

21st June, 2001

**RE: OCCUPATIONAL SAFETY AND HEALTH
(DISPLAY SCREEN EQUIPMENT) REGULATION**

I propose to move a committee stage amendment to amend section 10(4) for the purpose of eliminating the element of strict liability. The reasons are as follows:

1. **Strict Liability**

Strict liability is a legal doctrine that makes some persons responsible for damages their actions cause, regardless of any fault on their part. It does not require proof of mens rea and thus shifts the onus of proof to the accused.

2. **Limited Defence**

- The law may imply into offences of strict liability a defence of honest belief on reasonable grounds on facts which if true would make the act innocent. In such case, the burden of proof is on the accused and the standard of proof required is proof on the balance of probabilities. It is onerous for the accused to meet the requirements of the defence as previous court decisions indicate that even exercise of due diligence by the accused is not sufficient to meet the requirements.

3. **“The person responsible for a workplace”**

It covers not only employers but also supervisors and managerial staff of a workplace.

4. **Social concern**

The variety of areas have been characterized by the courts as areas of social concern for the purpose of strict liability include safety on construction site, safety, health and welfare of children, illegal gambling etc. The act this Regulation seeks to regulate is not within the scope of social concern.

5. **Sacrificing the presumption of innocence**

It is not wise to sacrifice the presumption of innocence in exchange for saving time and resources of the prosecution.

6. **Construction of law**

If the offences are not being strict liability, the court may or may not construe them as strict liability offence considering the totality of circumstances. The construction of law should be left to the court.

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