

## SAFE TIME

### Accountable or Responsible?



by  
Ir. Shum Keng Yan

**THE** terms accountable and responsible are frequently used interchangeably. There are salient differences in the two words. To understand the difference, let us think about it this way: A person is still accountable even though the person can delegate part or all of the responsibilities to another party.

For example, delegating tasks to a subordinate or consultant. In the end, the party taking the “job” will need to deliver on the tasks assigned. Legal compliance is similarly delegated to professional parties. At times, it makes sense as the delegated party might have specific skills or knowledge. However, does that mean that the delegating party is no longer accountable?

What does the Occupational Safety and Health Act 1994 (Act 514) say about management accountability? For this, let us turn to Part IV: General Duties of Employers and Self-Employed Persons.

This is the key statement [Subsection 15 (1)]: It shall be the duty of every employer and every self-employed person to ensure, so far as is practicable, the safety, health and welfare at work of all his employees. For a discussion on “Practicable”, please refer to this column published in the October 2010 issue.

Subsection 15 (2) states that the duties (again “so far as is practicable”) include:

- (a) Provision and maintenance of plant and systems of work.
- (b) Providing arrangements in accordance with the use or operation, handling, storage and transport of plant and substances.
- (c) Provision of information, instruction, training and supervision.
- (d) Maintenance of the place of work including the provision and maintenance of the means of access to and egress from the place of work.
- (e) Provision and maintenance of a healthy working environment with adequate facilities for welfare.

Section 16 requires the Employer and Self-Employed person to prepare and communicate a written statement of the general Safety and Health Policy

for his employees and the organisation and arrangements to carry out the policy. This general policy needs to be revised as often as maybe appropriate to keep it current. Section 16 does not apply to those who carry on an undertaking with not more than five Employees.

Section 17 covers person other than Employees. Imagine the immediate neighbours, customers, contractors, visitors and the public who might be affected by the industry.

Section 18 covers Occupiers who are the “controllers” of premises who make available non-domestic premises as a place of work to those who are not employed by them. Imagine the Occupier as one of the tenants of a shopping complex.

There are two additional actions for the Employer under Part VI: General Duties of Employees. They are:

- i) Section 26 – i.e. the duty NOT to charge Employees for things done or provided under the Act and regulations made under.
- ii) Subsection 27 (1) – i.e. the duty NOT to discriminate against an Employee if the Employee makes a complaint or joins and exercises his function as a member of the Safety and Health Committee. (Note: Subsection 27 (2) states a similar requirement for Trade Unions not to discriminate against their member for the same reasons stated here.)

A takeaway is that the activity and place of work is under the management or control of the Employer. Those who have figured out Accountability and Responsibility can help enlighten us at [pub@iem.org.my](mailto:pub@iem.org.my). ■

*There is often a reversal in “Accountability and Responsibility” in actual practice. Subordinates tend to be made “Accountable and Responsible” whenever something goes wrong whereas the Supervisor becomes “Responsible” by micro-managing the Subordinates. I suppose the remuneration should be reversed too in these cases.*