

立法會
Legislative Council

LC Paper No. LS137/00-01

**Paper for the Meeting of the House Committee
of the Legislative Council on 29 June 2001**

**Legal Service Division Report on
Resolution under section 7 of the Factories and Industrial
Undertakings Ordinance (Cap. 59)**

The Factories and Industrial Undertakings (Gas Welding and Flame Cutting) Regulation ("the Regulation") was made by the Commissioner for Labour pursuant to section 7 of the Factories and Industrial Undertakings Ordinance (Cap. 59). All regulations so made are required to be submitted to the Chief Executive and subject to the approval of the Legislative Council. To seek the approval of the Legislative Council, the Secretary for Education and Manpower has given notice to move a motion in the Legislative Council on 11 July 2001.

LegCo Brief Reference

2. File Ref: EMB CR 1/2961/01 dated June 2001 issued by the Education and Manpower Bureau.

Contents of the Regulation

3. The Regulation requires a proprietor to ensure that gas welding and flame cutting work is only performed by :-

- (a) a person who has attained the age of 18 years and holds a valid certificate issued by the organizer of a training course; or
- (b) a person who is undergoing training in performing gas welding and flame cutting work, and the work is supervised by a person mentioned in (a) above.

In addition, the Regulation also requires a proprietor to provide training courses to employees who are instructed to perform gas welding and flame cutting work. A proprietor who, without reasonable excuse, fails to comply with the above two requirements commits an offence and is liable to a fine at level 5 (\$50,000).

4. In relation to an employee who does not hold a certificate, the Regulation imposes a duty to attend training courses provided by his proprietor. A person who performs gas welding and flame cutting work is also required to produce his certificate for inspection when required by an occupational safety officer. An employee who fails to comply with these requirements commits an offence and is liable to a fine at level 3 (\$10,000).

Commencement

5. Sections 3, 6 and 7 of the Regulation (which relate to duty of proprietor to ensure work is performed by competent persons, production of certificate and offences respectively) would come into operation on a day to be appointed by the Commissioner for Labour by notice in the gazette. The rest of the Regulation would come into operation on the day the Regulation is published in the Gazette.

Consultation with LegCo Panel

6. The Administration had made arrangements to brief the Panel on Manpower at its meetings on 19 April 2001 and 17 May 2001 (LC Paper No. CB(2)1279/00-01(07) refers). The item could not be reached at both meetings, and the Panel agreed to deal with the item by circulation of papers and sending views to the Clerk to the Panel. So far, the Clerk has not received any views from members.

Public Consultation

7. Paragraph 14 of the LegCo Brief states that the Labour Advisory Board has been consulted and endorsed the proposal.

Conclusion

8. The Regulation is in order from the legal and drafting point of view.

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