

Annex I

**The Administration's response to issues raised
at the meeting of the Bills Committee on the
Factories and Industrial Undertakings (Amendment) Bill 1999
on 1 June 1999**

Item (1): The Administration to clarify the legislative intent of the scope to be covered by the definition of "container handling", i.e. whether it covers "keeping" or "upkeeping", "maintaining" or "repairs" of containers.

The Administration will move Committee Stage amendments (CSAs) to make the clarification.

Item (2): Hon LEE Cheuk-yan requested the Administration to include in the Regulations (not the Code of Practice) provisions on the powers, functions, composition and operation of the Safety Committees. He also requested the Administration to provide information on the experience of UK and Singapore.

The Administration considers it more appropriate to define the powers, functions, composition and operation of the Safety Committees in a Code of Practice. This will give duty holders the flexibility to form their own committees to achieve the goal of an effective and safe system of work as they deem fit.

Information on the experience in Safety Committees of UK and Singapore is provided in Annex III.

Item (3): The Administration to clarify the policy intention as to whether the employers and other categories of employees (e.g. clerical staff) at the specified industrial undertakings are also required to attend the prescribed safety training courses and carry the certificate at work.

The intention of the Bill is to require all those persons who are engaged in construction work or container handling activities to undergo the basic safety training. We have no intention to include in this group anyone whose duties are incidental to work undertaken on the site, such as a staff whose work is entirely office and administration oriented but happen to work in an office located within a construction site, a person delivering drinks and

food for the workers, a driver bringing construction material or containers to a site but whose duties are confined to driving the goods vehicle and does not do any loading and unloading of the goods, a security guard stationed at the entrance to a site etc., because they cannot be considered to be carrying out construction work or container handling.

Employers will not be required to attend such training as they are not being employed by another person in an industrial undertaking.

Item (4): The Administration to put in place a simple, convenient procedure for workers to report loss (or damage) and apply for re-issue of the certificates at the Labour Department.

The Labour Department will, in cases of loss or destruction of the card, issue a confirmation note to the effect that:-

1. the holder of the note has completed the relevant training and is holding a valid relevant certificate;
2. he has reported to the Commissioner loss or defacement of the card as the case may be; and
3. the training institute has been requested to issue a replacement certificate to the worker when approached by the worker. If the relevant training institute has ceased to operate the relevant course, alternative arrangement for issue of a replacement card will be made by the Commissioner.

Item (5): The Administration to consider allowing a reasonable period for the workers to renew their certificates.

Workers can apply for refresher training and renewal of their certificates six months before the actual date of expiry of the card. The expiry date of the new certificate will be another “full validity period” (normally three years) from the original date of expiry.

Item (6): The Administration to clarify the meaning of “cease to employ” under the proposed new section 6BA(5).

We intend that “cease to employ” under the proposed new section 6BA(5) should mean that the proprietor shall not employ the relevant

person at the undertaking on the expiration of 1 month after the appointed date in a post the holder of which should be a relevant person. We have no intention to require a proprietor to terminate his service because under section 6A of the FIUO, a proprietor has the obligation to provide his workers the appropriate training for the job.

Item (7): The Administration to consider amending the proposed section 6BA(2) to the effect that the categories of persons who are required to attend the prescribed safety training courses should be subject to negative vetting of the Legislative Council.

The Administration will move a CSA to specify the categories of persons who are required to attend the prescribed safety training courses. Any subsequent addition will become a subsidiary legislation under the Fourth Schedule and has to be positively vetted by the Legislative Council.

Item (8): The Administration to improve the drafting of:—

- (a) definition of “container handling” in clause 2;*
- (b) definition of or reference to “appointed day” in the proposed section 6BA(1), (5) and (7);*
- (c) 6BA(5) - to change “a relevant person who does not have a relevant certificate” to “a relevant person who has not been issued a relevant certificate”;*
- (d) section 6BA(5) - to provide a grace period for workers to renew their certificates and to clarify the meaning of “cease to employ”;*
- (e) section 6BA(7)(b) - to provide a reasonable period for workers to produce his certificate upon demand.*

The Administration will move CSAs to amend the above sections accordingly.

Education and Manpower Bureau

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