the existing obligations. The reality is that the majority of the bigger companies are very likely to have an inhouse H&S officer or otherwise have a service agreement with a H&S practitioner/firm. Some smaller companies subcontract external service providers for the number of hours required, depending on nature/risk, for their risk assessments, inspections and follow-ups. It still needs to be seen how the two roles will interact in those companies where the HSRO will be required.

The Malta Chamber positively notes that the HSRO requirement has been amended to reflect “the nature of the work” rather than the nature of the business or its size. Subsequent subsidiary legislation will need to determine where an HSRO will be required subject to the “nature of the work”. The Authority will also have the right to “order that an HSRO is appointed in relation to a particular employer for such time as the Authority may deem necessary” where there are serious and consistent breaches of the law.

The next steps require government to embark on proactive enforcement including the sharing of pertinent information between government departments, entities, agencies and authorities through proper digitalisation to facilitate enforcement. Government must also ensure that the corresponding legal notices to this enabling law are enacted without unnecessary procrastination.

The Malta Chamber reiterates its position in favour of health and safety regulations and standards that prevent accidents and death. In order to achieve meaningful legislation there must be proper engagement with representatives of both employers and employees, ideally around the same table. The Malta Chamber reaffirms its commitment to participate and engage at all consultation stages and urges Government to make better use of the MCESD as this is a matter of relevance to both employers and employees, as well as to civil society.

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