

Paper No. CB(2)2855/98-99(06)

## Hong Kong Occupational Safety and Health Association

September 20, 1999

To: The Hon. CHENG Kar-Foo  
Chairman, Subcommittee on Regulations Relating to Occupational  
Safety and Health.

### Opinions on the Proposed Factories & Industrial Undertakings (Medical Examinations) Regulation

#### 1. Background

- 1.1 The Association is invited by the Subcommittee on Regulations Relating to Occupational Safety and Health to give opinions on the proposed Factories & Industrial Undertakings (Medical Examinations) Regulation.
- 1.2 The Hong Kong Occupational Safety and Health Association is a learned society established in 1977 with the objectives to promote the development of occupational safety and health in Hong Kong. Currently, we have about 450 individual members and 55 company members. The majority of the individual members are safety professionals, Registered Safety Officers, and professionals in other disciplines who are interested in promoting occupational safety and health.
- 1.3 The Association recognizes that occupational health is as important as occupational safety, only that the former does not have an immediate or obvious effect so that it is often ignored or given a low priority by the workers, the employers, and the society at large. The damages to individuals and consequently to the community caused by the health hazardous substances are, however, enormous and not easily to be fully calculated. It is also believed that a portion of occupational accidents are related to occupational health, but are not investigated in that respect.

An occupational health program should be started by an identification of the hazardous substances in use or to be used in a workplace; and a good design of the engineering systems to control and minimize the hazards. Among other measures, medical surveillance will be at the end of the line to detect any deterioration of health condition or any new contracting of health damage of individual workers, which may represent a failure or deviation of the health control system.



## 2. Comments To The Proposed Regulation

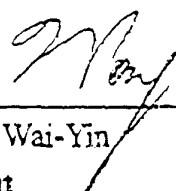
- 2.1 In principle, the Association supports the proposed Regulation in that it will be required as a component of an occupational health program to realize the actual health conditions of workers employed in specific trades. However, the Regulation shall go with the following related issues which have not been adequately or clearly addressed :
- (a) Effects to employment terms and conditions, including the termination of employment.
  - (b) Compensations arising from the health damages, or from (a).
  - (c) The assessment of the health hazards and related control measures in the workplace where a worker is found health damaged; and the requirement to improve the workplace up to the prescribed health protection standards.
- 2.2 Also, the proposed Regulation has not made provision to record and establish the statistics of occupational health incidents for monitoring the progress of occupational health improvement in the territory.
- 2.3 If the working population would require a strict monitoring of their health conditions related to their work, a similar monitoring should also be made to the working environments in which health hazardous substances are used or produced. At present, such monitoring is minimal in most workplaces.
- 2.4 It is recommended that each workplace or operation in which any specified health hazardous substance is used or produced is to be periodically examined and certified "healthy for work" by a competent examiner. The method of examination shall be by instrumental measurement.
- 2.5 It is emphasized that if the recommended workplace/operation health examination and certification system does not go with the proposed medical examination regulation, the latter will become merely a device to replace the ill-health by the healthy, and spread the hazards among the working population. In such cases, the seriousness of the occupational health problems and sub-standard operations will be under-estimated.
- 2.6 In Regulation 13 (S), the nature of re-examination which may be required by the Appeal Board has not been clearly indicated. For example, re-examined by who ? Has the appellant the right of appointing another Appointed Medical Practitioner ? Who will bear the cost ?



- 2.7 The Regulation appears to have provided that a certificate of medical examination is valid within the specified period of re-examination irrespective of any change of employment on the part of the worker in that period. This shall be clarified by the Administration.
- 2.8 The Regulation should extend to cover occupational asthma and occupational hepatitis which are found in the chemical-related industry and catering industry respectively.
- 2.9 As mentioned in Para. 3 of the Brief (Ref. EMBCR 1/2961/95), 182,000 out of 195,000 workers are exposed to the hazard of excessive noise. According to Schedule 2 of the Regulation, the examinations for noise hazards are auroscopic examination and audiometric examination. Can they be carried out by the occupational hygienists or occupational nurses or competent persons, hopefully with a much lower cost than by Appointed Medical Practitioners?
- 2.10 In para. 5 of the Brief, the Employees' Compensation Ordinance is mentioned as a source for compensation in respect of occupational health. Does it imply that the ECO will be amended to include health damages as compensable items?

### 3. Conclusion

We support the proposed Regulation. However, It should go in parallel with a similar monitoring on the standard of health hazard control in workplaces where specified hazardous substances are used or produced – a health certification system for each workplace or process. It should also enable the collection of information on occupational health incidents for monitoring the progress in occupational health improvement. The issues of employment and compensation should also be further considered, or clarified.



WONG Wai-Yin  
President

