

SAFE TIME

Record Retention



by Ir. Shum Keng Yan

AS we are now approaching the end of the year, it is a good time to carry out some housekeeping chores. Were you hoping to discard all your old files? Hold on to that thought of yours for a moment! Did you know that there are regulatory requirements on record retention? If you did not, read on to find out more.

Well, in all lines of work (and in personal life too – think about the taxation of your income), we need to keep records. All these relevant records have been created and used for various purposes, as for instance, to demonstrate compliance with procedures during an audit and so forth.

In the Occupational Safety and Health legislations, there are provisions for record retention and in specific areas the retention duration is specified. However, in other situations

it is still open to interpretation. In addition, many companies have record retention policies. Thus, it is essential to know the record retention policies of your company.

Let us start with the Occupational Safety and Health Act 1994. Under provision 66(2) (n), the Ministry may make regulations that require employers to preserve records and other documents. Meanwhile, under regulation 38(3) of the Factories and Machinery Act 1967, the Factory General Register, and every other register, record and certificate shall be kept for at least 2 years from the date of last entry in the register or record.

Here are some excerpts pertaining to Record Retention, Transfer and Disposal under the two Acts. Keep in mind that this is a guide and not the complete list.

Under Occupational Safety and Health Act 1994:

Legislation	Ref	Type	Description	Duration
Occupational Safety and Health Act 1994	66 (2) (n)	Record Keeping	Employers to keep and preserve records and other documents	Not Stated
Occupational Safety and Health (Safety and Health Committee) Regulations 1996	27 (2)	Minutes of Meetings	Minutes of Meeting of the Safety and Health Committee	YOG + 7 years
Occupational Safety and Health (Safety and Health Officer) Regulations 1997	20 (3)	S&H Report	Safety and Health Officer's report	YOG + 10 years
Occupational Safety and Health (Use and Standard of Exposure of Chemicals Hazardous to Health) Regulations 2000	13 (1) 30 (3) 30 (3)	Assessment Report	Chemical Health Risk Assessment report Upon expiry of retention period and prior to disposal, notify Director General Transmit to Director General if requested	YOG + 30 years 3 months prior to disposal During notification period
	19	Equipment Records	Design, construction, testing, inspection, examination and maintenance of engineering control equipment records	Unspecified
	22 (4)	Training Records	Training programme records	Unspecified
	26 (4) (a)	Exposure Monitoring	Representative of personal exposure to chemical hazardous to health	YOG + 30 years
	26 (4) (b) 30 (3)		Any other case Upon expiry of retention period and prior to disposal, notify Director General Transmit to Director General if requested	YOG + 5 years 3 months prior to disposal During notification period
	30 (3)			
	27 (4) 30 (3) 30 (3)	Health Surveillance	Health surveillance records Upon expiry of retention period and prior to disposal, notify Director General Transmit to Director General if requested	YOG + 30 years 3 months prior to disposal During notification period

Legislation	Ref	Type	Description	Duration
	30 (1)	Retention of Records	Transfer records to successor after ceasing business	Prior to ceasing
	30 (2)		No successor after ceasing business – transmit to Chief Inspector	Prior to ceasing
Occupational Safety and Health (Notification of Accident, Dangerous Occurrence, Occupational Poisoning and Occupational Disease) Regulations 2004	10 (2)	NADOPOD Register	Register of accident, dangerous occurrence, occupational poisoning and occupational disease	YOG + 5 years

Under Factories and Machinery Act 1967:

Legislation	Ref	Type	Description	Duration
Factories and Machinery Act 1967	38 (3)	Registers and Certificates	Factory General Register, every other register, record or certificate	YOG + 2 years
Factories and Machinery (Lead) Regulations 1984	49 (3)	Exposure Monitoring	Exposure Monitoring records	YOG + 2 years
	53 (3)		Upon expiry of retention period and prior to disposal, notify Chief Inspector	3 months prior to disposal
	53 (3)		Transmit to Chief Inspection if requested	During notification period
	50 (3)	Medical Surveillance	Medical Surveillance records under 50 (1) and 50 (2)	DEE
	50 (3)		Transmit to Chief Inspection after termination	Within 3 months
	51 (3)	Medical Removal	Medical Removal records	DEE
53 (3)	Upon expiry of retention period and prior to disposal, notify Chief Inspector		3 months prior to disposal	
53 (3)		Transmit to Chief Inspection if requested	During notification period	
Factories and Machinery (Asbestos Process) Regulations 1986	53 (1)	Transfer of records	Transfer records to successor after ceasing business	Prior to ceasing
	53 (2)		No successor after ceasing business – transmit to Chief Inspector	Prior to ceasing
	23	Medical Reports	Medical Reports (Medical Examination, X-Ray, etc.)	DEE + 20 years
	26 (3)		Upon expiry of retention period and prior to disposal, notify Chief Inspector	3 months prior to disposal
	26 (3)		Transmit to Chief Inspector if requested	During notification period
24	Personal Monitoring	Personal Monitoring of employees records	DEE	
26 (3)		Upon expiry of retention period and prior to disposal, notify Chief Inspector	3 months prior to disposal	
26 (3)		Transmit to Chief Inspector if requested	During notification period	
Factories and Machinery (Noise Exposure) Regulations 1989	26 (1)	Transfer of records	Transfer records to successor after ceasing business	Prior to ceasing
	26 (2)		No successor after ceasing business – transmit to Chief Inspector	Prior to ceasing
	29 (3)	Exposure Monitoring	Exposure Monitoring records	DEE
	32 (3)		Upon expiry of retention period and prior to disposal, notify Chief Inspector	3 months prior to disposal
	32 (3)		Transmit to Chief Inspector if requested	During notification period
	30 (3)	Audiometric Test	Audiometric Test records	DEE + 5 years
	32 (3)		Upon expiry of retention period and prior to disposal, notify Chief Inspector	3 months prior to disposal
	32 (3)		Transmit to Chief Inspector if requested	During notification period
32 (1)	Transfer of records	Transfer records to successor after ceasing business	Prior to ceasing	
32 (2)		No successor after ceasing business – transmit to Chief Inspector	Prior to ceasing	

Legislation	Ref	Type	Description	Duration
Factories and Machinery (Mineral Dust) Regulations 1989	30 (2) 33 (3)	Medical Reports	Medical Reports (Medical Examination, X-Ray, etc.)	DEE + 20 years
	33 (3)		Upon expiry of retention period and prior to disposal, notify Chief Inspector Transmit to Chief Inspector if requested	3 months prior to disposal During notification period
	31 33 (3)	Personal Monitoring	Personal Monitoring of employees records	DEE
	33 (3)		Upon expiry of retention period and prior to disposal, notify Chief Inspector Transmit to Chief Inspector if requested	3 months prior to disposal During notification period
33 (1) 33 (2)	Transfer of records	Transfer records to successor after ceasing business	Prior to ceasing	
		No successor after ceasing business – transmit to Chief Inspector	Prior to ceasing	

Notes:

YOG: Year of Generation (or last updated) of the record

DEE: Duration of Employee's Employment

Did you know that the Codes of Practice also contain provisions on record retention? Let this be the homework for your Safety Person-in-Charge.

Well, it is time for you to find out if you still have those records! Do share your views with us on record retention; just email to: pub@iem.org.my. ■

Happy Deepavali!