

Update

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Further Consultation Required on New Health and Safety Bill

The Malta Employers' Association gives its views on the new Health and Safety Bill

The following Media Release was issued today, the 17th of July 2024.

Media Release

The Malta Employers' Association welcomes the ambitions behind the proposed legislative changes to the Health and Safety Act which it considers positive. It believes that the measures contemplated in the Bill should serve to drive Health and Safety higher up the agenda of those employers where the business entails high risk to workers and other stakeholders – both internal and external. The MEA believes that, if correctly implemented, the new provisions included in the Bill should serve to instill a better balance for H&S considerations with respect to other commercial and compliance priorities in local companies as well as higher levels of standards and professionalism in terms of H&S amongst the commercial community at large.

Nevertheless, the MEA believes that for these objectives to be attained, the Bill needs to provide full clarity to the business community which has a right to know, a priori, which companies are going to be in scope of nominating a HSRO and according to which criteria. Companies need to know at the outset what background, position, academic qualifications and terms of reference such persons need to have before being given such nominations with such onerous responsibilities.

The MEA is not convinced that the legislative changes on their own can truly address the priority problem areas it is seeking to address unless the above points are made amply clear. It believes that unless this proposed legislation is implemented properly, consistently and in a targeted manner it would not serve to address risk and the avoidance of occupational hazards. On the contrary, it would merely serve to transfer the administrative burden and financial cost of enforcement to companies by mandating the nomination of Health and Safety Reporting Officers (HSROs) on certain employers. The MEA is full square behind any well-executed plan to eradicate abuse whilst inculcating proper engagement, risk-management procedures, adequate

The MEA Secretariat:

Director General
Kevin J Borg

Consultant
Joseph Farrugia

Consultant
Kirsten Cutajar Miller

Lawyer
Dr Charlotte Camilleri

SME Helpdesk Executive
Anton Vella

EU Projects Coordinator
Kurt Cortis

Office Administrator
Dorianne Azzopardi Cilia

Receptionist
Graziella Gauci

© UPDATE is prepared and circulated by:
MALTA EMPLOYERS' ASSOCIATION
35/1, South Street,
Valletta VLT 1100, Malta
t: (+356) 21237585, 21222992
www.maltaemployers.com

training and investment in safety equipment with a view to minimise injury and innocent loss of life. On the other hand, it does not expect this law to be used merely to increase burdens indiscriminately on companies which have relatively lower risk eg office work.

Moreover, the MEA notes that the role of the HSRO is similar to that of a Compliance Officer, at management level, who, though employed by a commercial undertaking acts 'independently' of the employer and has direct access to the Authority. While this may appear rather straightforward on paper, it may become much more cumbersome to implement in practice, potentially resulting in limited overall success in terms of clamping down on potentially critical H&S shortcomings and the avoidance of serious accidents and injuries.

The MEA has also raised concerns with respect to the reporting lines of the Executive and the need for the CEO of the Authority to operate with full political independence.

Finally, to ensure full benefit in terms of minimizing occupational hazards and H&S risks, the MEA continues to insist on employee disclosure clauses which it notes are absent in the Bill. To this end, it continues to insist that employers have a right to know of any physical or mental impairment that their employees may have (whether visible or otherwise) and which may affect health and safety at work. Furthermore, the MEA contends that employees who get injured at work and are found to be under the influence of any psychoactive substance (whether decriminalized or otherwise) will be deemed to have contributed to their own injury (or that of their co-workers or third-parties) and an employer who was fully compliant with health and safety regulations should be exonerated from any liability.

The full Position Paper is available [here](#).