

L.N. 17 of 1999
FACTORIES AND INDUSTRIAL UNDERTAKINGS ORDINANCE
AND
INTERPRETATION AND GENERAL CLAUSES ORDINANCE
RESOLUTION OF THE LEGISLATIVE COUNCIL
FACTORIES AND INDUSTRIAL UNDERTAKINGS
(CONFINED SPACES) REGULATION

Resolution made and passed by the Legislative Council under section 7 of the Factories and Industrial Undertakings Ordinance (Cap. 59) and section 35 of the Interpretation and General Clauses Ordinance (Cap. 1) on 20 January 1999.
Resolved that the Factories and Industrial Undertakings (Confined Spaces) Regulation, made by the Commissioner for Labour on 15 September 1998, be approved, subject to the following amendments---

(a) in section 2---

(i) by deleting the definition of "confined space" and substituting---
" "confined space" (密閉空間) means any place in which, by virtue of its enclosed nature, there arises a reasonably foreseeable specified risk, and without limiting the generality of the foregoing, includes any chamber, tank, vat, pit, well, sewer, tunnel, pipe, flue, boiler, pressure receiver, hatch, caisson, shaft or silo in which such risk arises;"

(ii) by adding---

" "specified risk" (指明危險) means a risk of---

- (a) serious injury to any person at work arising from a fire or explosion;
 - (b) the loss of consciousness of any person at work arising from an increase in body temperature;
 - (c) the loss of consciousness or asphyxiation of any person at work arising from gas, fume, vapour or the lack of oxygen;
 - (d) the drowning of any person at work arising from an increase in the level of liquid;
- or
- (e) the asphyxiation of any person at work arising from a free flowing solid or the inability to reach a respirable environment due to entrapment by a free flowing solid.";

(b) in section 4(2), by deleting "competent persons" and substituting "persons certifying them to be competent to prepare risk assessment reports";

(c) in section 5---

(i) in subsection (2)(a)(iii)---

(A) in sub-subparagraph (B), by deleting "and" at the end;

(B) in sub-subparagraph (C), by deleting "mud or water" and substituting "free

flowing solid or liquid";

(C) by adding---

"(D) a fire or explosion in the confined space; and

(E) loss of consciousness of a certified worker arising from an increase in body temperature;";

(ii) by renumbering subsections (4) and (5) as subsections (5) and (6) respectively;

(iii) by adding---

"(4) For the purposes of subsection (2), where a competent person, in evaluating the extent of the risks in a confined space, is of the opinion that there is a substantial likelihood of a change in the environment leading to an increased risk from one of the hazards referred to in subsection (2)(a) during the course of the work in such confined space, he shall recommend the use of such monitoring equipment as he considers appropriate in the circumstances and shall specify the manner of its use.";

(d) in section 7(f)(ii), by deleting "mud or water" and substituting "free flowing solid or liquid";

(e) in section 14---

(i) by deleting subsection (1) and substituting---

"(1) A proprietor or contractor who---

(a) contravenes section 7, 8, 9, 10(2) or (3) or 11(1) or (2) commits an offence and is liable, on conviction---

(i) where the offence was committed without reasonable excuse, to a fine at level 6 and to imprisonment for 6 months; and

(ii) in any other case, to a fine at level 6;

(b) contravenes section 5(1) or (5), 6(1) or 10(1) commits an offence and is liable, on conviction---

(i) where the offence was committed without reasonable excuse, to a fine of \$200,000 and to imprisonment for 12 months; and

(ii) in any other case, to a fine of \$200,000;

(c) contravenes section 6(2) commits an offence and is liable, on conviction, to a fine at level 5.";

(ii) in subsection (2)---

(A) in paragraph (a), by deleting "5(4)" and substituting "5(6)";

(B) by deleting paragraph (ii) and substituting---

"(ii) paragraph (b), to a fine of \$200,000;

(iii) paragraph (c), to a fine of \$200,000 and to imprisonment for 12 months.".

Ricky FUNG Choi-cheung

Clerk to the Legislative Council
20 January 1999