

**LegCo Subcommittee on regulations
relating to occupational safety and health**

**The Administration's response to points
raised in a submission from
the Hong Kong Society of Occupational
and Environmental Medicine**

Factories and Industrial Undertakings (Confined Spaces) Regulation

1. The point about putting the Regulation under the Occupational Safety and Health Ordinance instead of the Factories and Industrial Undertakings Ordinance has been addressed in my response to the Subcommittee enclosed in my letter dated 21 October 1998.

2. As far as the work is concerned, working in a confined space is no different from working in other workplaces. If the work nature is such that medical examination of the worker undertaking the work is considered necessary, the requirement will be provided in the proposed FIU (Medical Examination) Regulation to be made later this year. If the assessment by a competent person of the risks in a confined space suggests that certain personal protective equipment (PPE) is required to be worn by the worker, the proprietor has the liability to provide such equipment. Requirements regarding the provision of PPE will be stipulated in another proposed FIU (Personal Protective Equipment) Regulation which is under preparation. In some other work situations, other kinds of PPE may be necessary. The purpose of the PPE in those situations as well as in a confined space situation is the same. It gives the worker a last line of defence. Therefore the provision of PPE in confined space work does not make the work more physically demanding or risky than in other work situations where PPE is considered necessary.

3. We agree that for work in confined space, it is important to train the workers to use breathing apparatus. During the training process, those with cardiac and pulmonary diseases would report discomfort with breathing when wearing the breathing apparatus and would therefore be screened out. Medical assessment by medical practitioners are not

considered essential because this simple assessment can be undertaken by the competent person or the certified worker after the relevant training.

4. The point about continuous monitoring of a confined space has been addressed in para. 3(b) of my earlier response to the Subcommittee. The requirement of the training of competent persons is stipulated in the Regulation and the Commissioner for Labour has the responsibility of approving the relevant training courses.

5. In the training of the competent person, a programme on respirator is included. Information in this programme includes the selection of a suitable respirator, how the respirator should be properly maintained and stored, operation capabilities and limitations of the respirator, proper face-seal fit, instructions on how to recognize an inadequately functioning respirator or breathing apparatus etc. In the training of certified workers, instructions on the function and proper use of breathing apparatus have also been included.

6. As mentioned in my earlier response to the Subcommittee, the Administration would address the issue on the worker's right to refuse work later.

Construction Sites (Safety) (Amendment) Regulation 1998

1. The legislative intent that working at height should be kept to a minimum is spelt out in the construction of the amendment regulation and is very clear from the wording of the proposed section 38B(1) and the special emphasis placed on that section by the proposed section 38B(5)(a).

2. The amendment regulation replaces the existing Part VA of the Construction Sites (Safety) Regulation which applies to construction sites where the use of scaffold and working platform for work performed at height is extensive. The definition of construction work is fairly extensive and covers renovation and E&M maintenance work referred to in this paragraph of the Society's letter. There are also provisions in the Occupational Safety and Health Regulation (section 6(1)) and the Factories and Industrial Undertakings Regulation (regulation 24) requiring the protection of workers working at height in other workplaces (relevant sections are reproduced in the Annex).

3. We do not have ready statistics to prove that faulty material on bamboo scaffolds have caused many fatal accidents. Bamboo scaffolds are safe if they are properly handled. The Commissioner for Labour has approved a Code of Practice for Scaffolding Safety in which the safety standards of bamboo scaffolds are clearly spelt out. Bamboo scaffolds which are erected by competent workmen under the supervision of competent supervisors and which meet the standards in this Code of Practice can provide a safe working platform for workers working at height. We do not see the need to ban bamboo scaffolds.

4. The purpose of the amendment regulation is to bring out the message that the hazard of working at height should be eliminated by redesigning the construction process or by the provision of proper scaffolds and working platforms. The use of safety belts and safety harnesses is only the last resort when all other options are not reasonably practicable.

5. We have no intention of requiring the use of safety belts in place of safety harnesses because in the amendment regulation, the definition of “safety belt” includes a safety harness. In our view, safety belts and safety harnesses provide the same protection for workers working at height except that safety belts, if not properly used, may cause injury to the worker during arresting of fall. The Labour Department will soon publish a Guidance Notes on the Classification and Use of Safety Belts and their Anchorage. This will facilitate proprietors, contractors and workers in their selection and use of safety belts and harnesses.

Education and Manpower Bureau

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OCCUPATIONAL SAFETY AND HEALTH REGULATION

6. Responsible person to ensure that certain parts of workplace are securely fenced

(1) If a platform, pit or opening located within a workplace could be a danger to the safety of persons, the person responsible for the workplace must ensure that the platform, pit or opening -

(a) is securely fenced to a height of 900 mm (measured from the upper surface of the platform, or of the edge of the pit or opening); or

(b) where it is not so fenced, is sufficiently well protected to the satisfaction of the Commissioner.

FACTORIES AND INDUSTRIAL UNDERTAKINGS REGULATIONS

Prevention of Accidents

24. Fencing of dangerous platforms, liquids, etc.

In every notifiable workplace - (50 of 1985 s. 9)

(a) **all platforms, pits and openings in floors and every other place liable to be dangerous to persons; and**

(b) **all vessels containing any scalding, corrosive or poisonous liquid,**

shall be securely fenced to a height of not less than 900 millimetres or otherwise protected to the satisfaction of the Commissioner.