

香港工業總會的信頭
Letterhead of Federation of Hong Kong Industries

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23 March 2000

Mrs Constance Li
Clerk to the Bills Committee on
Regulations relating to
Occupational Safety and Health
Legislative Council
Legislative Council Building
8 Jackson Road
Hong Kong

Dear Mrs Li,

**Factories and Industrial Undertakings
(Medical Examinations) Regulation**

Thank you for your letter of 9 March 2000 inviting our comments on the Subcommittee's proposed amendments to the above Regulation.

As far as we understand from your letter, the proposed amendments seek to impose a statutory obligation on employers to provide an alternative job for their employees who are temporarily suspended from their original occupation due to medical reasons. Having considered the proposal carefully, we have strong reservation on the feasibility and desirability of the requirement, although we agree that employers should be encouraged to make their best efforts to re-deploy their employees who have been certified physically unfit to continue their original work if a suitable alternative job is available in their company.

There are several reasons why we consider the proposed requirement of compulsory re-deployment not suitable for Hong Kong. First, the vast majority of Hong Kong's companies are small to medium sized. Given the small number of jobs in these companies, there are immense practical difficulties for them to make available alternative jobs, albeit temporarily, to re-deploy employees who cannot carry out their original work.

Second, once re-deployment is made compulsory, the employer has the legal responsibility to find an alternative job for the employees concerned. However, redeployment

would necessarily involve the change of job type, and a corresponding change of wages and working conditions. We fear that arguments may be provoked if both parties fail to agree on the wage and working conditions of the new position, particularly when this involves a substantial reduction in wages.

Third, the proposed requirement would also strain the relations between employers and employees in determining whether an alternative job exists. For instance, there may be the case that a job is available for re-deployment but the qualifications and experience of the employee concerned do not meet the job's requirements. In such cases, the employer may be accused of evading his responsibility if he refuses to arrange the re-deployment, despite the fact that the employee concerned is not qualified for the job. Such kinds of conflicts, we are afraid, are hardly avoidable in the course of implementation of the proposal.

To sum up, we believe the proposed requirement is practically difficult to implement and would spoil the harmonious labour relations we very much cherish. We, therefore, strongly recommend its deletion from the Regulation.

Yours sincerely,

Henry Y. Y. Tang
Chairman