

Letterhead of Hong Kong Information Technology Federation

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30th November 2001

Hon. Andrew Cheng Kar-foo
Chairman
Subcommittee on Occupational Safety and Health
(Display Screen Equipment) Regulation
Legislative Council Building
8 Jackson Road
Central
Hong Kong

Dear Mr. Hon. Andrew Cheng

RE: Review of Occupational Safety and Health (Display Screen Equipment) Regulation (the "Regulation")

The Federation is generally against the proposed introduction of the Regulation.

The Regulation does not appear to have clearly defined nor explained what "a risk assessment" of a workstation in the workplace which a person responsible for such workplace must carry out. The attempt to elaborate and explain the scope of such risk assessment as including identification of "potential hazards" arising from the workstation and making of decisions whether existing precautions are adequate as more particularly set out in Section 4(3) of the Regulation is, to us, insufficient. According to the present drafting of the Regulation, its application hinges very much on the exact meaning of "a risk assessment of a workstation in the workplace" and therefore what kind of duty the person responsible for such workplace must perform to comply with the Regulation. Section 4(3) of the Regulation, as mentioned above, describes the risk assessment shall consist of, inter alia, "a process of ... identifying the potential hazards arising from the work in the workstation ...". Since the crucial term "potential hazards" is not sufficiently elaborated upon, it may mean almost anything as all things involve risks and therefore hazards. The standard of such risk assessment may therefore depend on, to a great extent, the subjective interpretation by the authorities on a case to case basis which is surely not desirable from businessmen's point of view. The consequential increase of insurance will no doubt serve as another blow to the already hard going business suffered by many. We suggest that a risk assessment compliance test should be clearly set out in the Regulation and should address the following issues, inter alia:

- (1) what constitute "risks" to be subject to assessment? Does an objective/subjective/comboination test apply?
- (2) the meaning of "potential hazards" should be clearly set out. As above, are such hazards to be determined on an objective/subjective/comboination basis? If a purely objective test is employed, are involvement of reputable insurance assessment companies necessary?
- (3) Section 4(3)(c) mentions the "evaluat[ion] [of] the risks arising from the potential hazards ..." are also within the scope of risk assessment. Again, does the evaluation to be made by a person responsible for a workplace needs to be based on substantive and reliable assessment reports or can he makes such conclusions based on his personal experience and good heart which may vary from persons to persons.

Section 4(5) of the Regulation requires keeping of records of all risk assessments performed - how detailed must such records be? In view of the potentially wide scope of assessment, this may be rather onerous. We suggest succinct summary records should suffice. The Regulation may wish to specify that such records must be in writing which, by virtue of the Electronic Transactions Ordinance, extends to records in electronic forms.

In wider practical reality, we feel that the introduction of the Regulation will have a profound adverse effect on businesses. Compliance with the risk assessment duty may be onerous because of both the scope of the assessment (see the Regulation for its comprehensive coverage) and the sheer number of assessments to be made because of the wide usage of display screen equipment.

Most of us use display screen equipment such as computers on a continuous basis; the need and the Government's desire to extend current statutory protection to the health of employees in this area is understandable and even necessary. However, we feel that it is may be strategically inappropriate to impose any additional burden - certainly one which is not clearly and succinctly defined - on employers most of whom are already struggling to survive in this economic downturn. Employers may react to the Regulation, if and when take effect, by further cutting staff to lower their overall overheads and cost of production. Having higher unemployed rate is surely not healthy to the Hong Kong economy at large. Since most of businesses in Hong Kong are SMEs, the additional burden imposed by the Regulation will no doubt hit them hard. This may compromise the benefit and help given by the Government's HK\$1.9 billion SME fund. In short, we understand and acknowledge the Government's concerns but are not in favour of the Regulation's introduction at present.

The comments from the Hong Kong Information Technology Federation has been prepared by Mr. Angus Forsyth and Ms. Yvonne Chia of Stevenson, Wong & Co., the honorary legal advisors of the Federation.

Yours sincerely,

Charles Mok
President
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