

本局檔案 Our Ref.: EMB CR 3/3/3231/95
來函檔案 Your Ref.:

電子郵件 E-mail: cmbinfo@emb.gcn.gov.hk
電話 Telephone: 2810 2534
傳真 Faxline: 2899 2967

20 June, 2001

Clerk to Subcommittee
Legislative Council Secretariat
Legislative Council
8 Jackson Road
Central

(Attn: Mrs Sharon Tong)

Dear Mrs Tong,

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

Meeting on 21 June 2001

Thank you for your letter of 18 June.

At the meeting on 14 June 2001, Hon Andrew Cheng tabled, on behalf of the Democratic Party, a draft resolution to amend the proposed Occupational Safety and Health (Display Screen Equipment) Regulation to include the following provision,

“An employer shall so plan the activities of users at work in the workstations at the workplace that their daily work on display screen equipment is periodically interrupted by such breaks or changes of activity as to reduce their workload at that equipment.”

We do not agree with the proposal because working hours should be arranged by mutual consensus between employers and employees. Good practices of such arrangements should be promoted through publicity and public education. For this purpose, it has been included in paragraph 3.3 of the Health Guide that, users of display screen equipment are advised to perform work with the equipment and other duties

alternatively. Where no alternative duties could be arranged, provision of appropriate rest breaks to the users is recommended, e.g. a 5 to 10 minute break after 1 to 2 hours of continuous work with display screen equipment, depending on the intensity of the work. The guideline should serve well to draw the attention of the responsible persons to the need for alternative tasks, and if not feasible, appropriate rest breaks, for occupational safety and health considerations.

Member should be aware that statutory provisions of arrangement of duties at work and rest breaks will bar responsible persons (and in some cases users as well) from making flexible arrangements according to operational needs. That could impact on individual trades, for example the financial services sector, which requires high degree of concentration on users of display screen equipment.

At the said meeting, Hon Miriam Lau verbally indicated her intention to move a resolution to delete section 10(4), which creates certain offences under the proposed Regulation as strict liability offences. In our previous Administration's responses, we explained to the Subcommittee our views, which are summarised as follows –

- (a) It is appropriate to make the offences concerned as strict liability offences after taking into consideration principles laid down in *Gammon (Hong Kong) Ltd v A.G. [1985] AC1*.
- (b) The deterrent effect of the proposed Regulation could be stepped up by declaring the offences as strict liability offences, thereby helping to promote occupational safety and health in relation to the use of display screen equipment.
- (c) "Strict liability" does not mean that a defendant will have no defence for the offence. According to the case of *Uniglobe Telecom (Far East) Ltd v HKSAR (FACC No. 5 of 1998)* and *AG v Fong Chin Yue [1995] 1 HKC 21*, it would be a defence to the offences in question if a defendant could prove that he believes for good and sufficient reason that he has complied with the provision of the relevant legislation.

For details, Members may refer to our responses to issues raised at the Subcommittee meeting on 14 December 2000 and 26 February 2001.

For the next Subcommittee meeting on 24 June 2001, the following representatives of the Administration will attend –

Mr Samson Lai, Assistant Secretary (Education and Manpower)
Dr L M Leung, Occupational Health Consultant (Labour Department)
Ms Marie Siu, Senior Government Counsel

Yours sincerely,

(LAI Yiu-kei, Samson)
for Secretary for Education and Manpower