

FACTORIES AND INDUSTRIAL UNDERTAKINGS ORDINANCE
AND
INTERPRETATION AND GENERAL CLAUSES ORDINANCE

RESOLUTION

(Under section 7 of the Factories and Industrial Undertakings Ordinance (Cap. 59) and section 35 of the Interpretation and General Clauses Ordinance (Cap. 1))

Factories and Industrial Undertakings (Safety Officers and Safety Supervisors)(Amendment) Regulation 2001

RESOLVED that the Factories and Industrial Undertakings (Safety Officers and Safety Supervisors)(Amendment) Regulation 2001, made by the Commissioner for Labour on 21 June 2001, be approved, subject to the following amendments -

- (a) in section 1(2), by adding "11," after "Sections";
- (b) in section 2(a), by adding "開始" before "適用";
- (c) in section 3, in the proposed regulation 7(1)(b) -
 - (i) by adding "為安全主任" after "註冊";
 - (ii) by adding "開始" after "規例";
- (d) in section 4, in the proposed regulation 7B(8), by deleting "關;" and substituting "關、";

(e) in section 14, in the proposed Schedule 3, in paragraph 1D, by deleting "該" and substituting "上述";

(f) in section 16, in the proposed item 6(d), by adding "某人" after "將".

**FACTORIES AND INDUSTRIAL UNDERTAKINGS (SAFETY OFFICERS AND
SAFETY SUPERVISORS) (AMENDMENT) REGULATION 2001**

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**FACTORIES AND INDUSTRIAL UNDERTAKINGS (SAFETY OFFICERS AND
SAFETY SUPERVISORS)(AMENDMENT) REGULATION 2001**

(Made under section 7 of the Factories and Industrial
Undertakings Ordinance (Cap. 59) subject to the
approval of the Legislative Council)

1. Commencement

(1) Subject to subsection (2), this Regulation shall come into operation on the day on which this Regulation is published in the Gazette.

(2) Sections 12 and 15 shall come into operation on a day to be appointed by the Commissioner for Labour by notice published in the Gazette.

**2. Qualifications for registration
as safety officer**

Regulation 5(3) of the Factories and Industrial
Undertakings (Safety Officers and Safety Supervisors)
Regulations (Cap. 59 sub. leg.) is amended -

- (a) in sub-paragraph (a), by repealing everything after "before" and substituting "these regulations become applicable to a class of industrial undertaking, he was employed as a full time safety officer in that class of industrial undertaking; and";
- (b) by repealing "an industrial undertaking" where it last appears and substituting "that class of industrial undertaking".

**3. Application for and registration
as safety officer**

Regulation 7(1) is amended by repealing "in the
approved form." and substituting -

"to the Commissioner for Labour -

(a) in the approved form; and

(b) in the case where the applicant is a person
qualified to be registered as a safety officer
under regulation 5(3), within 12 months after
these regulations become applicable to the
class of industrial undertaking concerned."

4. Regulations added

The following are added -

"7A. Validity period of registration

(1) Subject to paragraph (2) and regulations 9 and 10,
the registration of a person as a safety officer under
regulation 7(2), shall be valid for a period of 4 years from
the date he is registered but may be renewed or revalidated
under regulation 7B.

(2) Any person who, immediately before the commencement
of section 4 of the Factories and Industrial Undertakings
(Safety Officers and Safety Supervisors) (Amendment)
Regulation 2001 (L.N. of 2001) being a person registered
as a safety officer under regulation 7(2) shall be deemed,

for the purposes of renewal or revalidation under regulation 7B, to be registered on that commencement.

(3) Subject to regulation 7B(2), the registration of a person as a safety officer under regulation 7(2) not renewed under regulation 7B shall cease to have effect on its expiration.

**7B. Renewal and revalidation
of registration**

(1) A registered safety officer who wishes to renew his registration as a safety officer under regulation 7(2) shall submit to the Commissioner for Labour an application for renewal in the approved form prior to but not earlier than 9 months before the expiration of his registration.

(2) Any registration in respect of which an application for renewal is made under this regulation and which expires prior to the determination of such application shall, unless the application is withdrawn or the registration is cancelled under regulation 9 or suspended under regulation 10, remain valid pending the determination by the Commissioner for Labour of that application.

(3) A renewal of registration under this regulation shall have effect from the day following the day on which the registration would have expired but for paragraph (2), for a period of 4 years.

(4) A person whose registration under regulation 7(2)

has expired and ceased to have effect and who wishes to revalidate that registration shall not make a new application for registration under regulation 7 but shall submit to the Commissioner for Labour an application for the revalidation of his expired registration in the approved form.

(5) Where the Commissioner for Labour approves the revalidation of an expired registration, the registration shall become revalidated for a period of 4 years from the date of approval.

(6) Subject to paragraph (7), the Commissioner for Labour may, in his discretion, renew or revalidate the registration of a person as a safety officer under regulation 7(2), as the case may be, and may impose such conditions in relation to that renewal or that revalidation as he thinks fit.

(7) The Commissioner for Labour shall not approve an application for renewal or revalidation unless he is satisfied that the applicant has completed a total of not less than 100 hours of Continuing Professional Development Programme in occupational safety and health in the 4 years immediately preceding the application.

(8) For the purposes of paragraph (7), "Continuing Professional Development Programme" (專業進修計劃) means a course, lecture, seminar or other programme or method of study (whether requiring attendance or not) that, in the opinion of the Commissioner for Labour, is relevant to the

needs and professional standards of registered safety officers, enhances professional competence and complies with any notes of guidance in that behalf as may be issued from time to time by the Commissioner for Labour.

(9) This regulation does not apply to a person whose registration as a safety officer under regulation 7(2) has been cancelled under regulation 9."

5. Commissioner to serve notice of decision on applicant

Regulation 8 is amended -

- (a) in paragraph (1), by adding "or renews or revalidates or refuses to renew or revalidate that registration under regulation 7B," after "regulation 7,";
- (b) in paragraph (2), by adding ", or refuses to renew or revalidate the registration of a person," after "officer".

6. Cancellation of registration

Regulation 9 is amended -

- (a) by adding "or such that registration as renewed or revalidated under regulation 7B" after "7(2)";
- (b) in paragraph (a), by adding ", renewal or revalidation" after "registration".

7. Suspension of registration

Regulation 10(1) is amended by adding "or whose registration is renewed or revalidated under regulation 7B," after "7,".

8. Appeals

Regulation 12(1) is amended by adding -

"(aa) whose registration as a safety officer the Commissioner for Labour refuses to renew or revalidate under regulation 7B;".

9. Employment of safety officer

Regulation 14(2) is amended -

(a) in sub-paragraph (a), by repealing everything after "person is" and substituting -

"for the time being -

(i) registered under regulation 7; and

(ii) not suspended from registration under regulation 10; and ";

(b) in sub-paragraph (b), by repealing "regulation 15," and substituting "regulation 15".

10. Duties of safety officer

Regulation 15(1) is amended -

(a) in sub-paragraph (i), by repealing "and" at the end;

(b) in sub-paragraph (j), by repealing the full stop

and substituting "; and";

(c) by adding -

"(k) advising the proprietor on the implementation of a safety management system in the industrial undertaking, including the duties listed below -

- (i) to assist in establishing, revising and reviewing a safety and health policy of the industrial undertaking;
- (ii) to assist in organizing a safety and health training programme;
- (iii) to assist in devising in-house safety rules and regulations;
- (iv) to assist in implementing safety and health plans, programmes, arrangements and measures;
- (v) to assist in establishing a safety committee and implementing its recommendations;
- (vi) to assist in job hazard analysis, evaluation of potential hazards and the identification of hazardous conditions and hazardous exposure; and
- (vii) to assist in conducting safety

promotion, health assurance and
personal protection programmes.".

11. Display of notice

Regulation 19A is amended -

- (a) in paragraph (1) -
 - (i) in sub-paragraph (a), by repealing "or (e)" and substituting ", (e) or (g)";
 - (ii) in sub-paragraph (b), by repealing "or (f)" and substituting ", (f) or (h)";
- (b) in paragraph (2) -
 - (i) in sub-paragraph (a), by repealing "or (e)" and substituting ", (e) or (g)";
 - (ii) in sub-paragraph (b), by repealing "or (f)" and substituting ", (f) or (h)".

12. Industrial undertakings to which regulations apply

The First Schedule is amended by adding at the end
"Container handling".

13. Qualifications for registration as safety officer

The Second Schedule is amended -

- (a) within the square brackets, by repealing "(1)" and substituting "& Third Sch.";
- (b) by repealing -

"A, B or C

Construction
sites

A or B

Shipyards"

and substituting -

"A, B, C or D

Construction
sites

A, B or C

Industrial
undertakings to
which these
regulations
apply except
construction
sites".

14.Third Schedule substituted

The Third Schedule is repealed and the following
substituted -

"THIRD SCHEDULE

[reg. 5(2)]

SCHEDULED QUALIFICATIONS

1. For the purposes of regulation 5 and the Second Schedule,
the qualifications for registration as a safety officer are
as follows -

- A. A recognized degree or post-graduate diploma in
occupational safety and health, or equivalent, and
relevant experience of not less than 1 year.

- B. A degree in Science or Engineering, or equivalent, and a recognized certificate, diploma or higher diploma in occupational safety and health, and relevant experience of not less than 1 year.
- C. A recognized certificate, diploma or higher diploma in occupational safety and health, and relevant experience of not less than 2 years, of which one year must be obtained after the academic qualification.
- D. A recognized certificate in construction safety and relevant experience of not less than 2 years, of which one year must be obtained after the academic qualification.

2. In paragraph 1 -

"relevant" (有關) means such experience as may from time to time be recognized as being relevant to the duties of a safety officer under these regulations.

3. In paragraphs 1 and 2 -

"recognized" (獲承認) means recognized for the purposes of these regulations by the Commissioner for Labour."

15.

Fourth Schedule amended

The Fourth Schedule is amended -

(a) in paragraph 1, by adding -

"(g) A proprietor of one container handling workplace. One safety officer where the total number of persons employed by him therein is 100 or more.

(h) A proprietor of more than one container handling workplace. One safety officer where the total aggregate number of persons employed by him in such container handling workplaces is 100 or more.";

(b) in paragraph 2, by adding -

"(g) A proprietor of one container handling workplace. One safety supervisor where the total number of persons employed by him therein is 20 or more.

(h) A proprietor of more than one container handling workplace in One safety supervisor in each container handling workplace in

handling which the number of
workplace. persons employed by him
is 20 or more.".

Consequential Amendments

Administrative Appeals Board Ordinance

16. Schedule amended

Item 6 of the Schedule to the Administrative Appeals Board Ordinance (Cap. 442) is amended, in column 3, by adding -

"(d) A refusal by the Commissioner for Labour to renew or revalidate a person's registration as a safety officer under regulation 7B.".

Commissioner for Labour

21 June 2001

Explanatory Note

The purposes of this Regulation are -

(a) to limit the period for making an application for

- registration as a safety officer by a person qualified to be so registered under regulation 5(3) to 12 months from the date the Factories and Industrial Undertakings (Safety Officers and Safety Supervisors) Regulations (Cap. 59 sub. leg.) ("the Regulations") first becomes applicable to the industrial undertaking concerned (sections 2 and 3);
- (b) to provide that a registration of a safety officer shall be valid for a period of 4 years subject to renewal or revalidation (section 4);
- (c) to provide that a registration of a safety officer may only be renewed or revalidated if the Commissioner for Labour ("the Commissioner") is satisfied that the applicant has completed the Continuing Professional Development Programme so as to enhance the professionalism of safety officers (section 4);
- (d) to provide that an appeal may be lodged to the Administrative Appeals Board against the Commissioner's decision on a refusal to renew or revalidate a registration as a safety officer (section 8);
- (e) to impose additional duties on a safety officer to implement safety management systems of industrial undertakings (section 10);
- (f) to expand the scope of application of the

Regulations to include the container handling industry (sections 12 and 15);

- (g) to revise the list of qualifications for registration as a safety officer to enable the Commissioner to determine recognized qualifications based on relevance of the degrees or courses (section 14); and
- (h) to make consequential amendments to the Administrative Appeals Board Ordinance (Cap. 442) (section 16).

D R A F T

**Speech by Mrs Fanny Law, JP,
Secretary for Education and Manpower
in moving the Motion on the
Factories and Industrial Undertakings
(Safety Officers and Safety Supervisors)
(Amendment) Regulation 2001
at the Legislative Council on 5 June 2002**

Madam President,

I move that the Factories and Industrial Undertakings (Safety Officers and Safety Supervisors) (Amendment) Regulation 2001 made by the Commissioner for Labour be approved. Members may recall that originally I intended to move the motion on this Amendment Regulation on 11 July 2001. However, I withdrew my notice to move the motion because there were some technical amendments proposed by the Legal Services Division of this Council. These amendments have now been incorporated and I seek to move this motion today.

2. The proposed Amendment Regulation aims to extend the coverage of the Factories and Industrial Undertakings (Safety Officers and Safety Supervisors) Regulations (the principal Regulations) to the container handling industry and to enhance the professionalism and training of safety officers in general.

3. At present, the principal Regulations apply to construction sites and shipyards only. Proprietors of these industrial undertakings are required to employ a safety supervisor where the number of persons employed is 20 or more, and a safety officer where the size of employment is 100 or more. Accidents which occur in the container handling industry tend to be more serious in

nature, and we consider it necessary to improve the safety performance of the industry through the employment of safety officers and safety supervisors.

4. The Amendment Regulation also proposes various measures to enhance the professionalism and training of safety officers :-

(a) to impose on safety officers additional duties in the safety management of the workplace;

(b) to raise the minimum qualification and working experience required for registration as a safety officer;

(c) to repeal the “grandfather clause” provision for the existing classes of designated industrial undertakings (under which serving practitioners at the time of the introduction of the registration on 29 October 1986 have been allowed to be registered as safety officers by reason of their education, training, professional experience and skill in industrial safety), and to limit the period within which the “grandfather clause” provision may apply to 12 months after the principal Regulations become applicable to a new class of designated industrial undertakings;

(d) to introduce a mechanism for renewing and re-validating the registration of safety officers upon expiry of a four-year validity period. Safety officers will be required to complete not less than 100 hours of Continuing Professional Development programmes in safety and health in the preceding four years for the purpose of renewal or re-validation of their registration.

5. The proposal to extend the coverage of the principal Regulations to the container handling industry will come into effect 12 months after enactment of the Amendment Regulation to allow sufficient time for training or recruitment of relevant safety staff. Many container handling operators have already employed their own safety staff and should have no difficulty in complying with the new requirements within 12 months.

6. As regards the proposals to enhance the professionalism of safety officers, they will come into immediate effect, except that the “grandfather clause” provision will apply for 12 months after the principal Regulations first become applicable to the container handling industry. This will provide sufficient time for safety officers who are currently employed in the industry to get themselves registered.

7. The Amendment Regulation, if enacted, would benefit both employers and employees by improving the safety performance of the industry which would in turn enhance productivity. Representatives of major container handling operators and depots have been consulted and support the proposal. I recommend the Amendment Regulation to Honourable Members.

8. Madam President, I beg to move.
