

**Information note on the proposed
Factories and Industrial Undertakings
(Safety Management) Regulation**

Background

At the meeting on 16 July 1999, the Legislative Council passed the Factories and Industrial Undertakings (Amendment) Ordinance 1999 which, inter alia, expands the regulation-making power of the Commissioner for Labour (C for L) to require proprietors or contractors to develop management systems that relate to the safety of personnel in their relevant industrial undertakings. With the new power given under the Ordinance, the C for L made the Factories and Industrial Undertakings (Safety Management) Regulation (the Regulation) on 11 October 1999 to provide for the introduction of a safety management system in selected industrial undertakings. Copy of the Regulation has been distributed to Members earlier.

2. The Administration published in July 1995 a Consultation Paper on the Review of Industrial Safety in Hong Kong which, among other things, recommended that we should change our strategy on industrial safety from focusing on enforcement to promoting safety management. The review re-affirmed that the primary responsibility for safety at work rests with those who create the risks and those who work with such risks, i.e. the proprietors and the workers respectively. The ultimate goal is self-regulation by the proprietors and their workforce, which is the key to attaining long-term improvements in safety standards. This goal is best achieved by the Government providing a legislative framework requiring proprietors to adopt a safety management system at the workplace. Government will encourage the self-regulation approach through education, training, promotion of safety concepts and a better understanding of the full cost of accidents. The recommendation on a safety management system received general support during the public consultation period and was subsequently endorsed by the former Executive Council on 21 November 1995.

The proposed safety management system

3. The Consultation Paper proposed that a safety management system for Hong Kong should cover six main areas, namely, company safety policy,

safety plan, safety committee, safety audit or review, general safety training and special safety training. To facilitate implementation by proprietors and contractors, we have developed these six main areas of the safety management system into 14 process elements in the proposed Regulation. A brief description of these 14 process elements, which are subject to regular audits or reviews, are at the **Annex**.

4. It is important to note that safety management system as a concept or as a matter of practice is not entirely new to the local construction industry, the major utility companies and large industrial undertakings. It has been a requirement for Airport Core Projects, Housing Authority and Public Works Programme contracts which record much better safety performance than the industry average. The Hong Kong and China Gas Company Ltd, the China Light and Power Company and the Mass Transit Railway Corporation, for example, already implement a safety management system covering all these elements.

5. We propose in the Regulation to initially require contractors or proprietors in relation to construction sites, shipyards, factories and other designated industrial undertakings with 100 or more workers, as well as construction projects with contract value of \$100 million or more, to adopt ten of the 14 process elements of the safety management system, and to carry out safety audits of their safety management system. Designated industrial undertakings are those involved in the generation and transmission of electricity, town gas or liquefied petroleum gas and in the handling of containers. Construction sites and industrial undertakings employing 50 to 99 workers will be required to adopt eight of the 14 process elements of the safety management system, and to carry out safety reviews, which are less stringent than safety audits. The estimated number of the above two categories of undertakings which will be required to implement the safety management system are 800 and 700 respectively. Industrial undertakings employing less than 50 workers will be exempted for the time being.

6. A phased implementation of the process elements will allow the industries being affected to get accustomed to the new system and to prepare for the additional elements. This will also allow sufficient safety practitioners and medical professionals to be trained to take up the additional functions. This approach has the support of the Labour Advisory Board. We intend to review the implementation of the proposed safety management system one year after

the Regulation has come into force to decide on the appropriate time to bring the remaining four elements into operations, as well as extending the requirement to industrial undertakings employing less than 50 workers.

The Regulation

7. The main sections of the Regulation provide for:-
- (a) the registration of persons who may conduct safety audits and of persons who may operate schemes to train persons to be safety auditors etc. **(sections 3 to 7)**;
 - (b) the imposition of duties on proprietors and contractors to develop, implement and maintain a safety management system; to prepare written safety policy; and to establish safety committee in respect of their relevant industrial undertakings etc. **(sections 8 to 12)**;
 - (c) the appointment of registered safety auditors or safety review officers; the conduct of audits or reviews and the submission of audit or review reports; and action to be taken by proprietors and contractors on the audit or review reports etc. **(sections 13 to 24)**;
 - (d) the disciplining (including the suspension or cancellation of registration) of registered safety auditors and registered scheme operators by a disciplinary board etc. **(sections 25 to 29)**;
 - (e) appeals to the Administrative Appeals Board by persons aggrieved by certain decisions of the C for L or the disciplinary board **(sections 30 and 31)**; and
 - (f) the power of the C for L to inspect the conduct of safety audits and safety reviews; and the offences against the Regulation etc. **(sections 32 to 37)**.

Implementation

8. We propose to provide a grace period of 12 months before the Regulation, upon enactment, comes into effect. This will allow time for the

Administration to launch education and promotion campaigns on the safety management system, for the affected proprietors and contractors to understand the new legislation and for them, as well as the training bodies for the construction industry, to make the necessary preparation. The Administration will provide the necessary guidance and advice on compliance with the new requirements.

Economic Implications

9. The additional cost burden on large employers in the industrial and construction sectors in implementing a safety management system is mainly the cost of hiring new safety staff for the system. Assuming that, on average, each affected employer has to hire one additional safety officer to perform the required duties, the additional staff cost involved will amount to around 0.2% and 0.1% of the annual operating cost of the affected firms in the industrial and construction sectors respectively.

10. On the other hand, the proposed safety management system will be beneficial to the industries concerned and the community at large through fewer deaths and injuries from industrial accidents, less stoppages of and disruptions to work, savings in medical costs and compensation payments, as well as lower insurance premium and civil claims.

Public Consultation

11. The Labour Advisory Board and Committee on Occupational Safety and Health have been consulted on the proposed provisions of the Regulation and both supported the implementation of a safety management system to enhance industrial safety. In a number of seminars and briefings on many occasions since 1996, affected contractors and proprietors have been briefed on the 14 process elements in the proposed safety management system.

Education and Manpower Bureau
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