

FAQ about OMM

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What is Legislative Decree 231/2001?

Legislative Decree 231/2001 came into effect on 4 July 2001 and identifies legislation governing the administrative responsibility of legal entities, companies and associations, including those that are not legal entities. The decree provides for the presumption that enterprises are jointly responsible when some types of offence are committed by their directors, senior executives, employees and/or consultants, and for significant administrative penalties and sanctions, unless the enterprises have adopted appropriate organisational, management and monitoring procedures to prevent such offences being committed.

What offences are penalised under Legislative Decree 231/2001?

The list of offences that may give rise to businesses and organisations in general being held responsible under Legislative Decree 231/2001 is continuously being updated and expanded. Currently, as well as culpable offences (homicide and causing serious or very serious injury) connected with health and safety at work, most offences relate to fraud and include but are not limited to:

- offences against Public Authorities (for instance participating in fraud in order to obtain public incentives or loans and bribing civil servants or local government officers in order to obtain orders, grants or permits etc.);
- corporate offences (for instance false corporate communications, unlawful return of contributions);
- handling, laundering and using stolen money, goods or utilities;
- IT offences (for instance gaining unlawful access to IT or telecommunications systems);
- offences against industry and commerce (for instance disturbing the freedom to carry out a business or trade and selling wrongly labelled manufactured goods etc.).

What are the penalties for the Company?

The penalties to which business or organisations in general could be liable are particularly heavy and apply even as a precaution:

- sanctions such as a ban on operating for a fixed period of time (up to one year for certain offences), suspension or revocation of permits, licences or grants, exclusion from relief,

loans, contributions or subsidies and revocation of those already granted, bans on advertising goods or services etc.;

- fines, calculated in accordance with a system of units (the value of which varies between €258 and €1,549 according to the gravity of the business's responsibility), which may vary according to the category of offence. For instance in the case of offences relating to health and safety at work fines may be as high as €1,549,000.

What is the OMM?

The Organisational and Management Model, commonly known as OMM, is a document provided for by Legislative Decree 231/2001 as part of the broader topic of corporate responsibility. It is a description of the organisational procedures adopted by the undertaking in order to prevent and minimise the risks arising out of failure to comply with legislation. The OMM certifies that appropriate procedures for preventing offences have been adopted, thus providing a significant safeguard for the business and all its employees.

What is the disciplinary system and what are the penalties?

The disciplinary system lays down penalties for failure to comply with the measures indicated in the OMM as provided for in Article 6, para. 2 e) of the Decree. To be specific, this system identifies possible infractions and establishes the penalties and procedures for applying them (differentiated according to the type of party responsible for the infraction) to the parties (employees or third parties) responsible for illegal acts or breach of the regulations contained in the documents that make up the model.

What is the Supervisory Body?

Article 6 of the Decree provides for exoneration from responsibility for any organisation that can prove, inter alia, that the task of ensuring that the models worked properly, were complied with and were kept up to date was entrusted to a body within the organisation with the power to act and carry out monitoring activities autonomously. The Supervisory Body therefore has the power to act autonomously in order to ensure that the Model operates properly and is complied with but has no powers to insist that the company structure be altered and no powers to penalise employees, consultants or corporate bodies, these powers being instead delegated to the relevant company bodies or departments.

What are the duties of employees?

In the same way as others to whom OMM applies, employees must not act in such a way as to commit any of the offences provided for by Legislative Decree 231/2001 and, when doing their work, must comply with:

- The Code of Ethics
- The provisions of the OMM, in particular the general provisions and the specific provisions contained in the special sections
- Company procedures and recording systems.

Any breach of any of the rules in the OMM constitutes an illegal act. Therefore the provisions relating to sanctions provided for by the National Labour Agreement and the company's disciplinary regulations apply to any such illegal act.

What is the procedure for notifying the Supervisory Body of any infringements?

Employees, corporate bodies and consultants must inform the Supervisory Body, using the proper procedure, of events that could give rise to the Company being liable under the Decree. In particular those to whom the OMM is addressed have the duty to inform the Supervisory Body of any offences or reasonable suspicions of offences committed by employees and consultants that have come to their attention. Information must not be anonymous and must be sent to the e-mail address provided. Those who pass on information in good faith must not be subjected to reprisals or discrimination and must not be penalised in any way, subject to the legal requirements and the rights of the Company or of persons accused wrongly and/or in bad faith. Employees wishing to report an infringement (or alleged infringement) of the Model may report it to their line manager. If passing on the information does not produce a satisfactory outcome or if employees do not wish to involve their line manager, they may inform the Supervisory Body direct.