

OCCUPATIONAL SAFETY AND HEALTH ORDINANCE
AND
INTERPRETATION AND GENERAL CLAUSES ORDINANCE

RESOLUTION

(Under section 42 of the Occupational Safety and Health Ordinance (Cap. 509) and section 35 of the Interpretation and General Clauses Ordinance (Cap. 1))

OCCUPATIONAL SAFETY AND HEALTH (DISPLAY SCREEN EQUIPMENT) REGULATION

RESOLVED that the Occupational Safety and Health (Display Screen Equipment) Regulation, made by the Commissioner for Labour on 8 November 2000, be approved, subject to the following amendments -

(a) in section 2, by deleting the definition of "user" and substituting -

"user" (使用者) means an employee who, by reason of the nature of his work, is required to use display screen equipment for a prolonged period of time almost every day;"

(b) by deleting section 3(1) and substituting -

"(1) This Regulation applies to a workstation in a workplace that is -

(a) provided by a person responsible for the workplace to be used by users for work;

(b) not intended for use by the public; and

(c) normally used or intended to be normally used by users.";

(c) in section 4 -

(i) by deleting subsection (3) (a) to (d) and substituting -

"(a) identifying and assessing the risk to the safety and health of users of a workstation;

- (b) deciding whether existing precautions are adequate; and
 - (c) recording the findings.";
- (ii) in subsection (4)(a), by deleting everything after "to" and substituting "believe that there has been a significant change in the conditions of a previous assessment; or";
- (iii) in subsection (4)(b), by deleting "變動" and substituting "改變";
- (iv) in subsection (5) -
 - (A) by adding ", so far as reasonably practicable," before "keep";
 - (B) by deleting "(d)" and substituting "(c)";
- (v) by deleting subsections (6) and (7) and substituting -
 - "(6) The person responsible for a workplace shall -
 - (a) upon request by an occupational safety officer, produce for inspection any record kept and retained by him under subsection (5); or
 - (b) in case he is unable to comply with paragraph (a), deliver a copy of the record to the officer for inspection within such period as may be specified in a request in writing sent by the officer.";
- (d) in section 6, by deleting everything after "shall" and substituting -

- ", so far as reasonably practicable, make available to users of a workstation in respect of which a risk assessment has been performed under section 4 a copy of the following documents -
- (a) a record of the findings of the risk assessment; and
 - (b) a record of any action he has taken after the assessment.";
- (e) in section 7 -
- (i) by deleting "normally used by users";
 - (ii) by deleting ", health and welfare of those users" and substituting "and health of users of those workstations";
- (f) in section 8 -
- (i) in subsection (1) -
 - (A) by deleting "(1)" before "An";
 - (B) by adding ", so far as reasonably practicable," after "shall";
 - (C) by deleting "adequate" and substituting "necessary";
 - (D) by deleting "the workstation normally used by the user" and substituting "workstations";
 - (ii) by deleting subsection (2);
- (g) by deleting section 9 and substituting -
- "9. Users to co-operate with responsible person**

A user of a workstation in a workplace shall, so far as reasonably practicable -

- (a) conform to any system of work and work practice that the person responsible for the workplace has established in order to comply with the requirements imposed by this Regulation; and
- (b) comply with any risk reduction measure taken as a result of any risk identified in a risk assessment performed under section 4.";

- (h) by renumbering section 10 as section 11;
- (i) by adding -

"10. Effect of workplace code of practice

Without prejudice to section 41 of the Ordinance, in any legal proceedings for an offence under this Regulation, proof that a person contravened or did not contravene a relevant provision of a workplace code of practice issued under section 40 of the Ordinance in respect of this Regulation may be relied on by any party to the proceedings as tending to establish or negate a matter that is in issue in the proceedings.";

- (j) in section 11 -

- (i) in subsection (1), by deleting ", (6) or (7)" and substituting "or (6) (b)";
- (ii) in subsection (2), by deleting "section 8(1) or (2)" and substituting "section 8".

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

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OCCUPATIONAL SAFETY AND HEALTH (DISPLAY SCREEN EQUIPMENT) REGULATION

(Made under section 42 of the Occupational Safety and Health Ordinance (Cap. 509) subject to the approval of the Legislative Council)

1. Commencement

This Regulation shall come into operation on a day to be appointed by the Commissioner for Labour by notice published in the Gazette.

2. Interpretation

In this Regulation, unless the context otherwise requires -

"display screen equipment" (顯示屏幕設備) means any display screen which shows letters, numbers, characters or graphics, regardless of the display process involved;

"user" (使用者) means an employee who normally uses display screen equipment as a significant part of his normal work;

"workstation" (工作間) means an assembly comprising -

(a) display screen equipment;

(b) any chair, desk, work surface, printer, document holder or other item peripheral to the display screen equipment; and

(c) the immediate working environment around the display screen equipment.

3. Application

(1) This Regulation applies to all workplaces in which display screen equipment is used for or in connection

with work.

(2) This Regulation does not apply to or in relation to the following -

- (a) display screen equipment that is used mainly to show pictures, television or films;
- (b) drivers' cabs or control cabs for vehicles or machinery;
- (c) display screen equipment on board a means of public transport;
- (d) portable systems not in prolonged use;
- (e) calculators, cash registers or any equipment having a small data or measurement display required for direct use of the equipment; or
- (f) window typewriters.

4. Risk assessment

(1) The person responsible for a workplace shall perform a risk assessment of a workstation in the workplace before it is first used by users.

(2) For workstations in service in the workplace immediately before the commencement of this Regulation and used by users on or after that commencement, the person responsible for the workplace shall perform a risk assessment of those workstations within 14 days after that commencement.

(3) For the purpose of complying with subsections (1) and (2), the risk assessment shall consist of a process of -

- (a) identifying the potential hazards arising from the work in the workstation;
- (b) deciding who might be at risk and how the person is affected;

- (c) evaluating the risks arising from the potential hazards and deciding whether existing precautions are adequate; and
 - (d) recording the findings.
- (4) If -
- (a) the person responsible for a workplace has reason to suspect that the conditions of a previous assessment may have changed; or
 - (b) there has been a significant change in a workstation,

the person responsible for the workplace shall review the risk assessment performed in respect of the workstation and revise the record of findings accordingly.

(5) The person responsible for a workplace shall keep a record of all risk assessments performed by him in respect of a workstation, which shall include all findings recorded or revised under subsections (3)(d) and (4), and shall retain that record for a period of at least 2 years after that workstation ceases to be used by any user.

(6) Upon request by an occupational safety officer, the person responsible for a workplace shall produce for inspection any record kept and retained by him under subsection (5).

(7) Upon request in writing by an occupational safety officer, the person responsible for a workplace shall, within such period as may be specified in the request, deliver to the officer a copy of any record kept and retained by him under subsection (5).

5. Reduction of risks

The person responsible for a workplace shall take steps to reduce any risks identified in a risk assessment performed by him under section 4 to the lowest extent as is reasonably practicable.

6. Provision of information

The person responsible for a workplace shall inform users who normally use a workstation in respect of which a risk assessment has been performed under section 4 about the findings of the risk assessment and any action he has taken after the assessment.

7. Requirements for workstation

The person responsible for a workplace shall so far as reasonably practicable ensure that the workstations normally used by users in the workplace are suitable having regard to the safety, health and welfare of those users.

8. Provision of safety and health training

(1) An employer shall ensure that a user employed by him is provided with adequate safety and health training in the use of the workstation normally used by the user.

(2) Whenever the organization of a workstation normally used by a user is substantially modified, an employer shall ensure that the user is provided with adequate safety and health training with regard to the workstation as modified.

9. Users to co-operate with responsible person

A user shall conform to any system of work and any work practices that the person responsible for the workplace at which the user is employed has provided or established for the safety and health of users at the workplace.

10. Offences

(1) A person responsible for a workplace who fails to comply with section 4(1), (2), (4), (5), (6) or (7), 5, 6 or 7 commits an offence and is liable on conviction to a fine at level 5.

(2) An employer who fails to comply with section 8(1) or (2) commits an offence and is liable on conviction to a fine at level 5.

(3) A user who fails to comply with section 9 commits an offence and is liable on conviction to a fine at level

3.

(4) The offences mentioned in subsections (1) and (2) are offences of strict liability.

Mrs. Pamela TAN
Commissioner for Labour

8 November 2000

Explanatory Note

The purpose of this Regulation is to protect the occupational safety and health of employees who normally use workstations (which include display screen equipment such as computer monitors) in their work.

2. Section 1 provides for the commencement of the Regulation.

3. Section 2 defines certain expressions used in the Regulation.

4. Section 3 describes the scope of application of the Regulation.

5. Section 4 contains provisions outlining the risk assessment which has to be performed by the person responsible for a workplace.

6. Section 5 imposes a duty on the person responsible for a workplace to take steps to reduce any risk identified by him.

7. Section 6 imposes a duty on the person responsible for a workplace to inform users of the findings of the risk assessment and the actions he has taken after the assessment.

8. Section 7 requires the person responsible for a workplace to ensure that the workstations are suitable having regard to the safety, health and welfare of users.

9. Section 8 requires an employer to ensure that a user has been provided with adequate safety and health training.

10. Section 9 imposes a duty on a user to avoid risks by conforming to a system of work and work practices provided or established by the person responsible for a workplace.

11. Section 10 creates offences for failure to comply with the provisions of the Regulation and sets out the penalties to be imposed on offenders.

DRAFT

**Speech by Mrs Fanny Law, JP
Secretary for Education and Manpower
in Moving the Motion on the Occupational Safety and Health
(Display Screen Equipment) Regulation
at the Legislative Council on Wednesday, 24 April 2002**

Madam President,

I move that the Occupational Safety and Health (Display Screen Equipment) Regulation made by the Commissioner for Labour be approved.

2. With the growing use of computers at work, more and more employees are using display screen equipment for prolonged periods of time. Coupled with this growth, there are increasing concerns about related health problems, such as eyestrain and pain in the neck, which can be prevented by having appropriate design of the workstation, working posture and working environment. To protect the safety and health of prolonged users of display screen equipment, the Commissioner for Labour has made the Occupational Safety and Health (Display Screen Equipment) Regulation.

3. The Regulation is targeted at employees who, by the nature of their work, e.g. data processing, computer graphic design and telecommunications, are required to use display screen equipment for a prolonged period of time almost every day, i.e. "users" as defined in the Regulation. The definition of "user" is further elaborated in a code of practice to be issued by the Labour Department to mean employees who use display screen equipment almost every day, and continuously for at least four hours during a day or cumulatively for at least six hours during a day.

4. Under the Regulation, "display screen equipment" means any display screen which shows letters, numbers, characters or graphics. However, the Regulation does not apply to certain display screen equipment that normally poses minimal safety and health risks, such as calculators and

portable systems that are not in prolonged use.

5. In order that the safety and health of users be adequately protected, we consider it necessary to regulate not only display screen equipment, but also peripheral items like chairs and desks, i.e. the workstation as a whole.

6. The Regulation requires the person responsible for a workplace to perform a risk assessment of a workstation. The responsible person should also take steps to reduce any risks identified. In the Regulation, the main duties are assigned to the person responsible for a workplace because, in some cases, the employer may not exercise any control directly over the workplace. However, the employer is required to provide users employed by him with necessary safety and health training, while users are required to comply with precautionary measures. A person responsible for a workplace or an employer who fails to comply with the Regulation is liable on conviction to a maximum fine of \$50,000, and a user to a maximum fine of \$10,000.

7. Risk assessment of a workstation is based on a checklist, and should be performed by a person who has basic knowledge of the use of display screen equipment and the associated health risks. Safety and health training can be carried out through the showing of videos or distribution of educational materials. Most risk reduction measures would not incur any cost, e.g. repositioning display screens and adjusting the height of chairs. Where furniture has to be replaced to improve individual workstations, e.g. height-adjustable chairs, the expenses involved will be small. Compliance with the Regulation should not therefore impose a heavy financial burden on employers. The social benefits of reducing health problems associated with prolonged use of display screen equipment at work far outweigh the costs involved.

8. We propose that the Regulation should come into

operation 12 months after enactment, so as to allow adequate time for employers and employees to prepare themselves for full compliance, as the Regulation covers a wide variety of trades and risk assessment is a new concept. The Labour Department will issue a code of practice and a health guide for employers and employees.

9. In enforcing the Regulation, the Labour Department will normally issue an improvement notice before taking prosecution action against the less serious breaches. The Labour Department will monitor the trend of reported health problems associated with the use of display screen equipment at work, and review the Regulation, in particular the definition of "user", taking into account the findings of relevant medical researches and enforcement experience.

10. The Labour Advisory Board and the LegCo Panel on Manpower have been consulted and indicated their support for the Regulation. I am grateful to the Hon Cheng Kar-foo and Members of the LegCo Sub-committee, which was formed to examine the Regulation. Members have thoroughly debated a range of issues arising from the Regulation which we believe would effectively raise the safety and health standard in Hong Kong.

11. Madam President, I beg to move.