

SUMMARY OF RESPONSES TO FEEDBACK FROM PUBLIC CONSULTATION ON THE PROPOSED WORKPLACE SAFETY AND HEALTH (DESIGN FOR SAFETY) (“DFS”) REGULATIONS

1. In November 2014, the Ministry of Manpower (MOM) invited the public to provide their feedback on the proposed Workplace Safety and Health (WSH) (Design for Safety) Regulations via the REACH website. The objective of the proposed Regulations is to foster greater industry ownership amongst Developers and Designers to manage the WSH risks upstream at the design and planning phase of the project.
2. Prior to the public consultation, a Taskforce on Mandate of DfS (TDfS)¹ which comprised of relevant government agencies and key industry stakeholders was formed to oversee the development of the legislative requirements in respect of the DfS. With the inputs gathered from the TDfS members, the Taskforce Secretariat team drafted the proposed Regulations and consulted key industry associations to give their feedback on the framework and responsibilities of duty holders stipulated under the proposed Regulations.
3. The Ministry is heartened to have received constructive feedback from the public ranging from the public sector agencies, tripartite partners to Developers, Designers, industry associations and safety professionals operating locally as well as overseas. MOM would like to thank everyone who has participated in the consultation exercises for the proposed WSH (Design for Safety) Regulations.

MOM’S RESPONSES TO KEY FEEDBACK

4. Respondents were generally supportive of the proposed Regulations and suggested further refinements, including the development of guidelines on the DfS framework to aid the industry in implementing the Regulations. In this regard, MOM will consider incorporating some of the suggestions in the proposed Regulations.
5. MOM, together with Workplace Safety and Health Council (WSHC), will work with the Taskforce to enhance and align the existing DfS guideline to the proposed Regulations and thereafter publish it as an Approved Code of Practice (ACOP). The ACOP will provide the necessary practical guidance and clarification on the requirements of the Regulations.
6. MOM would like to take this opportunity to provide our responses to the frequently raised queries and suggestions as outlined below:

Implementation and Coverage

7. While some respondents suggested that the Regulations should apply to all projects regardless of their contract sums, there were some who felt that the Regulations should be

¹ The Taskforce is jointly chaired by MOM and BCA. Members of the Taskforce comprise of senior staff from government ministries, statutory boards and leaders of industry associations including the Association of Consulting Engineers Singapore (ACES), Singapore Institute of Architect (SIA), Institute of Engineers Singapore (IES), Specialist Trade Alliance of Singapore (STAS), Singapore Contractors Association Ltd (SCAL), Real Estate Developers’ Association of Singapore (REDAS) and WSH Council (Construction and Landscape Committee).

implemented in phases to give the industry more time to assimilate the DfS practices. Some respondents had also commented that the complexity of the projects, instead of the contract sums, should be used as the criteria in determining the classes of workplace to be covered under the Regulations. After careful consideration, MOM has decided to retain the criteria based on the contract sum of the project, which is more objective as compared to using the complexity of a project. In addition, based on industry feedback, MOM has also included a second criteria that the Regulations will apply to projects where an application for planning permission is required under the Planning Act (Cap 232).

8. In reply to the respondents' queries as to whether the Regulations would apply to steel structures and process equipment in plants, MOM would like to clarify that the definition of 'structures' will include structures made of steel and if the project has a contract sum of \$10 million and above then the design of such structures need to be in compliance with proposed Regulations. WSH considerations, such as the provision of permanent safe work platforms and safe means of access for operation or maintenance personnel to carry out work at elevated location of the structure, have to be looked into during the design of such steel structures.

General Duties of a Developer

9. Respondents generally agreed that Developers must be responsible in driving effort in creating an acceptable WSH environment for any person affected by the project by allocating sufficient time and resources. Some respondents commented that there would be a need for proper guidance on how this provision could be applied accordingly and under what circumstances would it be deemed as failing to allocate sufficient time and resources. MOM will provide more clarity and guidance on this issue in the ACOP.

11. Apart from the above, the respondents had also proposed that the duties of Developer to plan, manage and monitor the project should be consistent throughout the project and not just limited to the pre-construction phase. Whilst some of the duties assigned to the Developer apply throughout the project; the main-contractor would be the more appropriate duty holder as they have the expertise to manage the project during the construction phase. The main contractor also has a duty to develop and implement a WSH Management System at their worksite under the WSH (Safety and Health Management System and Auditing) Regulations as well as ensuring that the construction works are carried out safely at their worksite. Hence, MOM has decided to retain the current clause.

12. Respondents also asked about the training and work experience required of Designers and person appointed by the Developer. As the complexity of project varies, MOM would prefer not to be overly prescriptive in specifying the requirements in the Regulations to give greater flexibility to the industry to implement the DfS. It will be the duty of the Developer to identify the Designer or person appointed who is competent to perform such role in respect of the project. Nonetheless, MOM will provide some broad guidelines in the ACOP.

DfS Review Process and DfS Register

13. It was proposed in the Regulations that the Developer or the person appointed by the Developer should have the duty to ensure that the DfS Review Process was implemented with the relevant Designers and contractors. Respondents highlighted that Designers might not be

fully aware of the method(s) of construction to be adopted by the contractor(s) and therefore would not be able to identify all risks inherent in the project. MOM would like to clarify that the DfS Review Process is intended to provide a platform for all stakeholders to participate in sharing their experience and expertise in identifying potential hazards, evaluating the risks and implementing risk control measures.

14. To the respondents' queries on the minimum standard required of a DfS Register and whether it has to be prepared and submitted to a Qualified Person (QP), MOM would like to clarify that the key information to be provided in the DfS Register has been specified in the proposed Regulations (e.g. records of DfS Review Process, residual risks) and there is no requirement of a submission to a QP. Nevertheless, MOM will provide more in-depth guidance in the ACOP.

15. One respondent had commented that the penalty of \$2,000 for failure to keep the DfS Register available for inspection by an inspector was too low and should be increased to \$20,000. MOM will consider the suggestion carefully.

Duties of Designer

16. One respondent queried whether the Designer would still be liable for any works, such as addition or alteration, or renovation carried out to the structure, after the completion of the project. MOM would like to clarify that the Designer will be responsible for his own design and has to address the foreseeable safety and health risks for work activities that would be performed after the completion of the project. This includes design considerations such as incorporating guard-rails for purpose of carrying out safe maintenance work at the flat roof of structure. However, the Designer will not be responsible for any design change or future addition/alteration to the structure which does not involve him.

17. To the respondents' queries regarding whether the Designer would be responsible for the design based on its original intended purposes and not for subsequent change of use or misuse, MOM would like to explain that if such change of use was not planned accordingly for future intended purpose of the structure, then it is not expected of the Designer to factor these in the design. In principle, the duties of the Designer are scoped to take into account any foreseeable risk to the safety and health of person carrying out work at or in the structure as designed by him.

Duties of Main Contractor

18. Respondents suggested that in planning, managing and monitoring of the construction work of the project, apart from taking the general principles of prevention into consideration; the main contractor should also consider the pre-construction information. MOM will incorporate the suggestion and amend the proposed Regulations accordingly.

CONCLUSION

19. Once again, we would like to thank all stakeholders and members of the public who have participated in the consultation exercise. The feedback received has helped to refine the proposed Regulations and contribute to building safer and healthier workplaces for all.