

立法會
Legislative Council

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the Administration)

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**Subcommittee on
Occupational Safety and Health
(Display Screen Equipment) Regulation**

**Minutes of meeting
held on Wednesday, 23 January 2002 at 10:45 am
in the Chamber of the Legislative Council Building**

- Members present** : Hon Andrew CHENG Kar-foo (Chairman)
Hon Kenneth TING Woo-shou, JP
Ir Dr Hon Raymond HO Chung-tai, JP
Hon LEE Cheuk-yan
Hon HUI Cheung-ching
Hon SIN Chung-kai
Hon YEUNG Yiu-chung, BBS
Hon Miriam LAU Kin-yee, JP
Hon LI Fung-ying, JP
Hon Michael MAK Kwok-fung
Hon LEUNG Fu-wah, MH, JP
Dr Hon LO Wing-lok
- Members attending** : Hon James TIEN Pei-chun, GBS, JP
Hon Eric LI Ka-cheung, JP
Hon Mrs Selina CHOW LIANG Shuk-yee, JP
- Members absent** : Hon Cyd HO Sau-lan
Hon Henry WU King-cheong, BBS

Public Officers : Mr K K LAM
attending Principal Assistant Secretary for Education and Manpower

Mr Fred TING
Deputy Commissioner for Labour (Occupational Safety and Health)

Miss Cheryl CHOW
Assistant Secretary for Education and Manpower

Dr LEUNG Lai-man
Occupational Health Consultant
Labour Department

Ms Marie SIU
Senior Government Counsel

Clerk in : Mrs Sharon TONG
attendance Chief Assistant Secretary (2) 1

Staff in : Mr Arthur CHEUNG
attendance Senior Assistant Legal Adviser 2

Miss Betty MA
Senior Assistant Secretary (2)1

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I. Meeting with the Administration

The Subcommittee deliberated (Index of proceedings attached at **Annex.**)

2. The Subcommittee requested the Administration to consider the following and provide a response -

- (a) To make clear that a code of practice would be issued by the Commissioner for Labour under section 40 of the Occupational Safety and Health Ordinance for providing practical guidance on the interpretation of "user" and how risk assessments required under section 4 of the proposed Regulation should be performed, and to review the reference to such a code of practice in the proposed Regulation;
- (b) To review whether the elaborated meaning of "user" in the Code of Practice was

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consistent with the definition of "user" in section 2 of the Regulation;

- (c) To review the drafting of the definition of "user" having regard to the views of legal adviser to the Subcommittee;
- (d) To state the following in the Secretary for Education and Manpower's speech when moving the motion on the proposed Regulation -
 - (i) under the present enforcement strategy, an improvement notice would be issued first for non-compliance with the requirements that would pose risk of a less serious nature. Immediate prosecution would be initiated only for non-compliance with the improvement notice or breaches that would pose risks of serious bodily injury or ill health; and
 - (ii) the Administration would review the definition of "user" in the Regulation if medical research findings substantiated that a cumulative use of display screen equipment (DSE) for four hours in a day, and more or less daily, would attribute to health problems of employees;
- (e) To undertake to review the Regulation having regard to the trend of reported cases of health problems associated with DSE work after its coming into effect; and
- (f) To provide a revised Code of Practice and Health Guide after taking into account the views of members.

3. Mr James TIEN and Mrs Selina CHOW said that Members belonging to the Liberal Party expressed support for the elaborated meaning of "user" in the Code of Practice proposed by the Administration.

4. Mr LEUNG Fu-wah said that Members belonging to The Hong Kong Federation of Trade Unions were in support of the elaborated meaning of "user" in the Code of Practice proposed by the Administration.

5. Mr LEE Cheuk-yan considered the definition of "user" and its elaboration proposed by the Administration unacceptable. He said that he would consider amending the Regulation to the effect that -

- (a) a cumulative use of DSE for at least four hours during a day would be within the meaning of user; and
- (b) the provision of rest breaks would be incorporated in the checklist for performing risk assessment.

6. The Chairman said that he had informed members at previous meetings that he would amend the Regulation to require an employer to provide periodic breaks to DSE

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users or change duties after prolonged DSE work. He would still proceed with the amendments.

7. Members agreed that the next meeting would be scheduled for 28 February 2002 at 8:30 am.

8. There being no other business, the meeting ended at 12:45 pm.

Council Business Division 2
Legislative Council Secretariat
8 February 2002

**Proceedings of the meeting of the Subcommittee on
Occupational Safety and Health (Display Screen Equipment) Regulation
on Wednesday, 23 January 2002, at 10:45 am
in the Chamber of the Legislative Council Building**

Time	Speaker	Subject(s)	Action required
0000 - 0126	Chairman	Welcoming remarks	
0127 - 0530	Admin	Administration's response to issues raised at the meeting on 21.12.01	
0531 - 0600	Chairman	- ditto -	
0601 - 0905	Admin	Administration's response to the letter from Mr SIN Chung-kai dated 4.1.02	
0906 - 0908	Chairman	- ditto -	
0909 - 0911	Admin	- ditto -	
0912 - 0913	Chairman	- ditto -	
0914 - 1038	Mr SIN Chung-kai	Follow-up question to Administration's response and request for a copy of risk assessment record to be provided to employees	
1039 - 1130	Admin	Requirement under the Regulation to retain risk assessment records	
1131 - 1139	Mr SIN Chung-kai	- ditto -	
1140 - 1205	Admin	- ditto -	
1206 - 1247	Mr SIN Chung-kai	Reiteration of his request that a copy of risk assessment record should be provided to employees	
1248 - 1253	Chairman	- ditto -	
1254 - 1337	Admin	Response to Mr SIN's proposal. Agreed to set out in the Code of Practice that an employer should provide a copy of the risk assessment record to the employee concerned	√ Admin to follow up
1338 - 1352	Mrs Selina CHOW	Clarification on whether it was established policy that an improvement notice would be issued prior to taking prosecution actions for less serious breaches of the law	
1353 - 1355	Chairman	Warning mechanism - an outstanding issue of last meeting for discussion	
1356 - 1402	Mrs Selina CHOW	- ditto -	
1403 - 1404	Chairman	- ditto -	
1405 - 1411	Mrs Selina CHOW	- ditto -	
1412 - 1422	Chairman	- ditto -	
1423 - 1431	Mrs Selina CHOW	- ditto -	
1432 - 1451	Chairman	- ditto -	
1452 - 1527	Mrs Selina CHOW	Clarification on whether it was established policy that an improvement notice would be issued prior to taking prosecution actions for less serious breaches of the law	
1528 - 1558	Admin	- ditto -	
1559 - 1659	Mrs Selina CHOW	- ditto -	
1700 - 1704	Chairman	- ditto -	
1705 - 1715	Admin	- ditto -	
1716 - 1735	Mrs Selina CHOW	Request for the Administration to state clearly the enforcement policy in SEM's speech when moving the motion in the Council	√ Admin to consider
1736 - 1740	Admin/Chairman	- ditto -	

1741 - 1823	Chairman	Continued discussion on other outstanding issues of the last meeting - strict liability offences in section 10(4)	
1824 - 2037	Admin	- ditto -	
2038 - 2114	Chairman	Amendments proposed by the Administration to the Regulation	
2115 - 2352	Admin	Proposed amendments to the definition of "user" in section 2	
2353 - 2404	Chairman	- ditto -	
2405 - 2655	Admin	Proposed addition of new section 4(4) and other amendments to section 4	
2656 - 2823	Mr SIN Chung-kai	Clarification on whether the Regulation applied to portable system in mobile office	
2824 - 2926	Admin	- ditto -	
2927 - 3052	Mr SIN Chung-kai	- ditto -	
3053 - 3145	Admin	Addition of a remark to point 7 of the Workstation Risk Assessment Checklist to the effect that it was not applicable to portable systems	√ Admin to follow up
3146 - 3356	Mr James TIEN	Support for the revised Regulation, in particular the definition of "user"	
3357 - 3404	Chairman	Invitation of Members' further questions/views	
3405 - 3608	Dr LO Wing-lok	Rationale for extending the elaborated definition of "user" to cover cumulative use of DSE for at least 6 hours during a day, and request for an undertaking from the Administration to review the elaboration in the light of future medical research findings.	√ Admin to consider providing an undertaking
3609 - 3706	Chairman	Rationale for proposing the elaborated definition of "user"	
3707 - 3814	Admin	- ditto -	
3815 - 3842	Dr LO Wing-lok	- ditto -	
3843 - 3935	Chairman	- ditto -	
3936 - 4147	Admin	- ditto -	
4148 - 4401	Mr LEE Cheuk-yan	Proposed amendments to the Regulation to the effect that (i) cumulatively using DSE for at least 4 hours during a day would be within the meaning of "user" and (ii) the provision of rest break should be incorporated in the checklist for performing risk assessment	
4402 - 4445	Admin	- ditto -	
4446 - 4539	Mr LEE Cheuk-yan	- ditto -	
4540 - 4615	Chairman	- ditto -	
4616 - 4639	Mr LEE Cheuk-yan	- ditto -	
4640 - 4828	Mr LEUNG Fu-wah	Request for an undertaking from the Administration to review the Regulation having regard to the trend of reported cases of health problems associated with DSE work after its coming into effect	√ Admin to consider
4829 - 4922	Chairman	Rationale for proposing the elaborated definition of "user"	
4923 - 5029	Admin	- ditto -	
5030 - 5138	Chairman	- ditto -	
5139 - 5329	Admin	- ditto -	
5330 - 5500	Mrs Selina CHOW	Meaning of the term "more or less" in the definition of "user"	
5501 - 5511	Chairman	- ditto -	
5512 - 5643	Admin	- ditto -	
5644 - 5745	Mrs Selina CHOW	- ditto -	
5746 - 5803	Chairman	- ditto -	

5804 - 5819	Admin	- ditto -	
5820 - 5832	Mrs Selina CHOW	- ditto -	
5833- 010125	Admin	- ditto -	
010126 - 010232	Mrs Selina CHOW	- ditto -	
010233 - 010334	Chairman	Reason for elaborating the meaning of "user" in the code of practice, instead of in the Regulation	
010335 - 010743	SALA2	Legal status of a code of practice	
010744 - 010814	Chairman	- ditto -	
010815 – 011209	Admin	Rationale for issuing code of practice and the link between the code and the Regulation	
011210 - 011417	SALA2	Express reference to the code in the Regulation	
011418 - 011502	Admin	- ditto -	
011503 - 011635	SALA2	- ditto -	
011636 - 011733	Chairman	Administration to consider improving the drafting of the relevant provision that sought to establish a link between the code and the Regulation	√ Admin to consider
011734 - 012059	Admin	- ditto -	
012100 - 012135	Ms LI Fung-ying	Legal effect of the term "more or less"	
012136 - 012420	SALA2	- ditto -	
012421 - 012504	Mr LEUNG Fu-wah	The term "more or less" in the definition of "user" was considered acceptable	
012505 - 012619	Mr LEE Cheuk-yan	Clarification on whether the elaborated definition of "user" in the code of practice was consistent with the definition of "user" spelt out in the Regulation	
012620 - 012724	Admin	- ditto -	
012725 - 012803	Mr LEE Cheuk-yan	- ditto -	
012804 - 012935	Chairman	- ditto -	
012936 - 012953	Admin	- ditto -	
012954 - 013038	Chairman	- ditto -	
013039 - 013705	SALA2	- ditto -	
013706 - 013711	Chairman	Meaning of the term "majority" in the definition of user	
013712 - 013740	SALA2	- ditto -	
013741 - 013745	Chairman	Clarification on whether the elaborated definition of "user" in the code was consistent with the definition of "user" in Regulation	
013746 - 013911	SALA2	- ditto -	
013912 - 014112	Mrs Selina CHOW	Judicial interpretation of the term "more or less"	
014113 - 014121	Chairman	- ditto -	
014122 - 014424	SALA2	- ditto -	
014425 - 014520	Chairman	Clarification on whether the elaborated definition of "user" in the code was consistent with the definition of "user" in Regulation	
014521 - 014546	Admin	- ditto -	
014547 - 014549	Chairman	- ditto -	
014550 - 014602	Admin	- ditto -	
014603 - 014604	Chairman	- ditto -	
014605 - 014903	Admin	- ditto -	
014904 - 014908	Chairman	- ditto -	
014909 - 014924	SALA2	Clarification on his earlier advice on the meaning of the term "more or less"	
014925 - 015121	Mrs Selina CHOW	Requesting the Administration to further consider the meaning of the term "majority"	√ Admin to consider
015122 - 015314	Chairman	Administration to provide a response to concerns raised by members and revised Regulation at the next meeting	√ Admin to provide a response

015315 - 015325	Chairman/Mrs Selina CHOW	Date of next meeting	
015326 - 015355	Chairman	- ditto -	
015356 - 015409	Chairman/Mrs Miriam LAU	- ditto -	
015410 - 015425	Chairman	- ditto -	

Note : The audio records of the above proceedings are kept at the LegCo Library

Council Business Division 2
Legislative Council Secretariat
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