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29 October 2001

Hon Lau Chin-shek
Chairman
Legislative Council Panel on Manpower
Legislative Council
8 Jackson Road
Central

Dear Hon Lau,

**Legislative Council Panel on Manpower
Meeting on 15 February 2001
Follow-up Action**

At the Panel meeting on 15 February 2001, a Member requested for further information on the Administration's revised proposal for addressing the issue of providing for the continuity of employment for employees who would be suspended from work under the proposed Factories and Industrial Undertakings (Medical Examinations) Regulation. I would like to reply as follows.

The proposed Regulation and the savings provision

The proposed Regulation was examined by the Subcommittee on Regulations relating to Occupational Safety and Health during the 1999-2000 legislative session. In response to an enquiry raised by the Subcommittee in April 2000, the Department of Justice advised that temporary suspension under the proposed Regulation may have the effect of breaking the continuity of employment of the employee concerned, and could disqualify the employee

from certain entitlements under the Employment Ordinance.

Having sought legal advice, the Administration indicated that a provision would be included in the Regulation such that a suspended employee would be deemed to be continuing his employment during the suspension period and therefore, the suspended employee would be entitled to the same rights and benefits under the Employment Ordinance. To this end, the Department of Justice advised that it was necessary to include a savings provision in the proposed Regulation, such that no provisions in the proposed Regulation affect any rights or liabilities of any employer or employee under any law.

In March 2001, the Department of Justice further advised that the savings provision alone would not be sufficient to preserve the continuity of employment of the suspended employee. Having obtained such advice, the Administration now proposes to amend the Factories and Industrial Undertakings Ordinance to empower the Commissioner for Labour to make regulations providing for continuity of employment of suspended employees under the proposed Regulation. We also propose to provide in the amendment that the suspension from work shall not operate as frustration of the employment contract such that the continuity of the employment contract would be preserved.

The Administration is now preparing the Factories and Industrial Undertaking (Amendment) Bill, which would be introduced in this legislative session. The Manpower Panel would also be consulted shortly. The proposed Regulation would be re-introduced into the Legislative Council in due course.

Information on occupational diseases associated with the 17 designated hazardous occupations

At the Manpower Panel meeting on 15 February 2001, the Administration was requested to provide information on the following:

- (a) Types of work in various industries where workers are required to undergo medical examinations under the proposed Regulation; and

(b) Occupational diseases that workers in the respective designated occupations may suffer, and the respective compensation laws under which the workers may claim compensation.

We now enclose two tables (in English and Chinese) at Annex A & B respectively in which the requested information is set out in detail for Members' reference.

Yours sincerely,

(K K Lam)

for Secretary for Education & Manpower

c.c. C for L (Attn: Dr L M Leung)

D of J (Attn: Mr J D Scott, Ms Anastasia Kwong, Ms Cindy Yau)

Encls.

The Proposed F&IU (Medical Examinations) Regulation

Industrial Processes and the Related Medical Examination Requirements

Annex A

Industry	Industrial process	Examples of jobs	Medical examinations	Frequency of examinations*
Construction	Site, decoration and maintenance work (exposure to noise)	Renovation worker Maintenance worker Bar bender & fixer Bricklayer Leveller Plumber Carpenter Metal worker Piling operator	General examination, audio-metric test	Once every 12 months (≥ 90 dB(A)) Once every 24 months (85-89dB(A))
	Site work (exposure to silica dust and noise)	Driller/borer Excavator Earthmoving machinery operator Concreter Compressed air worker Asphalter	General examination, chest X-ray Audiometric test	Once every 12 months Once every 12 months (≥ 90 dB(A)) Once every 24 months (85-89dB(A))
	Path alignment with lasers	Surveying technician (land)	General examination, eye test	Once every 12 months
	Asbestos work	Asbestos worker	General examination, chest X-ray	Once every 12 months

Industry	Industrial process	Examples of jobs	Medical examinations	Frequency of examinations*
	Tunneling using compressed air method	Compressed air worker	General examination X-ray joints (>1 bar) Chest X-ray (pre-employment)	Once every 3 months (<1 bar) Once every 4 weeks (>1 bar) Once every 3-5 years (depending on pressure)
	Spraying of MDI/TDI in construction of insulation walls	Carpenter (formwork)	General examination, lung function test	Once every 12 months
	Painting (use of solvent containing benzene)	Painter	General examination, blood and urine tests	Once every 12 months
	Welding (exposure to lead, cadmium, manganese, noise)	Welder	General examination, blood test/urine test Audiometric test	Once every 12 months (For worker exposed to lead - once every 6 months) Once every 12 months ($\geq 90\text{dB(A)}$) Once every 24 months (85-89dB(A))
	Tar, pitch, bitumen application	Asphalter	General examination	Once every 12 months

Industry	Industrial process	Examples of jobs	Medical examinations	Frequency of examinations*
Chinese restaurant	Cooking with pressurized fuel burner (exposure to noise)	Cook	General examination, audio-metric test	Once every 12 months ($\geq 90\text{dB(A)}$) Once every 24 months (85-89dB(A))
Battery manufacturing	Use of toxic metals (cadmium, manganese, lead or mercury)	Dolly press worker	General examination, blood test/urine test	Once every 12 months (For worker exposed to lead - once every 6 months)
Beverage industry	Packing/bottling (exposure to noise)	Packing/bottling worker	General examination, audio-metric test	Once every 12 months ($\geq 90\text{dB(A)}$) Once every 24 months (85-89dB(A))
Car repairing	Use of lasers for alignment Use of cleansing solvent containing benzene Repair of brake and clutch linings (exposure to asbestos)	Service mechanic Service mechanic Service mechanic	General examination, eye test General examination, blood and urine tests General examination, chest X-ray	Once every 12 months Once every 12 months Once every 12 months
Cargo transport	Mixing of MDI/TDI to form foam packing material	Packing and crating worker	General examination, lung function test	Once every 12 months

Industry	Industrial process	Examples of jobs	Medical examinations	Frequency of examinations*
Electronic parts and components	Use of lasers for engraving	Electronics technician	General examination, eye test	Once every 12 months
	Doping of arsine gas (exposure to arsenic)	Electronics technician	General examination, chest X-ray, urine test	Once every 12 months
	Tin/lead soldering	Soldering worker	General examination, blood test	Once every 6 months
Furniture and accessories	Use of MDI/TDI for making foam	Foam moulding worker	General examination, lung function test	Once every 12 months
	Use of paints, lacquer, adhesive and cleansing solvent containing benzene	Carpenter	General examination, blood and urine tests	Once every 12 months
Garment	Use of lasers for alignment	Cutter/Cutting room operative	General examination, eye test	Once every 12 months
	Sewing (exposure to noise)	Sewing machine operator	General examination, audio-metric test	Once every 12 months ($\geq 90\text{dB(A)}$) Once every 24 months (85-89dB(A))

Industry	Industrial process	Examples of jobs	Medical examinations	Frequency of examinations*
Metals industry	Welding, cutting of alloy or coated article (exposure to cadmium, manganese, lead, noise)	Welder	General examination, blood test/urine test	Once every 12 months (For worker exposed to lead - once every 6 months)
	Metal work, making ball and roll bearings, nuts, bolts, nails etc (exposure to noise)	Metal worker	Audiometric test	Once every 12 months ($\geq 90\text{dB(A)}$) Once every 24 months (85-89dB(A))
	Use of cleansing solvent containing benzene	Metal worker	General examination, audio-metric test	Once every 12 months ($\geq 90\text{dB(A)}$) Once every 24 months (85-89dB(A))
	Use of lasers for engraving, cutting etc	Metal worker	General examination, blood and urine tests General examination, eye test	Once every 12 months Once every 12 months
Plastics industry	Mixing of pigments containing cadmium or lead	Plastics worker	General examination, blood test/urine test	Once every 12 months (For worker exposed to lead - once every 6 months)
Polyurethane foam manufacturing	Manufacture of foam using TDI/MDI	Foam moulding worker	General examination, lung function test	Once every 12 months

Industry	Industrial process	Examples of jobs	Medical examinations	Frequency of examinations*
Printing industry	Use of cleansing solvent containing benzene	Printer	General examination, blood and urine tests	Once every 12 months
	Offset printing (exposure to noise)	Printer	General examination, audiometric test	Once every 12 months ($\geq 90\text{dB(A)}$) Once every 24 months (85-89dB(A))
Quarrying and mining	Rock crushing, screening and loading (exposure to silica dust and noise)	Quarry worker/Miner	General examination, chest X-ray Audiometric test	Once every 12 months Once every 12 months ($\geq 90\text{dB(A)}$) Once every 24 months (85-89dB(A))
Shipbuilding, repairing and breaking	Welding and cutting of alloy (exposure to cadmium, lead, manganese, noise)	Welder	General examination, blood test/urine test Audiometric test	Once every 12 months (For worker exposed to lead - once every 6 months) Once every 12 months ($\geq 90\text{dB(A)}$) Once every 24 months (85-89dB(A))
	Metal work, grinding and sawing (exposure to noise)	Sheet/structural metal preparer	General examination, audiometric test	Once every 12 months ($\geq 90\text{dB(A)}$) Once every 24 months (85-89dB(A))
	Lagging and delagging of boilers and pipes containing asbestos	Asbestos worker	General examination, chest X-ray	Once every 12 months

Industry	Industrial process	Examples of jobs	Medical examinations	Frequency of examinations*
	Painting (use of paint containing arsenic/mercury)	Painter	General examination, urine test, chest X-ray	Once every 12 months
Stone work	Rock cutting, grinding and polishing (exposure to silica dust and noise)	Mason Tombstone worker	General examination, chest X-ray Audiometric test	Once every 12 months Once every 12 months ($\geq 90\text{dB(A)}$) Once every 24 months (85-89dB(A))
Textile	Opening, blowing, carding and spinning of raw cotton Weaving (exposure to noise)	Blowing room machine tender Carding machine tender Spinning machine tender Weaver	General examination, lung function test General examination, audio-metric test	Once every 12 months Once every 12 months ($\geq 90\text{dB(A)}$) Once every 24 months (85-89dB(A))
Toy making	Use of MDI/TDI for making foam or foam mould Use of cleansing solvent containing benzene	Foam moulding worker/Mould maker Printing operator	General examination, lung function test General examination, blood and urine tests	Once every 12 months Once every 12 months

* Apart from periodic medical examinations, a medical examination before employment is also required.

**The Proposed Factories and Industrial
Undertakings (Medical Examinations) Regulation**

Employment in or involving exposure to		Related occupational diseases	Employees' compensation
1.	Mines, quarries and tunnelling operations	Silicosis	Pneumoconiosis (Compensation Ordinance)
2.	Compressed air work	Dysbarism	Item A3 - Dysbarism (Second Schedule, Employees' Compensation Ordinance (ECO))
3.	Asbestos	Asbestosis	Pneumoconiosis (Compensation Ordinance)
4.	Carcinogenic substances (controlled substances)	Urinary tract cancer	Item C19 - Primary neoplasm of the epithelial lining of the urinary tract (Second Schedule, ECO)
5.	Silica	Silicosis	Pneumoconiosis (Compensation Ordinance)
6.	Arsenic	Arsenic poisoning Corneal dystrophy	Item C4 - Poisoning by arsenic Item C16 - Dystrophy of cornea Item C17 - Primary epitheliomatous cancer of the skin Item C21 - Localised new growth of the skin (Second Schedule, ECO)
7.	Cadmium	Cadmium poisoning	Item C15 - Poisoning by cadmium (Second Schedule, ECO)
8.	Manganese	Manganese poisoning	Item C2 - Poisoning by manganese (Second Schedule, ECO)
9.	Lead	Lead poisoning	Item C1 - Poisoning by lead (Second Schedule, ECO)

Employment in or involving exposure to		Related occupational diseases	Employees' compensation
10.	Mercury	Mercury poisoning	Item C5 - Poisoning by mercury (Second Schedule, ECO)
11.	Organophosphates	Organophosphate poisoning	Item C3 - Poisoning by phosphorus (Second Schedule, ECO)
12.	Tar, pitch, bitumen and creosote	Corneal dystrophy Skin growth or cancer	Item C16 - Dystrophy of the cornea Item C17 - Primary epitheliomatous cancer of the skin Item C21 - Localised new growth of the skin (Second Schedule, ECO)
13.	Raw cotton dust	Byssinosis	Item D4 - Byssinosis (Second Schedule, ECO)
14.	Benzene	Benzene poisoning	Item C7 - Poisoning by benzene (Second Schedule, ECO)
15.	Methylenediphenyl diisocyanate (MDI) Toluene diisocyanate (TDI)	Occupational asthma Dermatitis	Item D5 - Occupational asthma Item D1 - Inflammation or ulceration of the skin (Second Schedule, ECO)
16.	Lasers (class 3B and 4)	Cataract Dermatitis	Item A1 - Inflammation, ulceration or malignant disease of the skin or subcutaneous tissues of the bones, or blood dyscrasia, or cataract, due to electromagnetic radiations (Second Schedule, ECO)
17.	Excessive noise	Occupational deafness	Occupational Deafness (Compensation) Ordinance