

**Subcommittee on
Regulations relating to occupational safety and health**

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

**Summary of written submissions
received for the meeting on 27 September 1999
(as at 23 September 1999)**

<u>Organization/ Paper no(s).</u>	<u>Major views</u>
1. Hong Kong Workers' Health Centre CB(2)2629/98-99(01)	<p><u>Supports</u> the proposed Regulation as early detection and prevention of occupational diseases will be beneficial to both employees (better protection) and employers (savings in medical and compensation expenses).</p> <p><u>Shortcomings of the Regulation :</u></p> <ul style="list-style-type: none">a. the Regulation should first try to identify those jobs involving high risk procedures and these might include non-industrial establishments;b. the Regulation allows employers to lay off a worker who is found medically unfit for a designated occupation if redeployment failed. Employers are not held responsible for negligence of occupational safety and compensate those workers whose health is jeopardized by a poor working environment;c. workers exposed to occupational hazard at work and were found medically unfit in the course of employment will be terminated without any compensation; andd. the Regulation has not provided more protection to worker, instead employers can identify workers' health conditions through medical examinations and terminate the unhealthy employees without paying compensation.

	<p><u>Suggestions :</u></p> <ul style="list-style-type: none">a. all employees should be required to attend pre-employment and regular medical examinations afterwards. If the Regulation is to start with high risk work procedures, these procedures should be identified in the first place;b. where a new employee is found to have health problems during pre-employment medical examination, there should be an effective mechanism to trace the origin of the problem and whether the previous employer is held liable;c. employees whose health problems are caused by employment should be compensated;d. the Regulation should prohibit terminating the employment of those workers with health problems caused by their employment and require employers to redeploy these employees to suitable posts until retirement; ande. where employees are found to have health problems due to exposure to occupational hazard, the employer should be penalized under the Occupational Safety and Health Ordinance.
<p>2. The Hong Kong Occupational Deafness Association</p> <p>CB(2)2629/98-99(02)</p>	<p><u>Supports</u> the proposed Regulation as it facilitates early detection, cure and prevention of occupational diseases.</p> <p><u>Shortcomings of Regulations :</u></p> <ul style="list-style-type: none">a. workers suffering from hearing impairment might lose their jobs;b. the Regulation does not introduce a mechanism to eliminate potential hazards to workers' health;c. construction workers suffering from loss of hearing might be forced to accept lower wages;d. small firms might resort to retrenchment and wage reduction to offset expenses for medical examination;

<p><u>Further submission</u> CB(2)2883/98-99(01)</p>	<p>e. aged workers with a loss in hearing might become jobless and have to rely on CSSA for a living; and</p> <p>f. medical practitioners appointed as members of the Appeal Board may not consider appeals in the interests of appellants.</p> <p><u>Suggestions :</u></p> <p>a. membership of the Appeal Board should comprise representatives from employees, employers and the Equal Opportunities Commission;</p> <p>b. government should set up a system to ascertain whether the impairment of hearing is related to occupation environment, and the employers should be held liable;</p> <p>c. government should set up a monitoring mechanism to prohibit dismissal of workers suffering from occupational disease, and a compensation fund for provision of monthly subsistence allowance to those who become jobless;</p> <p>d. Labour Department should help proprietors to introduce noise abatement measures and offer loans to small companies; and</p> <p>e. amend S.3(2) of the F&IU (Noises at Work) Regulation to the effect that further noise assessment for an occupation should be dependent on the results of medical examinations.</p> <p><u>Suggestions :</u></p> <p>a. government should make reference to the Singapore system, which does not require termination of workers' employment;</p> <p>b. hearing test should only be conducted by recognized technicians; and</p> <p>c. employers should arrange pay off for employees attending medical examination.</p>
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<p>3. Pneumoconiosis Mutual Aid Association</p> <p>CB(2)2638/98-99(01)</p>	<p><u>Supports</u> the proposed Regulation as it facilitates early detection, prevention and cure of occupational diseases.</p> <p><u>Shortcomings of Regulation -</u></p> <ul style="list-style-type: none">a. proprietors may transfer the cost of medical examination to workers by reducing their wages or by way of redundancy; andb. employers are allowed to lay off workers but not required to compensate workers whose health are jeopardized by a poor working environment. <p><u>Suggestions :</u></p> <ul style="list-style-type: none">a. government to set up mechanism to prevent workers certified as unfit for their current jobs from being unreasonably dismissed, and to ensure their redeployment at the same income level until retirement age. A government subvented fund should be set up to provide financial assistance to those unemployed and in need; andb. government to set up a special fund to offer loans to proprietors with financial difficulties to improve working environment and pay for the medical examination expenses.
<p><u>Further submission</u></p> <p>CB(2)2883/98-99(02)</p>	<p><u>Suggestions :</u></p> <ul style="list-style-type: none">a. employers should arrange pay off for workers to attend ME; andb. membership of the Appeal Board should comprise representatives from employees, employers and the Equal Opportunities Commission.

<p>4. The Occupational Deafness Compensation Board</p> <p>CB(2)2855/98-99(02)</p>	<p><u>Supports</u> early implementation of the proposed Regulation as a healthy workforce will ensure efficiency, productivity, quality and thus increase economy;</p> <ul style="list-style-type: none">a. mandatory pre-employment and periodic medical examination are beneficial to both employers and employees;b. appointed Medical Practitioners (AMPs) should have attended recognized training in occupational medicine; andc. the fear over losing employment is unfounded - Singapore has similar provisions in its legislation and the system has run well for over 10 years.
<p>5. The Hong Kong Polytechnic University</p> <p>CB(2)2855/98-99(03)</p>	<p><u>Supports</u> the concept of pre-employment medical examination; and</p> <p><u>Suggests</u> that the nature of exposure, such as acute or chronic, should be specified for the list of occupations under Schedule I.</p>
<p>6. Hong Kong College of Community Medicine</p> <p>CB(2)2855/98-99(04)</p>	<p><u>Supports</u> in principle the proposed Regulation as it facilitates early detection and treatment of occupational diseases; and</p> <p><u>Suggests</u> that AMPs should have attended relevant training in occupational medicine.</p>
<p>7. Construction Industry Training Authority</p> <p>CB(2)2855/98-99(05)</p>	<p><u>Supports</u> the proposed Regulation to enhance protection of construction workers' health and the provision of varying grace periods for implementation; and</p> <p><u>Suggests</u> entrusting CITA to act as a central agency to administer medical examination for construction workers, subject to an additional levy of 0.03% from the construction industry which are supported by the Real Estate Developers Association of Hong Kong and the Hong Kong Construction Association.</p>

<p>8. The Hong Kong Occupational Safety and Health Association</p> <p>CB(2)2855/98-99(06)</p>	<p><u>Supports</u> the proposed Regulation in principle.</p> <p><u>Suggestions/views</u> :</p> <ul style="list-style-type: none">a. concerns about the effects on employment terms and conditions, compensation for health damages or termination of employment;b. the health hazards and related control measures in the workplace should be monitored to meet prescribed standards;c. statistics on occupational health incidents should be required under the proposed Regulation;d. each workplace or operation involving the use of hazardous substance should be periodically examined and certified "healthy for work" by a competent examiner;e. details on re-examination ordered by the Appeal Board under Regulation 13(3) should be spelled out;f. government should clarify whether a change of employment would affect the validity of a worker's medical examination certificate;g. occupational asthma and hepatitis found in chemical-related and catering industries respectively should be included under the proposed Regulation;h. government should consider occupational hygienists or nurses, and other competent persons for conducting the auroscopic and audiometric examinations to lower costs; andi. government should clarify whether Employees' Compensation Ordinance will be amended to include health damage as an item eligible for compensation claim.
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<p>9. CityU SCOPE OSH Alumni Association</p> <p>CB(2)2855/98-99(07)</p>	<p><u>Supports</u> the proposed Regulation in general; and</p> <p><u>Suggestions</u> :</p> <ul style="list-style-type: none">a. AMPs should be specially trained in occupational diseases;b. the proposed Regulation should allow grace periods for implementation; andc. medical examination taken under existing legislation should be recognized under the proposed Regulation.
<p>10. Occupational Safety Health and Council</p> <p>CB(2)2855/98-99(08)</p>	<p><u>Supports</u> the proposed Regulation;</p> <p><u>Suggestions/views</u> :</p> <ul style="list-style-type: none">a. mandatory medical examination should be extended to non-industrial sector when the need arises;b. training courses for AMPs should be increased and provided by a number of recognized institutions to meet with the initial demand;c. government should assess the current supply and demand of audiometric technical personnel and specify the qualification and training requirements;d. employees should have the choice to select from a list of AMPs for medical examination; ande. CITA to act as an agent of proprietors to coordinate and administer medical examination for construction workers.

<p>11. Hong Kong Institute of Occupational and Environmental Hygiene</p> <p>CB(2)2855/98-99(12)</p>	<p><u>Supports</u> the proposed Regulation in general;</p> <p><u>Suggestions/views</u> :</p> <ul style="list-style-type: none">a. the functions of pre-employment examination (medical screening) and medical surveillance should be clearly stated in either the proposed Regulation or its code of practice;b. allow a longer grace period in case supply of AMPs is inadequate;c. incorporate environmental monitoring into future occupational safety and health legislation programme and let occupational hygienists contribute to improve environment and reduce occupational hazards in the workplace; andd. support the proposed role of CITA to act as an agent for co-ordinating administrative arrangements on medical examination for construction workers and collect the additional levy from the industry to cover the costs involved.
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