

## **A Response to the Submission made by the Pneumoconiosis Mutual Aid Association**

### **General response**

The purpose of the proposed Factories and Industrial Undertakings (Medical Examinations) Regulation is to detect absorption of hazardous substances in the workers' body and any other occupational diseases covered in the law, particularly those with long latent periods, at an early stage. It is estimated that about 195,000 workers, including 153,000 construction workers, will benefit from the medical examination scheme provided by the proposed regulation. Once the workers concerned know that their health problems are work-related, they should receive medical treatment until they are fit for work again, and thereafter take appropriate measures, e.g. the use of personal protective equipment, to prevent recurrence. This can prevent the diseases from further deterioration to such an extent as to affect the workers' capacity to take up employment.

Upon detection of an occupational disease, appointed medical practitioners are required under the existing legislation to notify the Commissioner for Labour who will conduct investigations into the matter, advise the proprietor concerned on preventive and control measures, and initiate enforcement actions where appropriate.

Insofar as pneumoconiosis is concerned, regular medical examination serves to detect the disease at an early stage and monitor any deterioration in lung function so that preventive and control measures can be **strengthened** to safeguard the workers' health. It is unlikely that early pneumoconiosis, i.e. when the worker does not have any symptom yet, alone would constitute sufficient **medical** grounds for permanent unfitness for employment in work involving dusty processes. A likely exception may be a rapid and marked deterioration in the lung function of a young worker despite the proper use of respiratory protectors. However, proprietors who dismiss workers because they have pneumoconiosis but are still fully capable of performing their job might be contravening the provisions of the Disability Discrimination Ordinance.

The Association's concern that proprietors might transfer the cost of medical examinations to workers by reducing their wages or by way of redundancy during economic recession is noted. We must, however, stress that a) this is not allowed in the regulation; and b) the workers affected can

lodge a complaint with the Labour Department for investigation and conciliation as a labour dispute case. It is noteworthy that in the case of the construction industry, our plan is for the cost of medical examinations to be met by the levy collected by the Construction Industry Training Authority, rather than by the employers directly. Moreover, it must be emphasized that not only workers, but also employers, will benefit from the proposed medical examination scheme. Through investing in a healthier workforce, employers will benefit from savings in medical expenses, sickness allowances and costs of civil proceedings, and from a workforce which will have a higher morale and productivity.

### **Response to recommendations**

1. A worker found medically unfit for employment in a designated occupation can be redeployed to another job. Such redeployment arrangements may or may not entail a change in wages, subject to the experience and skills of the worker and the availability of a suitable job. In this regard, mutual agreement between the worker and his employer on the redeployment arrangement is of paramount importance from the labour relations point of view. As a good management practice, employers will be advised to make redeployment arrangements as far as practicable, and many of them will probably do so as a caring employer. Workers suffering from financial hardship because redeployment could not be arranged may seek social security assistance from the Social Welfare Department.

Upon receipt of a notification of a case of pneumoconiosis or other occupational diseases, the Labour Department will investigate into the matter, advise the proprietor concerned on preventive and control measures, and initiate enforcement actions under the Factories and Industrial Undertakings Ordinance and Regulations as appropriate.

2. It is our understanding that the Occupational Safety and Health Council is prepared to embark on a trial scheme, based on the Japanese and Korean model, to provide some form of financial incentive to assist small and medium establishments to implement workplace safety and health improvements.