

For discussion
on 6 June 2006

Legislative Council
Subcommittee on
Factories and Industrial Undertakings
(Loadshifting Machinery) Regulation
(Commencement) Notice 2006

Introduction

This paper briefs Members on the Administration's proposal to bring into effect paragraphs (f) to (j) in Part II of the Schedule to the Factories and Industrial Undertakings (Loadshifting Machinery) Regulation ("the Regulation") on 1 September 2006 to enable the Commissioner for Labour ("C for L") to recognize training courses for operators of compactors, dumpers, graders, locomotives and scrapers used on construction sites.

Background

2. The Regulation sets out the training and certification requirements for operators of specified loadshifting machines. It also imposes a duty on responsible persons to ensure that loadshifting machines are only operated by persons who have received recognized training and are in possession of a valid certificate.

3. The Regulation was approved by the Legislative Council ("LegCo") on 5 April 2000. The Schedule to the Regulation specifies 11 types of loadshifting machines in two parts. Part I covers forklift trucks used in industrial undertakings, whereas Part II includes bulldozers, loaders, excavators, trucks, lorries, compactors, dumpers, graders, locomotives and scrapers used on construction sites.

4. During the passage of the Regulation, in view of the limited training capacity available at that time, the Administration decided that the Regulation should be implemented in two phases. The first phase would apply only to operators of forklift trucks, bulldozers, loaders, excavators, trucks and lorries. Subject to satisfactory progress of the first phase, the statutory requirement would be extended to the operators of compactors, dumpers, graders, locomotives and scrapers in the second phase.

First Phase

5. The first phase of the Regulation was brought into effect in two steps:-

(i) Training Requirement

6. On 20 November 2000, sections 1, 2, 4, 5 and 7 of the Regulation as well as Part I and paragraphs (a) to (e) in Part II of the Schedule came into operation. C for L was empowered to recognize training courses for operators of machines under the first phase. The move enabled operators of these machines to receive recognized training.

(ii) Certification Requirement

7. On 1 September 2002, sections 3, 6 and 8 of the Regulation came into operation in relation to machines under the first phase after a sufficient number of operators had been trained and issued with valid certificates. From that date onwards, these machines could only be operated by persons in possession of valid certificates.

Progress of the First Phase Implementation

8. We have been monitoring closely the implementation of the first phase of the Regulation. As at 31 December 2005, 34 300 operators of forklift trucks and 10 500 operators of the remaining machines under the first phase were trained and issued with certificates, and the number of persons waiting for training was 673. The training demand could be absorbed within a month, given a training capacity of not less than 3 000 per month. It is considered that satisfactory progress has been achieved in

the first phase.

Second Phase

9. In view of the smooth progress of the first phase, we propose to implement the second phase. Like the first phase, it should come into force in two steps:-

(i) Training Requirement

10. Paragraphs (f) to (j) in Part II of the Schedule to the Regulation should be put into operation first to enable C for L to recognize training courses for the operators of machines under the second phase.

(ii) Certification Requirement

11. After a sufficient number of operators have been trained and issued with certificates, sections 3, 6 and 8 of the Regulation should be brought into effect in relation to machines under the second phase, making it mandatory for these machines to be operated only by persons in possession of valid certificates.

Considerations and Justifications

12. In considering the commencement of the second phase, apart from the satisfactory progress of the first phase, we have taken into account the training demand involved, the availability of prospective course providers, the financial implications as well as the socio-economic factors.

Training Demand

13. During the passage of the Regulation, the Administration, based on the 1995 Manpower Survey Report – Building and Civil Engineering Industry issued by the Vocational Training Council, estimated that about 2 500 workers were employed at any one time to operate earth-moving machines in the construction industry and two-thirds of them, about 1 600, were operating those machines covered by the first phase of the Regulation. In other words, there were about 900 workers employed at any one time to operate machines under the second phase.

14. According to the 2005 Manpower Statistical Report – Building and Civil Engineering Industry, there were 1 614 workers employed at any one time to operate earth-moving machines in the construction industry. Accordingly, our estimate is that there were then about 550 workers employed at any one time to operate machines under the second phase. Indeed, given the current state of the construction industry, these machines, particularly graders and scrapers which are mainly used in major civil engineering works, would not be in large numbers. Therefore, we can safely assume that the total number of workers employed at any one time to operate machines under the second phase now will be less than the 900 as estimated during the passage of the Regulation.

Prospective Course Providers

15. The Construction Industry Training Authority (“CITA”) has agreed to organize training courses for operators of compactors. Commercially-run training organizations, namely, the Construction Machinery Technical Training Centre (“CMTTC”) and the Safety Specialist Services Limited (“SSSL”), are prepared to organize training courses for operators of dumpers.

16. For graders, scrapers and locomotives, which are not commonly used in the construction industry, public course providers are unlikely to be available in the market because the courses would not be commercially viable. For these machines, “in-house” training could well be the only solution. “In-house” training, in this context, means that the owner of a machine provides for the training of his own operators with the course recognized by C for L. As a matter of fact, when the Regulation was discussed in LegCo in 1999, the Administration was well aware that machines like locomotives and scrapers were not in common use and there would be difficulties in sourcing public course providers. Therefore, it noted that:-

“We realize that some machinery such as locomotives and scrapers identified for Phase 2 implementation are not commonly used. However, our experience in the certification of operators of other machinery indicates that the owners of these machines will arrange for the training of

their own operators in most instances and the Labour Department will monitor the training and recognize the courses....”

17. Both the Kowloon Canton Railway Corporation (“KCRC”) and the Mass Transit Railway Corporation (“MTRC”) are prepared to conduct “in-house” safety training courses for their locomotive operators.

Financial Implications

18. To run compactor courses, a course provider would need to spend \$100,000 to \$500,000 to procure a compactor as training equipment. Given the capital outlay required vis-a-vis the limited training demand, commercially-run training organizations would consider that running such training courses does not make much business sense. However, given its economies of scale, the CITA, which has agreed to run compactor courses, should have no problem in rolling out the courses.

19. To run dumper courses, a course provider needs to spend only \$20,000 to \$50,000 to buy a dumper as training equipment. In view of the comparatively small investment involved, prospective course providers would find running the courses commercially viable. That is probably why CMTTC and SSSL are interested in running them.

20. However, graders and scrapers are expensive machines. A grader costs \$1,400,000 while a scraper sells for \$2,300,000. While no commercial course providers are likely to be available, contractors using graders and scrapers, usually only in major civil engineering projects, would be able to run “in-house” courses for their operators at very little additional cost.

21. As regards locomotives, 2 types are in use. One type is used for maintenance of railways and the other for tunnelling works.

22. A locomotive used for maintenance of railways is extremely expensive, costing up to \$30,000,000. However, the equipment is used by the two railway companies only, which should have no problems in running “in-house” courses for their own operators.

23. Locomotives used in tunnelling works sell for about \$140,000 each. The associated wagons also cost about \$48,000 each. They are mainly used in major civil engineering projects. While no commercial course providers are likely to be interested in running locomotive courses, contractors of such projects would be able to conduct “in-house” training for their operators at little extra cost.

24. It is estimated that not more than 900 operators are employed to operate machines under the second phase at any one time. For compactors and dumpers, the course fees previously estimated would range from \$1,000 to \$3,000. For graders, scrapers and locomotives, contractors using them would incur very little additional cost in running their “in-house” training courses. The training bill for the construction industry as a whole is estimated at no more than \$2,700,000, which is well within the means of the sector.

Socio-economic Factors

25. The first phase of the Regulation came into full operation in 2002. In 2003, Hong Kong was hit by SARS, which led to a sharp downturn in the economy. The construction industry also suffered as a result and has remained in the doldrums over the past few years.

26. However, with the current economic recovery, we consider that the time is ripe to take the second phase forward by implementing, first of all, the provisions to enable C for L to recognize training courses for machines under the second phase.

27. As for the provisions requiring machines under the second phase to be operated only by persons holding valid certificates, we have no intention of bringing them into operation until there are sufficient trained operators in the market.

Consultation

28. The proposal was discussed at the meeting of the Legislative Council Panel on Manpower on 28 April 2006. At the meeting, Members

raised concerns over the following issues:-

- (a) the course fees charged by course providers were too high, and the Administration should consider providing subsidies to workers with difficulty in meeting the training expenses;
- (b) the necessity of attending refresher courses for renewal of certificates; and
- (c) workers with active employment were having difficulties in attending training courses during normal working hours.

Course fees

29. Course fees are determined by training providers and it is not the Government's policy to subsidize such training courses. Nevertheless, we have discussed the issue with CITA, the major provider of construction-related courses. CITA has agreed to charge course fees on a cost recovery basis, covering only expenditure on trainers and overheads. For the two-day course for experienced compactor operators, the course fee, including test, will be \$900. For new compactor operators, CITA will organize comprehensive training courses free of charge, and with a daily allowance of \$50 to each participant. As for other commercially-run course providers, we will continue to urge them to lower course fees as far as possible.

Necessity for refresher courses

30. The Administration is of the view that as new technologies and safety requirements are introduced from time to time, refresher courses are vital to assist operators to keep themselves abreast of the technical development and the latest safety standards and measures. Moreover, for those who are not regular machine operators, refresher courses serve to ensure the competency of the operators in handling loadshifting machines, both existing and new or improved models. However, we will review the pre-requisite that existing operators who attend the refresher training must have three years of relevant experience within a span of five years.

Training courses outside working hours

31. At our request, CITA will organize training courses in evenings and on holidays to facilitate workers with active employment to attend the courses. We will encourage commercially-run course providers to follow suit.

The Way Forward

32. We will step up our publicity efforts to promote the commencement of paragraphs (f) to (j) in Part II of the Schedule to the Regulation.

33. We will monitor the progress of training closely and assess the number of trained operators available 12 months after the commencement of the second phase. When sufficient operators have been trained, consideration will be given to commencing sections 3, 6 and 8 in relation to the certification requirement of the Regulation.

Economic Development and Labour Bureau
Labour Department
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