

立法會
Legislative Council

LC Paper No. LS115/01-02

**Paper for the House Committee Meeting
on 14 June 2002**

**Legal Service Division Report on
Proposed Resolution under section 7 of the
Factories and Industrial Undertakings Ordinance (Cap. 59)**

The Secretary for Education and Manpower ("the Secretary") has given notice to move a motion at the Legislative Council meeting to be held on 26 June 2002. The motion seeks the Legislative Council to approve the Factories and Industrial Undertakings (Woodworking Machinery) (Amendment) Regulation 2002 ("the Amendment Regulation").

2. Under section 7 of the Factories and Industrial Undertakings Ordinance (Cap. 59), the Commissioner for Labour ("the Commissioner") may in respect of industrial undertakings by regulation prescribe or provide for prohibiting or controlling the employment of women, young persons and children in industrial undertakings. The purpose of the Amendment Regulation is to amend Regulation 9(2) of the Factories and Industrial Undertakings (Woodworking Machinery) Regulations (Cap. 59 sub. Leg.) ("the principal Regulation") to prohibit the employment of persons under 16 years of age on any woodworking machine. This amendment is required for the compliance with the International Labour Convention No. 182: The Worst Forms of Child Labour Convention, 1999 ("the Convention") and its accompanying Recommendations No.190: Worst Forms of Child Labour Recommendations, 1999 ("the Recommendations"). Members may refer to the LegCo Brief (Ref: LD CR 62/711 Pt. 2) issued by the Education and Manpower Bureau in June 2002 for background information and the text of the Convention and Recommendations.

3. At present, the principal Regulation allows persons under 16 years of age to be employed on a woodworking machine upon the written permission of the Commissioner.

4. According to the LegCo Brief, The Convention and the Recommendations were unanimously adopted by the International Labour Conference in June 1999. It is a core convention of the International Labour Organization and is widely ratified by member States. As at 2 May 2002, 120 countries have ratified the Convention. The Central People's Government ("the CPG") is considering ratifying the Convention and has asked the Government of the HKSAR to consider if the Convention can be applied in the HKSAR. The Administration, having consulted the Committee on the

Implementation of International Labour Standards of the Labour Advisory Board, has concluded that the Convention should be applied to the HKSAR and has notified the CPG of its decision in September 2001. The Convention will be applied to the HKSAR when the CPG has decided to ratify the Convention and registered its ratification with the International Labour Office.

5. The Convention calls for immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour. One form of child labour that is to be prohibited and eliminated under the Convention is work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.

6. Under the Convention, a "child" is defined as a person under the age of 18. The Recommendations provides for some flexibility to enable children from the age of 16 to be engaged in hazardous work on condition that the competent authority will ensure the health, safety and morals of the children concerned are fully protected, and that the children have received adequate specific instruction or vocational training in the relevant branch of activity.

7. The Amendment Regulation removes the discretion of the Commissioner and strictly prohibits the employment of persons under 16 years of age on any woodworking machine. The Administration confirms that such amendment will not have any impact on employers and young persons under 16 years of age. The Labour Department has not received any application for such permission since the principal Regulation came into operation in 1971.

8. The Administration does not recommend raising the age limit to 18 years for the Amendment Regulation as:

- (a) there is still a practical need to allow persons aged between 16 and 18 to operate woodworking machines. Currently, there are two designated trades under the Apprenticeship Ordinance (Cap. 47), namely, "Carpenter/Joiner" and "Wood Furniture Maker", which involve the use of woodworking machines. Raising the age limit to 18 years will jeopardise the employment opportunity of the young persons between the age of 16 and 18 to join the apprenticeship training or work in these trades.
- (b) the Administration is satisfied that young persons aged 16 and above employed on woodworking machines have adequate instruction and training and are fully protected under the general duties provisions of the Occupational Safety and Health Ordinance (Cap. 509), the Factories and Industrial Undertakings Ordinance (Cap. 59) and the statutory safety requirements of the Factories and Industrial Undertakings (Woodworking Machinery) Regulations (Cap. 59 sub. Leg.).

9. At the meeting of the Panel on Manpower on 16 May 2002, members were in general supportive of the Amendment Regulation. Nevertheless, some members suggested that the Administration should explore ways to better protect children under the age of 18, such as by providing them with free education and extending the protection provided under the Amendment Regulation to cover new trades engaging the service of young people.

10. No difficulties relating to the legal and drafting aspects of the Amendment Regulation have been identified.

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