

Student Manual for Lecture 3 – Health and Safety Legislation

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.

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.

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.

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.

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.

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.

Maltese Legislative Framework for Occupational Health and Safety (2025)

Malta’s occupational health and safety system is today governed by the **Health and Safety at Work Act – Cap. 646 (Act XXXIII of 2024)**, which replaced the former **Occupational Health and Safety Authority Act (Cap. 424 of 2000)**.

This reform consolidated over two decades of regulation, strengthening accountability, enforcement, and worker protection in line with European and international standards.

Cap. 646 establishes the **Occupational Health and Safety Authority (OHSA)** as the national regulatory body responsible for promoting, monitoring, and enforcing health and safety law.

The Act defines the duties of **employers, self-employed persons, employees, designers, manufacturers, suppliers, and contractors**, and introduces new enforcement tools such as the **Health and Safety Reporting Officer (HSRO)** and the **Special Compromise Fine** mechanism under Article 22, which allows for administrative settlement of certain offences.

The Maltese framework continues to align closely with the **EU Framework Directive 89/391/EEC**, ensuring that workers enjoy a consistent level of protection across all Member States.

Subsidiary Legislation (S.L. 646.xx)

A number of subsidiary regulations give detailed effect to the Act by addressing specific workplace hazards and operational requirements.

Key

Key Subsidiary Legislation (S.L. 646.xx)

No.	Title
S.L. 646.01	Work Places (Extension of Definition) Order

No.	Title
S.L. 646.02	Dock Safety Regulations
S.L. 646.03	Work Places (Health, Safety and Welfare) Regulations
S.L. 646.04	Protection of Young Persons at Workplaces Regulations
S.L. 646.05	Protection of Maternity at Workplaces Regulations
S.L. 646.06	Work Place (First Aid) Regulations
S.L. 646.07	Minimum Health and Safety Requirements for Work with Display Screen Equipment Regulations
S.L. 646.08	Work Place (Minimum Health and Safety Requirements) Regulations
S.L. 646.09	Work Place (Provision of Health and/or Safety Signs) Regulations
S.L. 646.10	Protection against Risks of Back Injury at Workplaces Regulations
S.L. 646.11	General Provisions for Health and Safety at Workplaces Regulations
S.L. 646.12	Control of Major Accident Hazard Regulations
S.L. 646.13	Minimum Requirements for the Use of Personal Protective Equipment at Work Regulations
S.L. 646.14	Protection of Workers from the Risks related to Exposure to Carcinogens, Mutagens or Reprotoxic Substances at Work Regulations
S.L. 646.15	Protection of Workers from the Risks related to Exposure to Asbestos at Work Regulations

No.	Title
S.L. 646.16	Protection of the Health and Safety of Workers from the Risks related to Chemical Agents at Work Regulations
S.L. 646.17	Protection of Workers from Risks related to Exposure to Biological Agents at Work Regulations
S.L. 646.18	Protection of Workers in the Mineral Extracting Industries through Drilling and Workers in Surface and Underground Mineral Extracting Industries Regulations
S.L. 646.19	Work Place (Minimum Requirements for Work) (Confined Spaces and Spaces having Explosive Atmospheres) Regulations
S.L. 646.20	Work Place (Minimum Health and Safety Requirements for the Protection of Workers from Risks resulting from Exposure to Noise) Regulations
S.L. 646.21	Work Place (Minimum Health and Safety Requirements for the Protection of Workers from Risks resulting from Exposure to Vibration) Regulations
S.L. 646.22	Work Place (Minimum Health and Safety Requirements for the Protection of Workers from Risks resulting from Exposure to Artificial Optical Radiation) Regulations
S.L. 646.23	Work Place (Minimum Health and Safety Requirements for the Protection of Workers from Risks resulting from Exposure to Electromagnetic Fields) Regulations
S.L. 646.24	Work Equipment (Minimum Safety and Health Requirements) Regulations
S.L. 646.26	Health and Safety at Work (Procedures in Relation to the Issuance of Administrative Penalties) Regulations
S.L. 646.27	Health and Safety at Work (Minimum Health and Safety Requirements for Work at Construction Sites) Regulations
S.L. 646.28	Health and Safety at Work (Administrative Penalties and Compromise Fines Publication) Regulations

Key Developments under Act XXXIII of 2024

- Establishment of the **Health and Safety Reporting Officer (HSRO)** with personal accountability for reporting non-compliance.
 - Introduction of **higher penalties** – up to €50 000 in fines and 4 years' imprisonment.
 - Empowerment of OHSA to issue **administrative instruments** (orders, guidelines, protocols, circulars) under Article 17.
 - Launch of the **Special Compromise Fine (Article 22)** to resolve minor breaches efficiently through out-of-court settlement.
 - Consolidation of Malta's OHS framework with modern terminology and alignment to EU best practice.
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Summary

Malta's Cap. 646 marks a decisive step forward — transforming OHS from a compliance exercise into a culture of prevention and shared responsibility.

The updated subsidiary legislation ensures that every sector, from construction to healthcare, operates within a clear, enforceable framework consistent with European Union standards.

Global and European Frameworks for Occupational Health and Safety (2025)

Occupational health and safety legislation worldwide aims to protect workers from harm, promote wellbeing, and ensure safe working environments.

While approaches differ between jurisdictions, the fundamental principles of **prevention, participation, and accountability** remain universal.

Malta's **Health and Safety at Work Act – Cap. 646 (Act XXXIII of 2024)** is part of this wider international landscape, aligning closely with the **EU Framework Directive 89/391/EEC**, which continues to influence global safety systems.

European Union – Framework Directive 89/391/EEC (1989)

The foundation of all modern occupational safety law in Europe, this Directive establishes the principles of:

- Employer responsibility for prevention and risk assessment.
- Worker participation in health and safety matters.

- Hierarchies of control and preventive planning.
- Continuous improvement through training and consultation.

It requires each Member State to transpose its provisions into national law—leading to Acts such as Malta’s **Cap. 646**, Ireland’s **Safety, Health and Welfare at Work Act 2005**, and similar frameworks across the EU.

The Directive has since been complemented by a series of “**daughter directives**” addressing specific risks (e.g. machinery, noise, vibration, chemical and biological agents).

GB United Kingdom – Health and Safety at Work etc. Act (1974)

The UK pioneered a **goal-setting, principle-based approach**—imposing a general duty on employers to ensure safety “*so far as is reasonably practicable*.”

This concept later shaped EU and Maltese legislation.

The Act is enforced by the **Health and Safety Executive (HSE)**, which issues improvement or prohibition notices and prosecutes serious breaches.

us United States – Occupational Safety and Health Act (1970)

Created the **Occupational Safety and Health Administration (OSHA)** within the Department of Labor.

OSHA follows a **prescriptive, standards-driven model**, defining specific exposure limits, safe-work procedures, and record-keeping rules.

Its system is enforcement-focused, with mandatory inspections and financial penalties for non-compliance.

au Australia – Work Health and Safety Act (2011)

Introduced a **harmonised national model** applied across states and territories.

Defines the *Person Conducting a Business or Undertaking (PCBU)* as the primary duty holder.

Stresses consultation, cooperation, and coordination among all workplace parties.

Penalties for breaches can exceed **A\$3 million** for companies and include imprisonment for officers.

CN China – Work Safety Law (2002, amended 2021)

A **command-and-control model** focusing on high-risk industries such as mining, construction, and chemicals.

Recent reforms strengthened senior management accountability, mandatory reporting, and severe penalties for concealment of incidents.

The law is enforced by the **Ministry of Emergency Management (MEM)**.

IN India – Occupational Safety, Health and Working Conditions Code (2020)

Unified thirteen previous laws into one code.

Promotes *risk-based inspections* and improved regulation of informal-sector and contract workers.

The **Directorate General, Factory Advice Service & Labour Institutes (DGFASLI)** coordinates national enforcement.

CA Canada – Canada Labour Code & Provincial OHS Acts

A **federal-provincial system**: the **Canadian Centre for Occupational Health and Safety (CCOHS)** sets guidance, while provincial ministries enforce.

Encourages joint health and safety committees and worker participation as core preventive tools.

Global Significance

In a world of transnational operations and mobile workforces, OHS professionals must navigate multiple legislative systems while maintaining a unified standard of prevention and care.

Compliance with national law is essential, but true excellence lies in aligning with **international frameworks such as ISO 45001 and ILO Conventions 155 and 187**, ensuring a consistent culture of safety wherever work takes place.

Enforcement and Practical Compliance (2025)

Laws are only as effective as their enforcement. In Malta, this responsibility lies primarily with the **Occupational Health and Safety Authority (OHSA)**, established under the **Health and Safety at Work Act – Cap. 646 (Act XXXIII of 2024)**.

The OHSA's mandate includes:

- Inspecting workplaces and investigating accidents or complaints.
- Issuing improvement and prohibition notices.
- Imposing administrative penalties and, where necessary, initiating prosecution.
- Providing information, guidance, and training to promote compliance.

The new **Cap. 646** significantly strengthens the Authority's enforcement powers and introduces higher penalties to reflect the gravity of non-compliance.

Legal Penalties under Cap. 646

Act XXXIII of 2024 (which repealed Act XXVII of 2000) increases both the **severity** and **scope** of penalties for offences against occupational health and safety law.

While the 2000 Act already allowed for imprisonment and fines, the new framework doubles maximum penalties and introduces **administrative settlement** options through the *Special Compromise Fine*.

Comparison of Key Provisions

Aspect	Act 27 of 2000 (Cap. 424)	Act 33 of 2024 (Cap. 646)
Maximum Fines	Generally lower, up to ≈ €11 000 depending on offence severity.	Significantly increased: up to €50 000 for major breaches (e.g. failure to appoint an HSRO).
Imprisonment	Up to 2 years.	Up to 4 years; higher for repeat offenders.
HSRO Responsibilities	Not defined.	Mandatory appointment; criminal liability for failure to report or act on non-compliance.
Employer's Liability	Employers remain responsible even when duties are delegated.	Employers remain fully liable; HSRO and responsible officers share accountability.

Aspect	Act 27 of 2000 (Cap. 424)	Act 33 of 2024 (Cap. 646)
Administrative Penalties	Limited—mostly court-based prosecutions.	OHSA empowered to issue on-the-spot fines, directives, and orders.
Criminal Liability for HSRO	Not mentioned.	Explicit liability for negligence or omission.
Offences Covered	General employer/employee breaches.	Wider coverage including administrative and reporting failures.
Additional Sanctions	—	Courts may suspend or cancel licences or permits following conviction.

Special Compromise Fine – Article 22

A major innovation under *Cap. 646*, Article 22 enables the OHSA to resolve certain offences administratively through a **Special Compromise Fine**.

If an offender admits liability and pays the prescribed fine within the established period, prosecution is waived. Non-payment, however, reinstates legal proceedings.

This mechanism aligns Malta with contemporary European enforcement practice—balancing deterrence with procedural efficiency.

Beyond Malta – Enforcement in Other Jurisdictions

Globally, similar agencies ensure adherence to health and safety legislation:

- **United Kingdom – Health and Safety Executive (HSE):** enforces the *Health and Safety at Work etc. Act 1974* through inspections, improvement and prohibition notices, and prosecutions.
- **United States – Occupational Safety and Health Administration (OSHA):** a federal agency enforcing detailed standards, issuing citations, and levying fines for each violation.
- **Australia – Safe Work Australia / State WorkSafe Authorities:** combine education and regulation, operating under a harmonised *Work Health and Safety Act 2011*.

- **China – Ministry of Emergency Management (MEM):** maintains direct command authority to suspend operations and impose severe penalties for major incidents.

Across these systems, one message is consistent: **effective enforcement depends not only on law, but on leadership and culture.**

Practical Compliance

True compliance requires going beyond minimum legal obligations.

Employers and safety professionals must:

- Conduct regular **risk assessments and audits.**
- Maintain **training and competence records.**
- Engage workers in **consultation and reporting mechanisms.**
- Keep documentation aligned with **Cap. 646**, relevant **Subsidiary Legislation (S.L. 646.xx)**, and any **Administrative Instruments** issued by OHSA.
- Foster a culture in which safety is treated as a **core value**, not merely a legal duty.

“Legislation provides the foundation—but culture sustains compliance.”

Global Enforcement Snapshot (2025)

Country / Region	Primary Enforcement Body	Legal Basis / Core Law	Enforcement Powers	Maximum Penalties
Malta MT	Occupational Health and Safety Authority (OHSA)	<i>Health and Safety at Work Act – Cap. 646 (Act XXXIII of 2024)</i>	Inspections, improvement/prohibition notices, administrative fines, Special Compromise settlements, prosecution.	Fines up to €50 000; imprisonment up to 4 years; suspension or revocation of licences.
United Kingdom GB	Health and Safety Executive (HSE)	<i>Health and Safety at Work etc. Act 1974</i>	Improvement and prohibition notices, investigation, and	Unlimited fines; imprisonment up to 2 years

Country / Region	Primary Enforcement Body	Legal Basis / Core Law	Enforcement Powers	Maximum Penalties
			prosecution in criminal courts.	(higher for manslaughter).
European Union EU	Member-state authorities coordinated by EU-OSHA	<i>Framework Directive 89/391/EEC and daughter directives</i>	Policy coordination, guidance, data sharing; enforcement remains national.	Determined by national laws (harmonised principles).
United States us	Occupational Safety and Health Administration (OSHA)	<i>Occupational Safety and Health Act 1970</i>	Inspections, citations, mandatory abatement orders, civil and criminal penalties.	Up to ≈ \$156 000 per willful/repeat violation; imprisonment for fatal cases.
Australia AU	Safe Work Australia / State WorkSafe Authorities	<i>Work Health and Safety Act 2011</i>	Inspections, improvement and prohibition notices, enforceable undertakings, prosecution.	Companies A\$3 million; individuals A\$600 000 + 5 years imprisonment.
India IN	Directorate General – Factory Advice Service and Labour Institutes (DGFASLI) / State Labour Depts	<i>Occupational Safety, Health and Working Conditions Code 2020</i>	Factory inspections, risk-based audits, and enforcement through state authorities.	Up to ₹300 000 fine and 2 years imprisonment.
China CN	Ministry of Emergency Management (MEM)	<i>Work Safety Law (2002, amended 2021)</i>	Power to suspend operations, impose administrative sanctions, and prosecute.	Fines up to ¥10 million; detention or imprisonment for officials.

Country / Region	Primary Enforcement Body	Legal Basis / Core Law	Enforcement Powers	Maximum Penalties
Canada CA	Provincial Labour Ministries / CCOHS (policy)	<i>Canada Labour Code & Provincial OHS Acts</i>	Workplace inspections, administrative orders, prosecution under provincial law.	Fines up to C\$1 million; imprisonment up to 2 years (typical range).

Interpretation

The comparison illustrates how enforcement models differ in **scope and philosophy**:

- Malta, the UK, and the EU follow a **preventive, consultative model**.
- The US and China rely more on **prescriptive, penalty-driven enforcement**.
- Australia and Canada blend **education with strong deterrence**.

The most effective systems combine **clear legal duties, credible enforcement, and a strong culture of prevention**.

Conclusion

Health and safety legislation remains the cornerstone of worker protection.

As future **Occupational Health and Safety professionals**, you are the link between policy and practice.

Understanding how laws are written, enforced, and applied—both locally and internationally—enables you to interpret obligations, anticipate risks, and guide organisations toward continuous improvement.

Whether through compliance audits, risk management, training, or consultation, your role ensures that workplaces remain not only **legally compliant**, but also **morally and socially responsible**.