

**Legislative Council Panel on Manpower
(Meeting on 20 February 2003)**

Guide on Rest Breaks

PURPOSE

This paper informs Members of the progress and result of the consultation exercise on the preparation of a Guide on Rest Breaks, in accordance with the recommendations of the Labour Advisory Board (“LAB”).

BACKGROUND

2. Members were informed of the LAB’s recommendation to prepare a Guide on Rest Breaks by its Committee on Occupational Safety and Health (“COSH”) on 21 March 2002 vide LC Paper No. CB(2)1358/01-02(05). To recapitulate, employer members of the LAB took the view that even if legislation were to be introduced to provide for rest breaks, it might not be able to cover employees who did not have specified rest breaks at present. Certain industries, trades or occupations, by reason of genuine operational needs, would need to be exempted. In effect, the industries, trades or occupations, which required exemption, would likely be those without rest breaks at present. On the other hand, employee members considered that the matter should be kept under review and the need could be re-considered if the situation so warranted. Meanwhile, a Guide should be prepared. After detailed deliberations, the LAB recommended the following measures:-

- (a) COSH should prepare a Guide on Rest Breaks;
- (b) The Labour Department (“LD”) should step up educational and promotional work on the granting of appropriate rest breaks; and
- (c) Regular reviews on the issue should be conducted.

3. The COSH subsequently met on 22 May 2002, during which the proposed scope of the Guide on Rest Breaks (“the Guide”) was discussed and endorsed.

4. The LD undertook to provide full support to the COSH and formed a working group with representatives from its Labour Relations Division and the Occupational Safety and Health Branch, and a representative from the Occupational Safety and Health Council (“OSHC”).

5. A draft Guide was presented to the COSH meeting held on 14 August 2002 for discussion. The Guide was subsequently revised to incorporate members’ views and comments. A copy of the draft Guide endorsed by all members is enclosed at **Annex**.

The Guide

6. The Guide spells out the importance of rest breaks to the health and safety of a worker, and its impact on the efficient and effective operation of a business. Rest breaks can help to improve the performance of workers and the quality of their service. Rest breaks can also foster better employer-employee relationship and motivate employees to give their best. It creates a win-win situation among employers, employees and customers. COSH members pointed out during the deliberations on the subject that the benefits of providing suitable rest breaks are self-evident, and that it could be more effectively promoted through more education and promotion.

7. The Guide also draws employers’ attention to their general duties towards the safety and health of their employees under the Occupational Safety and Health Ordinance (Cap. 509).

8. The Guide acknowledges the difficulty in designing a rest break arrangement that can suit all situations. However, as the employers and employees concerned in a particular trade or situation are in the best position to understand the problems and available options, the Guide highlights that rest break arrangements worked out voluntarily between employers and employees through consultation will be the most appropriate measure to achieve the objective.

PUBLIC CONSULTATION

9. Public consultation on the Guide has been conducted through the nine Tripartite Committees of the LD and the 11 Industry-based Safety and Health Committees of the OSHC in January 2003. This covers a wide range of organisations, including 77 employer associations, 95 employee unions, 16 professional bodies and 104 individual employers.

10. In the public consultation exercise, we received 109 responses. Of these, 88 (81%) were supportive of the issue of the Guide, 14 (13%) were not supportive and 7 (6%) had not indicated their preference :-

Nature of Organisations	Number of responses	Issue of the Guide		
		Supportive	Not Supportive	No Indication
Employer Associations	25	20	5	-
Employee Unions	49	40	3	6
Professional Bodies	11	10	0	1
Individual Employers	24	18	6	-
Total	109	88	14	7

11. Of the 14 responses that were not supportive of the issue of the Guide, the major reasons being given are as follows :-

- (a) not suitable for their trades;
- (b) not the opportune moment;
- (c) increasing cost and decreasing productivity;
- (d) not conducive to good labour relationship; and
- (e) no binding effect on the employer.

12. As to the content of the Guide, major suggestions are as follows :-

- (a) specifying standards for rest breaks arrangement, such as the required period of rest breaks for a certain number of working

- hours;
- (b) giving more examples of work requiring rest breaks;
- (c) urging employees not to abuse rest breaks arrangements;
- (d) emphasising that the provision of rest breaks should not be at the expense of longer working hours or reduced pay; and
- (e) specifying that there should not be any pay for the rest breaks.

THE WAY FORWARD

13. Feedback from the public consultation will be submitted to the COSH for consideration. The draft Guide will be further revised according to the advice of COSH before it is submitted to the LAB for consideration and approval. The LD will widely publicise and promote it together with employer organisations, employee unions and trade associations.

Labour Department
February 2003

Guide on Rest Breaks

(Draft for consultation)

Introduction

Rest breaks are important for employees, employers and the self-employed. One must have energy to perform a job well. Working long hours continuously without any break causes fatigue as well as safety and health problems. Fatigue impairs an employee's ability to perform. It also affects one's judgment, productivity, work efficiency and quality of services provided to customers. Fatigue may even lead to serious occupational accidents resulting in injury to persons, loss of properties and also affecting the business operation. Industrial accidents would bring about higher insurance premium and increase operating costs, thus undermining the interests of employers, employees, and the self-employed.

2. Appropriate rest breaks are important to the safety and health of employees and self-employed persons. For some occupations, such as full-time drivers, fatigue may cause serious traffic accidents endangering not only the drivers themselves but also other people as well. Office staff seldom pay attention to the need for taking a rest after performing prolonged office work. Some may suffer as a result from tenosynovitis due to repetitive high speed keying process for computer operation without taking suitable rest breaks.

Duties of Employers and Employees

3. A short break after a long period of continuous work provides a chance for employees to relax and recuperate. It helps to improve their performance and quality of service, foster better employer-employee relationship and motivate employees to give their best performance. Every person shall arrange himself a rest break after a long period of work. Employers should take an enlightened view and work out, in consultation with their employees, an appropriate rest break arrangement.

4. Section 6 of the Occupational Safety and Health Ordinance (Chapter 509) requires that an employer shall ensure, so far as reasonably practicable, the safety and health of their employees at work. With a few exceptions, such as self-employed persons and drivers, the Ordinance applies to all employers. Since appropriate rest breaks are closely related to the safety and health of employees, employers should work out with their employees the most suitable rest break arrangement to cope with the business operation and to provide quality service. For establishments with workplace communication mechanism (including safety committees), employers should make use of such mechanism to seek views of employees on the rest break arrangement.

5. Self-employed persons may overlook the importance of rest breaks because of heavy workload or simply for the desire to earn more. A burnt-out and worn-out person would hardly be able to provide quality service, but instead would be prone to accidents. Suitable rest breaks are beneficial to one's business as well as to one's safety and health.

Rest Break

6. A rest break is a break from work, during which period an employee can have a meal or take a rest. The Employment of Children Regulations and the Employment of Young Persons (Industry) Regulations made under the Employment Ordinance, Chapter 57, govern working hours of children¹ and young person² who are entitled to have one-hour and half-hour rest breaks respectively after 5 hours continuous work.

7. The practice of having rest breaks in a working day is common in Hong Kong. Usually, one-hour meal break is available for full-time employees. For manual work requiring a lot of physical energy, e.g. in construction, there is usually a trade practice of taking short breaks in morning and afternoon sessions. The catering trade allows employees to take rest breaks during non-peak business hours so as to prepare them for the next wave of heavy workload. In estate management, rest breaks are often arranged by rotation. These are all good examples for our reference.

8. Some occupations and trades, however, may not have specified rest

¹ Child means a person under the age of 15 years

² Young person means a person who had attained the age of 15 years but not the age of 18 years

breaks because of unique business nature or the size of operation. Under those circumstances, employers should work out in consultation with their employees a suitable rest break arrangement that would allow employees to take appropriate rest without affecting the business operation.

9. Workers who are engaged in hazardous or strenuous work processes, such as work involving exposure to high temperature, steam or vibration, or work expending a lot of energy as in manual handling of heavy objects, more frequent short rest breaks may be required provided that the safety of the workers and other persons is not affected.

10. Rest breaks are much more important to employees working in hot environment, for example: working close to hot stoves in kitchens of restaurants, canteens or food factories; and close to boilers in dyeing factories. Frequent short breaks are even more important for these workers.

11. Furthermore, employees operating vibratory machines (such as soil compressor, chain saw, cement vibrator etc.), or who are engaged in processes expending a lot of physical strength (such as bar bending, rigging work), are easier to become tired. Employers should arrange suitable rest breaks for these workers after they have worked continuously for a period of time.

12. For a shop operated by the owner himself or by one employee only, a notice showing the business hours in the day can be displayed at a prominent place. The shop owner should discuss with the employee to work out a suitable and flexible rest break arrangement.

Consultation between Employers and Employees

13. No single pattern of rest break arrangement can suit the divergent needs of a wide variety of trades and business. A suitable rest break arrangement is beneficial to the employer, the employee or in some cases even members of the public. Rest break arrangements worked out voluntarily between employers and employees through consultation will be the most appropriate measure to achieve this goal.

Work hard, work smart, with suitable rest breaks!

Help Desk

14. If you have any enquiry on rest break arrangement, or if you need any assistance, please contact the Occupational Safety and Health Branch of the Labour Department through:

Telephone : 2559 2297 (auto recording after office hour)

Committee on Occupational Safety and Health
Labour Advisory Board
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