

E-mail: m_ng@hk.super.net
Web Site: margaretn.com

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Hon Andrew Cheng
Chairman of the Subcommittee on
Occupational Safety and Health
(Display Screen Equipment) Regulation

Dear Andrew,

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

I am sorry I shall not be able to attend the meeting on 28 February 2002 as I am out of town on that date.

I should be grateful if you would kindly put my comments on the Administration's Response dated February 2002 (CB(2)1176/01-02(01)) before Members and the Administration.

1. The new draft Regulations and Code of Practice are a great improvement in terms of clarity and certainty of legal effect, particularly regarding "user". Defining "user" in terms of what is require by reason of the nature of his work is, in my view, the right approach. The Code simply provides practical guidance and technical compliance would not defeat the purpose of the Regulations provided the definition in Section 2 is satisfied.
2. I tend to view the new Section 10 as sufficiently effective in linking the Code of Practice to the Regulations (by the way, should the title be "Regulation" or "Regulations"?). However, I would prefer the concept of proof of "compliance"/"failure to comply" with the Code (see para. 1.4 of Code) to "contravene"/"did not contravene", subject to what Legal Advisor may have to say, e.g. having regard to the principal legislation.
3. I understand under the principal legislation the Commissioner of Labour has the power to make or amend a Code of Practice, and theoretically can do so without consulting LegCo or anyone. I request the Administration to consider amending the principal legislation at the next appropriate occasion to provide for a duty to consult (see the Securities and Futures Bill), although this cannot be done under the present exercise.

4. In the meantime, since my acceptance of the Regulations as drafted is on the basis of the Code of Practice as drafted, I would request the Administration to undertake not to amend the Code without adequate notice to and consultation with LegCo.
5. Subject to the above, I would support the Regulations.

Yours sincerely,

Margaret Ng

MN/eh