

LEGISLATIVE COUNCIL BRIEF

Factories and Industrial Undertakings Ordinance
(Chapter 59)

CONSTRUCTION SITES (SAFETY) (AMENDMENT) REGULATION 2003

FACTORIES AND INDUSTRIAL UNDERTAKINGS (LIFTING APPLIANCES AND LIFTING GEAR) (AMENDMENT) REGULATION 2003

FACTORIES AND INDUSTRIAL UNDERTAKINGS (SUSPENDED WORKING PLATFORMS) (AMENDMENT) REGULATION 2003

FACTORIES AND INDUSTRIAL UNDERTAKINGS (LOADSHIFTING MACHINERY) (AMENDMENT) REGULATION 2003

INTRODUCTION

At the meeting of the Executive Council on 27 May 2003, the Council **ADVISED** and the Chief Executive **ORDERED** that, subject to the approval of the Legislative Council –

(a) the Construction Sites (Safety) (Amendment) Regulation 2003
at **Annex A**;

(b) the Factories and Industrial Undertakings (Lifting Appliances
and Lifting Gear) (Amendment) Regulation 2003 at **Annex B**;

A

B

C

- (c) the Factories and Industrial Undertakings (Suspended Working Platforms) (Amendment) Regulation 2003 at **Annex C**; and

D

- (d) the Factories and Industrial Undertakings (Loadshifting Machinery) (Amendment) Regulation 2003 at **Annex D**,

should be made under Section 7 of the Factories and Industrial Undertakings Ordinance (“FIUO”).

JUSTIFICATIONS

Background

2. At present, only the principal contractor of a construction site is held liable for offences committed on the site under the Construction Sites (Safety) Regulations (“CSSR”), even though the relevant contravening acts are committed by other contractors on the site. In recent years, more and more developers and authorized persons have directly appointed specialist contractors, in parallel to the appointment of principal contractors, to undertake specialised work on construction sites. The principal contractor has little control over these specialist contractors not appointed by him and may have difficulty in monitoring their safety performance on the construction site. They, as well as all sub-contractors, are not held liable for safety offences under the CSSR. The situation is not conducive to improving construction site safety and health.

3. Separately, in an Appeal case, HKSAR v. Lam Geotechnics Limited, HCMA 379 of 2000, the Court of First Instance ruled that Regulation 44(1) of the CSSR fell outside the enabling powers conferred on the Commissioner for Labour (C for L) by Section 7 of the FIUO. Upon examination, Regulation 38A(1) of the CSSR also fell outside the enabling provision of the FIUO. The Department of Justice (“DoJ”) has advised that the two regulations need to be amended.

The Proposal

4. We, therefore, propose to amend the CSSR to hold the principal contractor and other contractors and sub-contractors who

have control over the way construction work, process, excavation, operation, or erection, substantial addition, alteration or dismantling of scaffold is carried out liable for offences, and to remove the ambiguity of Regulations 38A(1) and 44(1) to make them enforceable.

5. We also propose to amend the Factories and Industrial Undertakings (Lifting Appliances and Lifting Gear) Regulations, the Factories and Industrial Undertakings (Suspended Working Platforms) Regulation and the Factories and Industrial Undertakings (Loadshifting Machinery) Regulation to extend the duties imposed on the principal contractor under these regulations to the other contractors and sub-contractors who have control over the way any construction work which involves the use of the machinery or equipment is carried out on a construction site.

Argument

6. Safety and health at work on a construction site requires the concerted efforts of all parties involved in the management of the project. While the principal contractor should bear the primary responsibility for the co-ordination of all concerned contractors' activities and all safety matters on site, other contractors and sub-contractors should also have the obligation over safety and observe the law. Those contractors who have control over the way construction work is carried out should also be held liable for safety offences committed in carrying out the work. In this way, all contractors and sub-contractors will be made more alert to the need to comply with safety legislation, and this will help improve the overall safety performance at construction sites.

7. The proposal will not diminish the existing responsibility of the principal contractor under the CSSR for the overall safety and health on a construction site. In meting out sanction when an offence is discovered, we will identify the responsibility of the concerned parties by analyzing their respective roles and involvement. Only the parties that are responsible for the offence will be prosecuted.

8. If an amendment is made to the CSSR, three other

regulations will require corresponding amendments. The Factories and Industrial Undertakings (Lifting Appliances and Lifting Gear) Regulations, the Factories and Industrial Undertakings (Suspended Working Platforms) Regulation and the Factories and Industrial Undertakings (Loadshifting Machinery) Regulation made under the FIUO contain provisions holding, inter alia, the principal contractor as a duty holder for those machinery and equipment situated or used in connection with work on the construction site. It is, therefore, necessary to make corresponding amendments to these regulations to reflect the proposed changes in the CSSR.

9. Both Regulations 38A(1) and 44(1) of the CSSR are ultra vires the enabling powers conferred on the C for L by Section 7 of the FIUO. Regulation 38A(1) imposes a general duty on the contractor responsible for a construction site to “ensure every place of work on the site, so far as is reasonably practicable, made and kept safe for any person working there,” and does not specify any means for ensuring safety. For Regulation 44(1), the Court of First Instance ruled that the elements of offence purportedly set out in the regulation was incompletely defined because of the uncertainty in the words “to the satisfaction of the Commissioner”. Amendments to the two regulations are necessary in order to make them enforceable.

Other Options

10. We consider that in order to enhance the safety performance of contractors/sub-contractors, there is no other option available other than to hold them accountable.

11. Amending the law is also the only way to remedy the legal problems highlighted in the rulings of the Court of First Instance in respect of Regulations 38A(1) and 44(1) of the CSSR.

THE REGULATIONS

12. The main provisions of the Construction Sites (Safety) (Amendment) Regulation 2003 are –

- (a) Section 1 amends Regulation 2 to add the definition of “direct control” and repeal the definition of “subcontractor”.
- (b) Sections 2-14, 16-22, and 24-41 amend Regulations 4A-5, 8-10, 20, 31-36 and 38-54 to extend the duty imposed on the contractor responsible for a construction site or any plant to the contractor who has direct control over the construction work, process, excavation, operation, or erection, substantial addition, alteration or dismantling of scaffold concerned.
- (c) Section 15 amends Regulation 38A(1) to prescribe the specific measures required to ensure the safety of places of work.
- (d) Section 30 amends Regulation 44(1) to prescribe the specific measures required to effectively guard a prime mover, transmission machinery and other machinery.

13. The main provision of the Factories and Industrial Undertakings (Lifting Appliances and Lifting Gear) (Amendment) Regulation 2003 is -

- (a) Clause 1 amends the definition of “owner” in Regulation 3(1) to provide that in the case of a lifting appliance or lifting gear used in connection with work on a construction site, the definition also includes a contractor who has control over the way any construction work which involves the use of the lifting appliance or lifting gear is carried out.

14. The main provision of the Factories and Industrial Undertakings (Suspended Working Platforms) (Amendment) Regulation 2003 is -

- (a) Clause 1 amends the definition of “owner” in Section 3(1) to provide that in the case of a suspended working platform used in connection with work on a construction site, the

definition also includes a contractor who has control over the way any construction work which involves the use of the suspended working platform is carried out.

15. The main provision of the Factories and Industrial Undertakings (Loadshifting Machinery) (Amendment) Regulation 2003 is –

- (a) Clause 1 amends the definition of “responsible person” in Section 2(1) to provide that in the case of a loadshifting machinery used in connection with work on a construction site, the definition also includes a contractor who has control over the way any construction work which involves the use of the loadshifting machine is carried out.

E to H 16. The existing provisions being amended are at **Annexes E to H**.

LEGISLATIVE TIMETABLE

17. The legislative timetable will be as follows –

Moving the motion in Legislative Council	18 June 2003
Publication in the Gazette	20 June 2003
Commencement Date	20 June 2003

IMPLICATIONS OF THE PROPOSAL

18. The proposal is in conformity with the Basic Law, including the provisions concerning human rights. It does not affect the current binding effect of the Ordinance. It has no civil service, productivity, environmental or sustainability implications. It also has no additional financial implications for the Government as the Labour Department will absorb within its existing resources any additional

work arising from the enforcement of the regulations. As for economic implications, any compliance costs to the contractors and sub-contractors thereby netted into the regulations are justifiable in terms of enhancing safety on sites, to the benefit of the workers and the construction industry as a whole.

PUBLIC CONSULTATION

19. The Construction Industry Review Committee, in its report published in early 2001, recommended that the CSSR should be amended to enable prosecution action to be brought against sub-contractors for non-compliance with safety requirements in operations under their direct control.

20. The Labour Advisory Board has been consulted and endorsed the proposed amendments.

21. The Legislative Council Panel on Manpower was consulted on the proposed amendments at its meeting held on 18 December 2002. Members were supportive of the proposal.

PUBLICITY

22. A press release will be issued on 20 June 2003. A spokesman will be available to answer media and public enquiries.

ENQUIRIES

23. Enquiries on this brief should be referred to Mr. TSO Sing-hin, Chief Occupational Safety Officer (Support Services), at telephone number 2852 4963.

Economic Development and Labour Bureau
Labour Branch
28th May 2003

CONSTRUCTION SITES (SAFETY)(AMENDMENT) REGULATION 2003

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CONSTRUCTION SITES (SAFETY)(AMENDMENT) REGULATION 2003

(Made under section 7 of the Factories and Industrial Undertakings Ordinance (Cap. 59) subject to the approval of the Legislative Council)

1. Interpretation

Regulation 2(1) of the Construction Sites (Safety)

Regulations (Cap. 59 sub. leg. I) is amended -

- (a) by repealing the definition of "subcontractor";
- (b) by adding -

"direct control" (直接控制), in relation to any construction work, process, excavation, operation, or erection, substantial addition, alteration or dismantling of scaffold, means control over the way the construction work, process, excavation, operation, or erection, substantial addition, alteration or dismantling of scaffold, as the case may be, is carried out;".

2. Restriction on employment of persons under 18 years of age on construction sites

Regulation 4A is amended by adding -

"(1A) Any contractor who has direct control over any construction work shall ensure that no person under 18 years of age is employed to carry out the construction work unless that person satisfies one or more of the descriptions set out

in paragraph (1)(a), (b), (c) or (d).".

**3. Construction, maintenance,
and inspection of hoist**

Regulation 5 is amended -

- (a) in paragraph (1), by adding "and any contractor who has direct control over any construction work which involves the use of the hoist" before "shall";
- (b) in paragraph (2), by adding "and any contractor who has direct control over any construction work which involves the use of the hoist" before "shall".

4. Cabins for drivers

Regulation 8 is amended by adding "and any contractor who has direct control over any construction work which involves the use of the hoist" before "shall".

5. Drums and pulleys

Regulation 9 is amended -

- (a) in paragraph (1) -
 - (i) by adding "and any contractor who has direct control over any construction work which involves the use of the hoist" before "shall";
 - (ii) by repealing "其吊" and substituting "該吊";
- (b) in paragraph (2), by repealing "contractor" and substituting "contractors".

6. Brakes, controls, safety devices, etc.

Regulation 10 is amended -

- (a) in paragraph (1), by adding "and any contractor who has direct control over any construction work which involves the use of the winch" before "shall";
- (b) in paragraph (2), by adding "and any contractor who has direct control over any construction work which involves the use of the hoist" before "shall".

7. Trained workmen to operate hoist or give signals

Regulation 20 is amended -

- (a) in paragraph (1), by adding "and any contractor who has direct control over any construction work which involves the use of the hoist" before "shall";
- (b) in paragraph (2), by adding "and any contractor who has direct control over any construction work which involves the use of the hoist" before "shall".

8. Safety of hoistways, platforms and cages

Regulation 31 is amended -

- (a) in paragraph (1), by adding "and any contractor who has direct control over any construction work which involves the use of the hoist" before "shall";
- (b) in paragraph (3), by adding "and any contractor who has direct control over any construction work which involves the use of the hoist," before "shall".

9. Operation of hoists

Regulation 32 is amended -

- (a) in paragraph (1) -
 - (i) by adding "and any contractor who has direct control over any construction work which involves the use of the hoist" before "shall";
 - (ii) in subparagraph (a), by repealing "其吊" and substituting "該吊";
- (b) in paragraph (2), by adding "and any contractor who has direct control over any construction work which involves the use of the hoist" before "shall".

10. Winches

Regulation 33 is amended -

- (a) by adding "and any contractor who has direct control over any construction work which involves the use of the hoist" before "shall";
- (b) by repealing "其吊" where it twice appears and substituting "該吊".

11. Safe working load and marking of hoists

Regulation 34 is amended -

- (a) in paragraph (1) -
 - (i) by adding "and any contractor who has direct control over any construction work which involves the use of the hoist" before "shall";

- (ii) by repealing "其吊" where it twice appears
and substituting "該吊";
- (b) in paragraph (2), by adding "每名" before "有關的承建商".

12. Test and examination of hoists

Regulation 35 is amended -

- (a) in paragraph (1), by adding "and any contractor who has direct control over any construction work which involves the use of the hoist" before "shall";
- (b) in paragraph (3), by adding "and any contractor who has direct control over any construction work which involves the use of the hoist" before "shall";
- (c) in paragraph (4)(b), by repealing "contractor" and substituting "contractors".

13. Carrying of persons prohibited

Regulation 36 is amended by adding "and any contractor who has direct control over any construction work which involves the use of the hoist" before "shall".

14. Loads to be safely secured

Regulation 38 is amended -

- (a) in paragraph (1), by adding "and any contractor who has direct control over any construction work which involves the use of the hoist" before "shall";
- (b) in paragraph (2), by repealing "contractor" and

- substituting "contractors";
- (c) in paragraph (3), by repealing "contractor" and substituting "contractors";
- (d) in paragraph (4), by repealing "contractor takes" and substituting "contractors take";
- (e) in paragraph (5), by adding "and any contractor who has direct control over any construction work which involves the use of the hoist" before "shall";
- (f) in paragraph (6), by adding "and any contractor who has direct control over any construction work which involves the use of the hoist" before "shall".

15. Duty of contractor responsible for construction site to ensure safety of places of work

Regulation 38A is amended -

- (a) by repealing paragraph (1) and substituting -
 - "(1) Without prejudice to the other provisions of this Part, the contractor responsible for any construction site shall, so far as reasonably practicable -
 - (a) identify the hazardous conditions of persons working at a height in the construction site;
 - (b) rectify any hazardous conditions of persons working at a height in the construction site; and

- (c) safeguard any person working at a height in the construction site against all hazardous conditions.

(1A) For the purpose of paragraph (1), "hazardous conditions" (危險狀況) includes the following conditions that may give rise to a risk of fall of person from height -

- (a) unprotected edge or opening at a place of work;
- (b) improper design and construction of a place of work;
- (c) inadequate or insecure support or anchoring of a place of work;
- (d) improper maintenance of a place of work;
- (e) any working platform (other than a suspended working platform) that fails to comply with the provisions of the Third Schedule applicable to it.";

(b) in paragraph (4), by adding "reasonably" before "practicable";

(c) by adding -

"(5) For the avoidance of doubt, it is hereby declared that -

- (a) paragraph (1A) does not prejudice the generality of paragraph (1);
- (b) the reference to working platform in paragraph (1A) does not prejudice the operation of the provisions of the Factories and Industrial Undertakings (Suspended Working Platforms) Regulation (Cap. 59 sub. leg. AC) in relation to a working platform which is a suspended working platform."

16. Regulation added

The following is added -

"38AA. Duty of other contractors to ensure safety of places of work

- (1) Without prejudice to the other provisions of this Part, any contractor who has direct control over any construction work shall, so far as reasonably practicable -
 - (a) identify the hazardous conditions of persons working at a height in the construction work;
 - (b) rectify any hazardous conditions of persons working at a height in the construction work;
 - and
 - (c) safeguard any person working at a height in the construction work against all hazardous

conditions.

(2) For the purpose of paragraph (1), "hazardous conditions" (危險狀況) includes the following conditions that may give rise to a risk of fall of person from height -

- (a) unprotected edge or opening at a place of work;
- (b) improper design and construction of a place of work;
- (c) inadequate or insecure support or anchoring of a place of work;
- (d) improper maintenance of a place of work;
- (e) any working platform (other than a suspended working platform) that fails to comply with the provisions of the Third Schedule applicable to it.

(3) Any contractor who has direct control over any construction work shall ensure that, so far as is reasonably practicable, suitable and adequate safe access to and egress from every place of work where the construction work is being carried out is provided and properly maintained.

(4) Subject to paragraph (5), any contractor who has direct control over any construction work shall ensure that, so far as is reasonably practicable, no person gains access to any unsafe place which is within the place of work where the construction work is being carried out.

(5) Paragraph (4) shall not apply in relation to a person engaged in work for the purpose of making any place safe if all reasonably practicable steps have been taken to

ensure the safety of that person whilst engaged in that work.

(6) For the avoidance of doubt, it is hereby declared that -

- (a) paragraph (2) does not prejudice the generality of paragraph (1);
- (b) the reference to working platform in paragraph (2) does not prejudice the operation of the provisions of the Factories and Industrial Undertakings (Suspended Working Platforms) Regulation (Cap. 59 sub. leg. AC) in relation to a working platform which is a suspended working platform."

17. Prevention of falls

Regulation 38B is amended -

(a) by adding -

"(1A) Subject to paragraphs (2), (3) and (4), any contractor who has direct control over any construction work shall take adequate steps to prevent any person on any place where the construction work is being carried out from falling from a height of 2 metres or more.";

(b) in paragraphs (2), (4) and (5)(a), by repealing "paragraph (1)" and substituting "paragraphs (1) and (1A)";

(c) in paragraph (3), by repealing "Paragraph (1)" and substituting "Paragraphs (1) and (1A)".

18. Safe means of support

Regulation 38C is amended by adding "and any contractor who has direct control over the work" before "shall" where it first appears.

19. Construction and maintenance of scaffolds, etc.

Regulation 38D is amended by adding "and any contractor who has direct control over any work which involves the use of the scaffold, ladder, or other means of support" before "shall" where it first appears.

20. Trained workmen to erect scaffold under supervision

Regulation 38E is amended -

- (a) by renumbering it as regulation 38E(1);
- (b) by adding -

"(2) Any contractor who has direct control over any erection, substantial addition, alteration or dismantling of any scaffold shall ensure that the scaffold is not erected, added to, altered or dismantled except by workmen who are -

- (a) adequately trained and possess adequate experience of such work; and
- (b) under the immediate supervision of a competent person."

21. Inspection of scaffolds

Regulation 38F is amended -

- (a) in paragraph (1), by adding "and any contractor who has direct control over any construction work which involves the use of the scaffold" before "shall";
- (b) in paragraph (3), by repealing "contractor responsible for the scaffold" and substituting "contractors concerned";
- (c) in paragraph (4), by repealing "contractor" and substituting "contractors".

22. Boatswain's chairs (not power operated)

Regulation 38G is amended -

- (a) by renumbering it as regulation 38G(1);
- (b) by adding -
 - "(2) Any contractor who has direct control over any construction work shall ensure that no boatswain's chair or similar plant or equipment (not being a boatswain's chair or similar plant or equipment which is raised or lowered by a power-driven lifting appliance) is used in the construction work."

23. Defences to regulations 38B(1) and (1A) and 38C

Regulation 38H(1) is amended by adding "or (1A)" after "38B(1)".

24. Safety of excavations, etc.

Regulation 39 is amended -

- (a) in paragraph (1), by adding "and any contractor who has direct control over the operations" before "shall";
- (b) in paragraph (2), by repealing "contractor" and substituting "contractors";
- (c) in paragraph (3)(b), by repealing "contractor" and substituting "contractors".

25. Fencing of excavations, etc.

Regulation 40(1) is amended by adding "and any contractor who has direct control over the excavation or any construction work in the shaft, pit or opening" before "shall".

26. Safe guarding the edges of excavations, etc.

Regulation 41 is amended by adding ", and any contractor who has direct control over the excavation or any construction work in the shaft, pit or opening," before "shall".

27. Requirements for emergency escape

Regulation 41A is amended by adding "and any contractor who has direct control over the excavation or any construction work in the shaft, tunnel, pit or opening" before ", shall".

28. Prevention of inhalation of dust and fumes

Regulation 42 is amended by adding "and any contractor who

has direct control over the work" before "shall".

29. Protection of eyes

Regulation 43 is amended by adding "and any contractor who has direct control over the process," before "shall".

30. Fencing of machinery

Regulation 44 is amended -

(a) by repealing paragraph (1) and substituting -

"(1) The contractor responsible for any prime mover, transmission machinery and other machinery (whether or not driven by mechanical power), and any contractor who has direct control over any construction work which involves the use of the prime mover, transmission machinery and other machinery, shall ensure that -

- (a) every flywheel and moving part of the prime mover;
- (b) every part of the transmission machinery; and
- (c) every dangerous part of the other machinery,

are effectively guarded unless they are in such a position or of such construction as to be as safe to every workman on the construction site as they would be if they were effectively guarded.

(1A) The reference to effectively guarded in paragraph (1) means effectively guarded by one or more of the following methods -

- (a) an automatic guard;
- (b) subject to paragraph (1B), a fixed guard;
- (c) an interlocking guard;
- (d) a trip guard;
- (e) a two-hand control device.

(1B) An opening may be provided in any fixed guard mentioned in paragraph (1A)(b) in accordance with regulation 6 of the Factories and Industrial Undertakings (Guarding and Operation of Machinery) Regulations (Cap. 59 sub. leg. Q).";

(b) in paragraph (2), by repealing "fenced, the contractor shall ensure that the fencing" and substituting "guarded, the contractors shall ensure that the guarding";

(c) by adding -

"(3) For the purpose of paragraph (1A), "automatic guard" (自動式護罩), "fixed guard" (固定式護罩), "interlocking guard" (互鎖式護罩), "trip guard" (觸覺式護罩) and "two-hand control device" (雙手控制裝置) have the meanings respectively assigned to them by regulation 2 of the Factories and Industrial Undertakings

(Guarding and Operation of Machinery)
Regulations (Cap. 59 sub. leg. Q)".

31. Trained and competent workmen to operate mechanical equipment

Regulation 45 is amended -

- (a) in paragraph (1), by adding "and any contractor who has direct control over any construction work which involves the use of the equipment" before "shall";
- (b) in paragraph (2), by adding "and any contractor who has direct control over any construction work which involves the use of the equipment" before "shall".

32. Cleaning of dangerous machinery by young persons

Regulation 46 is amended -

- (a) by adding -

"(1A) Any contractor who has direct control over any construction work which involves the use of any machinery or plant in the site shall ensure that no young person is permitted to clean any dangerous part of the machinery or plant while the machinery or plant is in motion by the aid of any mechanical power.";

- (b) in paragraph (2), by repealing "paragraph (1)" and substituting "paragraphs (1) and (1A)".

33. Use of electricity on construction sites

Regulation 47 is amended -

(a) by adding -

"(1A) Where workmen employed in carrying out any construction work are liable to come into contact with any live electric cable or apparatus, any contractor who has direct control over the construction work shall, both before the commencement of the work at the site and during its progress, take such measures (whether by rendering the cable or apparatus electrically dead or otherwise) as will prevent them from being endangered by the cable or apparatus.";

(b) by adding -

"(3) Any contractor who has direct control over any construction work at any place where there is any electrically charged overhead cable or apparatus shall take such precautions, by the provision of adequate and suitably placed barriers or other means, as will prevent the cable or apparatus from being a source of danger to workmen carrying out the construction work (whether as a result of lifting appliance coming into contact with the cable or apparatus or otherwise).".

34. Safety helmets

Regulation 48 is amended by adding -

"(1A) Any contractor who has direct control over any construction work shall -

- (a) provide each workman employed to carry out the construction work with a suitable safety helmet; and
- (b) take all reasonable steps to ensure that no workman remains on the site to carry out the construction work unless he is wearing a suitable safety helmet."

35. Protection from falling materials

Regulation 49 is amended -

- (a) by adding -

"(1A) Where workmen are employed to carry out any construction work, any contractor who has direct control over the construction work shall take such precautions as are necessary to prevent any workman carrying out the construction work from being struck by any falling material or object.";

- (b) in paragraph (2), by repealing "shall take steps to ensure that scaffolding materials, tools, other objects and material are" and substituting ", and any contractor who has direct control over any construction work which involves the use of scaffolding materials, tools or other objects and materials, shall take steps to ensure that they are";

(c) by adding -

"(4) In any construction work where proper lowering is impracticable or where any part of a building or other structure is being demolished or broken off, any contractor who has direct control over the construction work shall take all reasonable steps as are necessary to protect any workman employed at the site from falling or flying debris."

36. Lighting of working places, etc.

Regulation 50 is amended by adding "and any contractor who has direct control over any construction work engaged in by that workman" before "shall".

37. Projecting nails

Regulation 51 is amended -

(a) by renumbering it as regulation 51(1);

(b) by adding -

"(2) Any contractor who has direct control over any construction work shall ensure that no timber or material with projecting nails or other sharp objects are used in the construction work or left on the place where the construction work is being carried out if the nails or objects are a source of danger to workmen employed there."

38. Materials kept on construction sites

Regulation 52 is amended -

(a) by adding -

"(1A) Any contractor who has direct control over any construction work shall ensure that all platforms, gangways, floors, or other places used as passageways to the place where the construction work is being carried out are kept clear of any loose materials which are not required for immediate use.";

(b) in paragraph (2), by adding "and any contractor who has direct control over any construction work which involves the use of the materials that are being kept or stored in the site" before "shall".

39. Prevention of drowning

Regulation 52A is amended -

(a) by adding -

"(1A) Where any construction work is carried out on a place situated on, or adjacent to, water into which a workman is liable to fall with risk of drowning, any contractor who has direct control over the construction work shall -

(a) provide suitable rescue equipment and keep it in an efficient state; and

(b) take measures to arrange for the prompt rescue of any such person in danger of drowning.";

(b) in paragraph (2), by adding "and any contractor who has direct control over any construction work on the land, structure or floating stage" before "shall".

40. Power to prohibit smoking

Regulation 53(2) is amended by adding "and any contractor who has direct control over any construction work in the site" before "shall".

41. Maintenance of fire escapes and fire-fighting appliances

Regulation 54 is amended by adding -

"(1A) Any contractor who has direct control over any construction work shall maintain in good condition and free from obstruction all the means of escape in case of fire and all fire-fighting appliances provided in the place where the construction work is being carried out.".

42. Information to be furnished to Commissioner

Regulation 56 is amended by adding -

"(3) For the purpose of this regulation, "subcontractor" (次承建商) means a person employed by a contractor to perform construction work under a contract for services.".

43. Offences and penalties relating to contractors

Regulation 68 is amended -

- (a) in paragraph (1)(a), by repealing "4A, 5, 8, 9, 10(1) or (2), 20, 31(1) or (3), 32, 33, 34, 35(1) or (3), 36, 38, 38A(1), (2) or (3), 38B(1), 38C, 38D, 38E, 38F(1) or (4), 38G, 39(1) or (2), 40(1), 41, 41A, 42, 43, 44, 45, 46, 47, 48(1), 49, 50, 51, 52, 52A, 53(2), 54(1)," and substituting "4A(1) or (1A), 5(1) or (2), 8, 9(1) or (2), 10(1) or (2), 20(1) or (2), 31(1) or (3), 32(1) or (2), 33, 34(1) or (2), 35(1) or (3), 36, 38(1), (2), (3), (5) or (6), 38A(1), (2) or (3), 38AA(1), (3) or (4), 38B(1) or (1A), 38C, 38D, 38E(1) or (2), 38F(1) or (4), 38G(1) or (2), 39(1) or (2), 40(1), 41, 41A, 42, 43, 44(1) or (2), 45(1) or (2), 46(1) or (1A), 47(1), (1A), (2) or (3), 48(1) or (1A), 49(1), (1A), (2), (3) or (4), 50, 51(1) or (2), 52(1), (1A) or (2), 52A(1), (1A) or (2), 53(2), 54(1) or (1A),";
- (b) in paragraph (2) -
- (i) in subparagraph (a), by repealing "5, 31(1) or (3), 32, 34, 35(1) or (3), 38, 38E, 38F(1), 39(1) or (2), 41, 41A, 47 or 49" and substituting "5(1) or (2), 31(1) or (3), 32(1) or (2), 34(1) or (2), 35(1) or (3), 38(1), (2), (3), (5) or (6), 38E(1) or (2), 38F(1), 39(1) or (2), 41, 41A, 47(1), (1A), (2) or (3), 49(1), (1A), (2), (3) or (4)";

- (ii) in subparagraph (b), by repealing "4A, 8, 9, 10(1) or (2), 20, 33, 42, 43, 44, 45, 46, 48(1), 50, 51, 52, 52A, 53(2) or 54(1)" and substituting "4A(1) or (1A), 8, 9(1) or (2), 10(1) or (2), 20(1) or (2), 33, 42, 43, 44(1) or (2), 45(1) or (2), 46(1) or (1A), 48(1) or (1A), 50, 51(1) or (2), 52(1), (1A) or (2), 52A(1), (1A) or (2), 53(2), 54(1) or (1A)";
- (iii) in subparagraph (d), by repealing "of \$10,000" and substituting "at level 3";
- (iv) in subparagraph (f), by adding ", 38AA(1)" after "38A(1)";
- (v) in subparagraph (g), by repealing "38B(1), 38C, 38D or 38G" and substituting "38AA(3) or (4), 38B(1) or (1A), 38C, 38D, 38G(1) or (2)".

44. Requirements with which certain safety equipment must comply

The Third Schedule is amended, within the square brackets, by repealing "reg. 38B(4)" and substituting "regs. 38A(1A), 38AA(2) & 38B(4)".

Fred TING

Commissioner for Labour

28 May 2003

Explanatory Note

The purposes of the Regulation are to amend the Construction Sites (Safety) Regulations (Cap. 59 sub. leg. I) to -

- (a) extend the duty imposed on the contractor responsible for a construction site or any plant to any contractor who has direct control over the construction work, process, excavation, operation or erection, substantial addition, alteration or dismantling of scaffold concerned;
- (b) amend regulation 38A to prescribe the specific measures required to ensure the safety of places of work; and
- (c) amend regulation 44 to prescribe the specific measures required to effectively guard a prime mover, transmission machinery and other machinery.

**FACTORIES AND INDUSTRIAL UNDERTAKINGS (LIFTING APPLIANCES
AND LIFTING GEAR)(AMENDMENT) REGULATION 2003**

(Made under section 7 of the Factories and
Industrial Undertakings Ordinance
(Cap. 59) subject to the approval
of the Legislative Council)

1. Interpretation

Regulation 3(1) of the Factories and Industrial Undertakings (Lifting Appliances and Lifting Gear) Regulations (Cap. 59 sub. leg. J) is amended, in the definition of "owner", by repealing "and, in the case of a lifting appliance" and substituting ", and the contractor who has control over the way any construction work which involves the use of the lifting appliance or lifting gear is carried out and, in the case of a lifting appliance or lifting gear".

Fred TING

Commissioner for Labour

28 May 2003

Explanatory Note

The purpose of this Regulation is to amend the definition of "owner" in the Factories and Industrial Undertakings (Lifting Appliances and Lifting Gear) Regulations (Cap. 59 sub. leg. J) to extend the duties imposed on the owner to the contractor who has control over the way any construction work which involves the use of a lifting appliance or lifting gear is carried out.

**FACTORIES AND INDUSTRIAL UNDERTAKINGS (SUSPENDED WORKING
PLATFORMS)(AMENDMENT) REGULATION 2003**

(Made under section 7 of the Factories and
Industrial Undertakings Ordinance
(Cap. 59) subject to the approval
of the Legislative Council)

1. Interpretation

Section 3(1) of the Factories and Industrial Undertakings (Suspended Working Platforms) Regulation (Cap. 59 sub. leg. AC) is amended, in the definition of "owner", by adding ", and the contractor who has control over the way any construction work which involves the use of the suspended working platform is carried out" before "and, in the case of".

Fred TING

Commissioner for Labour

28 May 2003

Explanatory Note

The purpose of this Regulation is to amend the definition of "owner" in the Factories and Industrial Undertakings (Suspended Working Platforms) Regulation (Cap. 59 sub. leg. AC) to extend the duties imposed on the owner to the contractor who has control over the way any construction work which involves the use of a suspended working platform is carried out.

**FACTORIES AND INDUSTRIAL UNDERTAKINGS (LOADSHIFTING
MACHINERY)(AMENDMENT) REGULATION 2003**

(Made under section 7 of the Factories and
Industrial Undertakings Ordinance
(Cap. 59) subject to the approval
of the Legislative Council)

1. Interpretation

Section 2(1) of the Factories and Industrial Undertakings (Loadshifting Machinery) Regulation (Cap. 59 sub. leg. AG) is amended, in the definition of "responsible person", by adding ", and the contractor who has control over the way any construction work which involves the use of the machine is carried out" before "and, in the case of".

Fred TING

Commissioner for Labour

28 May 2003

Explanatory Note

The purpose of this Regulation is to amend the definition of "responsible person" in the Factories and Industrial Undertakings (Loadshifting Machinery) Regulation (Cap. 59 sub. leg. AG) to extend the duties imposed on a responsible person to the contractor who has control over the way any construction work which involves the use of a loadshifting machine is carried out.

Construction Sites (Safety) Regulations (Cap. 59 sub. leg. I)

Chapter:	59I	Title:	CONSTRUCTION SITES (SAFETY) REGULATIONS	Gazette Number:	L.N. 240 of 1999
Regulation:	2	Heading:	Interpretation	Version Date:	01/10/1999

(1) In these regulations, unless the context otherwise requires-

"builder's lift" (建築工地升降機) has the same meaning as in the Builders' Lifts and Tower Working Platforms (Safety) Ordinance (Cap 470); (L.N. 552 of 1995)

"competent examiner" (合資格檢驗員), in relation to the carrying out of any test and examination required by these regulations, means a person who is-

- (a) appointed for that purpose by the contractor required by these regulations to ensure that the test and examination is carried out; (L.N. 285 of 1993)
- (b) a registered professional engineer registered under the Engineers Registration Ordinance (Cap 409) within a relevant discipline specified by the Commissioner; and (L.N. 285 of 1993)
- (c) by reason of his qualifications, training and experience, competent to carry out the test and examination; (L.N. 285 of 1993)

"competent person" (合資格的人), in relation to any duty to be performed under these regulations by a competent person, means a person who is-

- (a) appointed for that purpose by the contractor required by these regulations to ensure that the duty is carried out by a competent person; and
- (b) by reason of substantial training and practical experience, competent to perform the duty;

"construction site" (建築地盤) means a place where construction work is undertaken and also any area in the immediate vicinity of any such place which is used for the storage of materials or plant used or intended to be used for the purpose of the construction work;

"crane" (起重機) means any appliance equipped with mechanical means of raising and lowering a load and for transporting the load while suspended; and also all chains, ropes, swivels, or other tackle (down to and including the hook), used in the operation of a crane; but does not include-

- (a) a hoist block running on a fixed rail or wire;
- (b) a stacker or conveyor whereby a load is moved by means of a belt or platform; or
- (c) an earth or mineral moving or excavating appliance not fitted with a grab;

"hoist" (吊重機) means a lifting machine, whether worked by mechanical power or not, with a carriage, platform or cage, the movement of which is restricted by a guide or guides; and also the supports, well and enclosures, and the carriage, platform or cage, and the whole of the mechanical and electrical apparatus (if any) required in connexion with the operation and safety of a hoist, but does not include a builder's lift or a tower working platform; (L.N. 280 of 1978; L.N. 552 of 1995)

"ladder" (梯子) includes a folding step-ladder; (L.N. 238 of 1983; L.N. 76 of 1999)

"lifting appliance" (起重機械) means a crab, winch, pulley block, or gin wheel used for raising or lowering and a hoist, crane, sheerlegs, excavator, drag line, pile driver, pile extractor, or overhead runway;

"lifting gear" (起重裝置) means a chain sling, rope sling or similar gear, and a ring, link, hook, plate clamp, shackle, swivel or eyebolt; (L.N. 280 of 1978)

"maintained" (維修、保持) means maintained in an efficient state, in efficient working order and in good repair;

"material" (物料), except in regulations 5, 29, 39 and 61, includes waste material and debris;

"place of work" (工作地方) means any place which is used by any person for the purposes of-

- (a) construction work; or
- (b) any work activities arising from, or in connection with, construction work,

and includes any place to which such a person has access whilst at work; (L.N. 76 of 1999)

"plant" (工業裝置) includes any plant, equipment, gear, machinery, apparatus, or appliance, or any part thereof;

"prime mover" (原動機) means any engine, motor, or other appliance, which provides mechanical energy derived from-

- (a) steam or electricity;
- (b) the combustion of fuel; or
- (c) any other source;

"raising or lowering or as a means of suspension" (升降或作懸吊之用) means raising or lowering or as a means of suspension of a load on a lifting appliance or lifting gear;

"safe working load" (安全操作負荷), in relation to a lifting appliance or to lifting gear, means either-

- (a) the appropriate safe working load for operating the appliance or gear as specified in the current certificate of test given in the approved form by a competent examiner in respect of the appliance or gear for the purposes of these regulations; or (L.N. 21 of 1994)
- (b) where no such certificate is required, the relevant safe working load appropriate to the lifting appliance or lifting gear; (L.N. 280 of 1978)

"safety belt" (安全帶) includes a safety harness; (L.N. 76 of 1999)

"scaffold" (棚架) means any temporarily provided structure on or from which persons perform work in connexion with operations or works to which these regulations apply, and any temporarily provided structure which enables persons to obtain access to or which enables materials to be taken to any place at which such work is performed, and includes any working platform, gangway, run, ladder or step-ladder (other than an independent ladder or step-ladder which does not form part of such a structure) together with any guard-rail, toe-board or other safeguards and all fixings, but does not include a lifting appliance or a structure used merely to support such an appliance or to support other plant or equipment; (L.N. 238 of 1983)

"subcontractor" (次承建商) means a person employed by a contractor to perform construction work under a contract for services;

"suspended working platform" (吊船) means a suspended working platform within the meaning of the Factories and Industrial Undertakings (Suspended Working Platforms) Regulation (Cap 59 sub. leg.); (L.N. 76 of 1999)

"tower working platform" (塔式工作平台) has the same meaning as in the Builders' Lifts and Tower Working Platforms (Safety) Ordinance (Cap 470); (L.N. 552 of 1995)

"transmission machinery" (傳動機械) means any shaft, wheel, drum, pulley, system of fast and loose pulleys, coupling, clutch, driving belt, or other device, by which the motion of a prime mover is transmitted to or received by any plant;

"used" or "in use" (用、使用), in relation to any plant, means used or in use in construction work;

"working platform" (工作平台) includes a working stage; (L.N. 238 of 1983)

"workman" (工人) means a person engaged in construction work.

(2) For the purposes of these regulations-

(a) a contractor is responsible for a construction site if he is undertaking construction work there or, where there is more than one contractor undertaking construction work at the site, if he is the principal contractor undertaking work there;

(b) a contractor is responsible for any plant referred to in these regulations if it is located at a construction site for which he is responsible.

(L.N. 76 of 1999)

Chapter:	59I	Title:	CONSTRUCTION SITES (SAFETY) REGULATIONS	Gazette Number:	
Regulation:	4A	Heading:	Restriction on employment of persons under 18 years of age on construction sites	Version Date:	30/06/1997

PART IA

EMPLOYMENT OF PERSONS UNDER 18 ON CONSTRUCTION SITES

(1) The contractor responsible for a construction site shall ensure that no person under 18 years of age is employed at any place on the site unless that person-

- (a) is apprenticed to that contractor or to any other contractor engaged in work at that site, under a contract of apprenticeship registered under the Apprenticeship Ordinance (Cap 47);
- (b) has completed an apprenticeship and possesses a certificate of completion issued under the Apprenticeship Ordinance (Cap 47);
- (c) has undertaken an approved training course and possesses a certificate of completion in respect of that course issued by the Authority in such form as the Authority may determine for that purpose; or
- (d) is undergoing on-site training, as part of an approved training course, under the supervision of any person authorized in writing by the Authority for that purpose.

(2) In this regulation-

"approved training course" (認可訓練課程) means such training course provided by the Authority as the Commissioner may approve from time to time for the purposes of this regulation;

"Authority" (當局) means the Construction Industry Training Authority established under the Industrial Training (Construction Industry) Ordinance (Cap 317).

(L.N. 221 of 1994)

Chapter:	59I	Title:	CONSTRUCTION SITES (SAFETY) REGULATIONS	Gazette Number:	L.N. 307 of 1998
Regulation:	5	Heading:	Construction, maintenance, and inspection of hoist	Version Date:	04/09/1998

PART II

USE OF HOIST ETC.

- (1) The contractor responsible for a hoist shall ensure that it is not used unless-
- (a) it is of good mechanical construction, made of strong and sound materials, and free from patent defect;
 - (b) it is properly maintained;
 - (c) the arrangements for fixing and anchoring the hoist are adequate to secure its safety;
 - (d) it is adequately and securely supported; and
 - (e) every structure supporting it is of good construction and adequate strength, of sound materials and free from patent defect. (L.N. 307 of 1998)
- (2) The contractor responsible for any hoist which is in use shall-
- (a) cause it to be inspected at least once in each week in which it is in use-
 - (i) by the driver or operator; or
 - (ii) if the driver or operator is not competent for the purpose, by a competent person; and
 - (b) ensure that after any such inspection, the hoist is not used unless there has been obtained in respect of the inspection, or any further inspection that may be necessary as a result of any defect discovered in the hoist on that inspection, a report in the approved form which includes a statement to the effect that the hoist is in safe working order.
(L.N. 280 of 1978; L.N. 285 of 1993)

Chapter:	59I	Title:	CONSTRUCTION SITES (SAFETY) REGULATIONS	Gazette Number:	
Regulation:	8	Heading:	Cabins for drivers	Version Date:	30/06/1997

Subject to regulation 8A, the contractor responsible for a hoist shall ensure that it is not used unless it is provided with a suitable cabin which-

- (a) affords the driver or operator of the hoist adequate protection from the weather; and
- (b) is so constructed as to-
 - (i) give him a clear and unrestricted view that will enable him to use the hoist safely; and
 - (ii) afford ready access to those parts of the hoist that are within the cabin and require periodic inspection or maintenance.

(L.N. 280 of 1978; L.N. 285 of 1993)

Chapter:	59I	Title:	CONSTRUCTION SITES (SAFETY) REGULATIONS	Gazette Number:	
Regulation:	9	Heading:	Drums and pulleys	Version Date:	30/06/1997

(1) The contractor responsible for any hoist which has a drum or pulley on which a rope is carried shall ensure that the hoist is not used unless the drum or pulley is of sufficient diameter and construction for the rope used.

(2) If the rope terminates at the winding drum of the hoist, the contractor shall ensure that the hoist is not used unless-

- (a) the rope is properly secured to the drum; and
- (b) at least two turns of the rope remain on the drum at every operating position of the hoist.

(L.N. 285 of 1993)

Chapter:	59I	Title:	CONSTRUCTION SITES (SAFETY) REGULATIONS	Gazette Number:	
Regulation:	10	Heading:	Brakes, controls, safety devices, etc.	Version Date:	30/06/1997

(1) The contractor responsible for a winch shall ensure that it is not used unless it is fitted with one or more efficient brakes, or other similar safety devices, which will prevent a load suspended from the appliance from falling out of control or dangerously.

(2) Subject to paragraph (3), the contractor responsible for a hoist shall ensure that it is not used unless-

- (a) every lever, handle, switch, or other device used for controlling the operation of any part of the hoist (being a lever, handle, switch, or other device the accidental movement or displacement of which is liable to cause danger) is, where practicable (unless it is so placed or the hoist is so constructed as to prevent accidental movement or displacement), provided with a suitable spring or other locking arrangement to prevent any such accidental movement or displacement; and
- (b) every lever, handle, switch, or other device for controlling the operation of any part of the hoist has either on or adjacent to it clear markings to indicate its purpose and the mode of operation.

(3) Where, at the date of the commencement of these regulations, a hoist is in use and continues subsequently to be used, it shall be sufficient if the requirements of paragraph (2)(a) are complied with not later than 12 months after that date.

(L.N. 285 of 1993)

Chapter:	59I	Title:	CONSTRUCTION SITES (SAFETY) REGULATIONS	Gazette Number:	
Regulation:	20	Heading:	Trained workmen to operate hoist or give signals	Version Date:	30/06/1997

(1) The contractor responsible for a hoist shall ensure that, when it is used on a construction site, it is not operated except by a workman who is trained and competent to operate it:

Provided that the hoist may be operated by a workman not so qualified if he is operating it under the supervision of another workman who is so qualified.

(2) The contractor responsible for a hoist driven by mechanical power shall ensure that no workman under 18 years of age is employed-

- (a) to operate the hoist; or
- (b) to give signals to the driver of the hoist.

(L.N. 285 of 1993)

Chapter:	59I	Title:	CONSTRUCTION SITES (SAFETY) REGULATIONS	Gazette Number:	
Regulation:	31	Heading:	Safety of hoistways, platforms and cages	Version Date:	30/06/1997

PART IV

SPECIAL PROVISIONS AS TO HOISTS

- (1) The contractor responsible for a hoist shall ensure that it is not used unless-
- (a) the hoistway of the hoist is, at all points at which access to the hoistway is provided or at which persons are in danger of being struck by a moving part of the hoist, efficiently protected by a substantial enclosure;
 - (b) the enclosure is, where access to and egress from the hoist is required, fitted with secure gates;
 - (c) the enclosure and gates where practicable extend to a height of at least 2 metres unless a lower height (being not less than 900 millimetres) is sufficient to prevent a person from falling down the hoistway and there is no risk of any person coming into contact with any moving part of the hoist; and (L.N. 238 of 1983)
 - (d) the gates are kept closed, except where the platform or cage is at rest at a landing place and it is for the time being necessary for the gate to be opened for the purpose of loading or unloading goods, plant, or material. (L.N. 552 of 1995)
- (2) Every person using a hoist shall ensure that the gate is closed immediately after use unless it is for the time being necessary to keep the gate open in accordance with paragraph (1)(d).
- (3) The contractor responsible for a hoist shall-
- (a) unless it is impracticable to do so, provide and maintain efficient devices which will support its platform or cage and its safe working load in the event of the failure of the hoist rope or ropes or any of the hoisting gear; and
 - (b) provide and maintain one or more efficient automatic

devices which will ensure that the platform or cage of the hoist does not pass the highest point to which it is designed to travel.

Chapter:	59I	Title:	CONSTRUCTION SITES (SAFETY) REGULATIONS	Gazette Number:	
Regulation:	32	Heading:	Operation of hoists	Version Date:	30/06/1997

(1) The contractor responsible for a hoist shall ensure that-

- (a) it is not used unless it is, as far as practicable, constructed in such a way that it can be operated only from one position at any one time; and
- (b) (Repealed L.N. 552 of 1995)

(2) Where a workman operating a hoist does not have a clear and unrestricted view of the hoist's carriage, platform or cage throughout its travel (except at points where such a view is not necessary for safe working), the contractor responsible for the hoist shall make effective arrangements for signals for operating the hoist to be given to the workman from each landing place at which the hoist is used and to enable him to stop the carriage, platform or cage at the appropriate level. (L.N. 280 of 1978)

Chapter:	59I	Title:	CONSTRUCTION SITES (SAFETY) REGULATIONS	Gazette Number:	
Regulation:	33	Heading:	Winches	Version Date:	30/06/1997

The contractor responsible for a hoist, which is operated by means of a winch, shall ensure that the hoist is not used-

- (a) unless the winch is so constructed that the brake is applied when the control lever, handle or switch is not held in the operating position; or
- (b) if the winch is fitted with a pawl and ratchet gear on which the pawl has to be disengaged, before the platform or cage can be lowered.

Chapter:	59I	Title:	CONSTRUCTION SITES (SAFETY) REGULATIONS	Gazette Number:	
Regulation:	34	Heading:	Safe working load and marking of hoists	Version Date:	30/06/1997

(1) The contractor responsible for a hoist shall-

- (a) cause the safe working load applicable to the hoist to be clearly and legibly marked on its platform or cage; and
- (b) ensure that it is not used to carry any load greater than that safe working load, except that for the purpose of carrying out a test under regulation 35 the safe working load may be exceeded by such amount as a competent examiner carrying out the test may authorize.

(2) In addition to paragraph (1), every such contractor shall ensure that-

- (a) (Repealed L.N. 552 of 1995)
- (b) the hoist has marked or affixed to its platform or cage a clear and legible notice stating that the carriage of persons is prohibited. (L.N. 552 of 1995)

Chapter:	59I	Title:	CONSTRUCTION SITES (SAFETY) REGULATIONS	Gazette Number:	
Regulation:	35	Heading:	Test and examination of hoists	Version Date:	30/06/1997

(1) The contractor responsible for any hoist which is manufactured or substantially altered or substantially repaired after the commencement of these regulations shall ensure that it is not used unless, since the date of its manufacture or of the alteration or repair, as the case may be-

- (a) it has been tested and thoroughly examined by a competent examiner; and
- (b) there has been obtained from him in respect of the test and examination a certificate in the approved form, which includes a statement to the effect that the hoist is in a safe working condition. (L.N. 285 of 1993)

(2) (Repealed L.N. 552 of 1995)

(3) The contractor responsible for a hoist shall ensure that it is not used, whether for carrying goods, or otherwise, unless, during the preceding 6 months- (L.N. 552 of 1995)

- (a) it has been thoroughly examined by a competent examiner; and
- (b) there has been obtained from him a report in the approved form which includes a statement to the effect that the hoist is in a safe working condition: (L.N. 285 of 1993)

Provided that a hoist may be used without obtaining a report under this paragraph if within the preceding 6 months there has been obtained under paragraph (1) a certificate which includes a statement to the effect that the hoist is in a safe working condition. (L.N. 552 of 1995)

(4) A report under this regulation of a test or examination and the results thereof, signed by the person making or responsible for the carrying out of the test or examination, shall be-

- (a) made in the approved form and contain the prescribed particulars; and (L.N. 285 of 1993)
- (b) delivered forthwith to the contractor concerned.

(5) The person making the report of any examination required by paragraph (3) shall,

within 28 days of the completion of the examination, send to the Commissioner a copy of the report in every case where the examination shows that the hoist cannot continue to be used with safety unless certain repairs are carried out immediately or within a specified time. (L.N. 552 of 1995)

Chapter:	59I	Title:	CONSTRUCTION SITES (SAFETY) REGULATIONS	Gazette Number:	
Regulation:	36	Heading:	Carrying of persons prohibited	Version Date:	30/06/1997

PART V

CARRYING OF PERSONS AND SECURING OF LOADS ON HOISTS

The contractor responsible for a hoist shall ensure that it is not used for carrying persons at any time.

(L.N. 552 of 1995)

Chapter:	59I	Title:	CONSTRUCTION SITES (SAFETY) REGULATIONS	Gazette Number:	
Regulation:	38	Heading:	Loads to be safely secured	Version Date:	30/06/1997

(1) The contractor responsible for a hoist shall, before it is used, ensure that every part of any load to be raised or lowered by the hoist is-

- (a) securely suspended or supported when being raised or lowered; and
- (b) adequately secured so as to prevent danger arising to persons or property as a result of the slipping or displacement of any part of the load.

(2) Where, by reason of the nature or position of the operation the load is liable, while being moved on a hoist or on lifting gear, to come into contact with any object so that the object may become displaced, the contractor shall take all reasonable steps as will ensure that no person lawfully on or near the construction sites where the hoist or gear is being used is endangered by the displacement of the object. (71 of 1989 s. 13)

(3) Where, in connection with the hoist, or lifting gear a receptacle is used for raising or lowering stone, bricks, tiles, slates, or other objects, the contractor shall cause the receptacle to be enclosed, or to be constructed or designed so as to prevent the accidental fall of any of such objects.

(4) Paragraph (3) shall not apply to a grab, shovel, or similar excavating receptacle if the contractor takes effective steps to prevent persons being endangered by a fall of objects therefrom.

(5) The contractor responsible for a hoist shall ensure that neither loose material nor goods are carried on the platform of the hoist unless the platform is enclosed or other effective precautions have been taken to prevent the material or goods from falling from the platform.

(6) The contractor responsible for any hoist which is used for raising or lowering loads shall ensure that no load is left suspended from the hoist unless a competent person is present to supervise the use of the hoist.

(L.N. 285 of 1993)

Chapter:	59I	Title:	CONSTRUCTION SITES (SAFETY) REGULATIONS	Gazette Number:	L.N. 240 of 1999
Regulation:	38A	Heading:	Safety of places of work	Version Date:	01/10/1999

PART VA

SCAFFOLDS, WORKING PLATFORMS AND LADDERS, ETC.

(1) Without prejudice to the other provisions of this Part, the contractor responsible for any construction site shall ensure that every place of work on the site is, so far as is reasonably practicable, made and kept safe for any person working there.

(2) The contractor responsible for any construction site shall ensure that, so far as is reasonably practicable, suitable and adequate safe access to and egress from every place of work on the site is provided and properly maintained.

(3) Subject to paragraph (4), the contractor responsible for any construction site shall take suitable and adequate steps to ensure that, so far as is reasonably practicable, no person gains access to any unsafe place on the site.

(4) Paragraph (3) shall not apply in relation to a person engaged in work for the purpose of making any place safe if all practicable steps have been taken to ensure the safety of that person whilst engaged in that work.

(Part VA replaced L.N. 76 of 1999)

Chapter:	59I	Title:	CONSTRUCTION SITES (SAFETY) REGULATIONS	Gazette Number:	L.N. 240 of 1999
Regulation:	38B	Heading:	Prevention of falls	Version Date:	01/10/1999

(1) Subject to paragraphs (2), (3) and (4), the contractor responsible for any construction site shall take adequate steps to prevent any person on the site from falling from a height of 2 metres or more.

(2) For the purpose of paragraph (1), "adequate steps" (足夠的步驟) shall include the provision, use and maintenance of one or more of the following-

- (a) working platforms;
- (b) guard-rails, barriers, toe-boards and fences;
- (c) coverings for openings;
- (d) gangways and runs.

(3) Paragraph (1) shall not apply to any opening, corner, break or edge exposed in the course of demolition operations if adequate precautions have been taken to prevent any person from being exposed to the risk of falling therefrom.

(4) Every working platform (other than a suspended working platform), guard-rail, barrier, toe-board, fence, covering for an opening, gangway or run provided for the purpose of paragraph (1) shall comply with the provisions of the Third Schedule applicable to it.

(5) For the avoidance of doubt, it is hereby declared that-

- (a) paragraphs (2) and (4) do not prejudice the generality of paragraph (1);
- (b) the reference to working platform in paragraph (4) does not prejudice the operation of the provisions of the Factories and Industrial Undertakings (Suspended Working Platforms) Regulation (Cap 59 sub. leg.) in relation to a working platform which is a suspended working platform.

(Part VA replaced L.N. 76 of 1999)

Chapter:	59I	Title:	CONSTRUCTION SITES (SAFETY) REGULATIONS	Gazette Number:	L.N. 240 of 1999
Regulation:	38C	Heading:	Safe means of support	Version Date:	01/10/1999

Where work cannot be safely done on or from the ground or from part of a permanent structure, the contractor responsible for the construction site concerned shall provide, and ensure the use of, a scaffold, ladder or other means of support, all of which shall be safe for the purpose, having regard to the work to be done.

(Part VA replaced L.N. 76 of 1999)

Chapter:	59I	Title:	CONSTRUCTION SITES (SAFETY) REGULATIONS	Gazette Number:	L.N. 240 of 1999
Regulation:	38D	Heading:	Construction and maintenance of scaffolds, etc.	Version Date:	01/10/1999

The contractor responsible for any scaffold, ladder or other means of support referred to in regulation 38C shall ensure that it shall not be used unless it is-

- (a) so designed and constructed that it does not collapse, overturn or move accidentally;
- (b) of suitable and sound materials of sufficient strength and capacity for the purpose for which it is to be used; and
- (c) properly maintained and every part thereof kept so securely supported or suspended as to ensure, so far as is reasonably practicable, that it is stable.

(Part VA replaced L.N. 76 of 1999)

Chapter:	59I	Title:	CONSTRUCTION SITES (SAFETY) REGULATIONS	Gazette Number:	L.N. 240 of 1999
Regulation:	38E	Heading:	Trained workmen to erect scaffold under supervision	Version Date:	01/10/1999

The contractor responsible for a scaffold on a construction site shall ensure that no such scaffold is erected on the site or substantially added to, altered or dismantled except by workmen who are-

- (a) adequately trained and possess adequate experience of such work; and
- (b) under the immediate supervision of a competent person.

(Part VA replaced L.N. 76 of 1999)

Chapter:	59I	Title:	CONSTRUCTION SITES (SAFETY) REGULATIONS	Gazette Number:	L.N. 240 of 1999
Regulation:	38F	Heading:	Inspection of scaffolds	Version Date:	01/10/1999

(1) Subject to paragraph (2), the contractor responsible for a scaffold on a construction site shall ensure that the scaffold is not used unless-

(a) the scaffold-

(i) has been inspected by a competent person before being taken into use for the first time;

(ii) has been inspected by a competent person after any substantial addition, partial dismantling or other alteration;

(iii) has been inspected by a competent person after any exposure to weather conditions likely to have affected its strength or stability or to have displaced any part;

(iv) has been inspected by a competent person at regular intervals not exceeding 14 days immediately preceding each use of the scaffold; and

(b) a report has been made and signed by the person carrying out the inspection in an approved form containing the prescribed particulars which include a statement to the effect that the scaffold is in safe working order.

(2) Paragraph (1) shall not apply in relation to a scaffold from no part of which a person is liable to fall from a height of 2 metres or more.

(3) A report under paragraph (1)(b) of an inspection of a scaffold shall be delivered forthwith by the competent person to the contractor responsible for the scaffold.

(4) The contractor to whom a report is delivered under paragraph (3) shall-

(a) at all times keep the report, or a copy thereof, on the construction site on which the scaffold to which the report relates is located;

(b) at all reasonable times make that report or copy available for inspection by-

(i) any occupational safety officer who requests to see it;

(ii) any other person who is lawfully on the site

(including any person using or proposing to use the

scaffold).

(Part VA replaced L.N. 76 of 1999)

Chapter:	59I	Title:	CONSTRUCTION SITES (SAFETY) REGULATIONS	Gazette Number:	L.N. 240 of 1999
Regulation:	38G	Heading:	Boatswain's chairs (not power operated)	Version Date:	01/10/1999

The contractor responsible for a construction site shall ensure that no boatswain's chair or similar plant or equipment (not being a boatswain's chair or similar plant or equipment which is raised or lowered by a power-driven lifting appliance) is used on the site.

(Part VA replaced L.N. 76 of 1999)

Chapter:	59I	Title:	CONSTRUCTION SITES (SAFETY) REGULATIONS	Gazette Number:	L.N. 240 of 1999
Regulation:	38H	Heading:	Defences to regulations 38B(1) and 38C	Version Date:	01/10/1999

(1) It shall be a defence for a contractor charged with an offence under regulation 38B(1) or 38C to show-

(a) that in all the circumstances of the case, it was impracticable to comply with all or any of the requirements of that regulation;

(b) that-

(i) the contractor provided suitable and adequate safety nets and safety belts in lieu of complying with those requirements; or

(ii) in all the circumstances of the case, it was impracticable to provide such safety nets and the contractor provided suitable and adequate safety belts in lieu of complying with those requirements; and

(c) that all reasonably practicable steps were taken to ensure the proper use of the safety belts by the persons to whom they were provided. (L.N. 64 of 1999)

(2) Safety nets shall not be considered as suitable and adequate for the purpose of paragraph (1) unless they are-

(a) of such design and so constructed; and

(b) so erected, maintained and kept in such positions,

as to be effective to protect persons carrying on at a height the work to which the nets relate, to protect persons using any access to or egress from the part of the construction site where that work is being done and to prevent as far as practicable injury to persons falling onto them.

(3) Safety belts shall not be considered as suitable and adequate for the purpose of paragraph (1) unless they-

(a) are attached continuously to a suitable and secure anchorage;

(b) have suitable fittings therefor; and

(c) are of such a design and so constructed and maintained as to prevent injury to persons using them in the event of a fall.

(Part VA replaced L.N. 76 of 1999)

Chapter:	59I	Title:	CONSTRUCTION SITES (SAFETY) REGULATIONS	Gazette Number:	
Regulation:	39	Heading:	Safety of excavations, etc.	Version Date:	30/06/1997

PART VI

EXCAVATIONS ON CONSTRUCTION SITES

(1) The contractor responsible for any construction site at which excavating or earthworking operations are being carried on shall cause a structure made of suitable timber or other suitable material to be erected in connection with the operations as soon as may be necessary after their commencement so as to prevent workmen employed on the site from being endangered by a fall or displacement of earth, rock, or other material (including waste material and debris) adjacent to or forming the side of the excavation or earthwork.

(2) The contractor shall-

(a) cause every part of the excavation or earthwork where workmen are employed to be examined by a competent person at least once in every period of 7 days after the commencement of the excavation or earthwork until it is completed or abandoned; and

(b) ensure that after any such examination no further work in respect of the excavation or earthwork is carried on until there has been obtained from that person in respect of the examination, or in respect of any further examination that may be necessary, a report in the approved form which includes a statement to the effect that the excavation or earthwork, and every structure erected under paragraph (1), is safe and secure.

(L.N 21 of 1994)

(3) A report under paragraph (2) of an examination and the results thereof, signed by the person carrying out the examination, shall be-

(a) made in the approved form and contain the prescribed particulars; and (L.N 21 of 1994)

(b) delivered forthwith to the contractor concerned.

(4) This regulation shall not apply-

(a) to an excavation or earthwork where, having regard to the nature and slope of the sides of the excavation or earthwork and other circumstances, no fall or dislodgment of earth, rock, or other material is liable to occur-

(i) so as to bury or trap a workman or other person employed in or near the excavation or earthwork; or

(ii) so as to strike any such workman or person from a height of more than 1.2 metres; or (L.N. 280 of 1978; L.N. 238 of 1983)

(b) in relation to a workman actually engaged in the erection of any structure or in rendering any excavation or earthwork safe, or to a person engaged in examining any such structure, if other precautions which are reasonably adequate to ensure his safety are taken.

Chapter:	59I	Title:	CONSTRUCTION SITES (SAFETY) REGULATIONS	Gazette Number:	
Regulation:	40	Heading:	Fencing of excavations, etc.	Version Date:	30/06/1997

(1) Subject to paragraph (2), the contractor responsible for any construction site where there is an excavation, shaft, pit, or opening in the ground into or down the side of which a workman or other person lawfully on the site is liable to fall a distance of more than 2 metres shall, for the purpose of preventing any such fall, so far as practicable ensure that either- (L.N. 238 of 1983)

(a) a suitable barrier is erected as close as is reasonably practicable to the edge of the excavation, shaft, pit or opening;

or

(b) the excavation, shaft, pit, or opening is securely covered.

(2) Paragraph (1) shall not apply to any part of an excavation, shaft, pit or opening while (and to the extent to which) the absence of such barrier and covering is necessary for the access of persons or for the movement of plant or equipment or materials or while (and to the extent to which) it has not yet been practicable to erect such barrier or covering since the formation of that part of the excavation, shaft, pit or opening. (L.N. 238 of 1983)

(L.N. 280 of 1978)

Chapter:	59I	Title:	CONSTRUCTION SITES (SAFETY) REGULATIONS	Gazette Number:	
Regulation:	41	Heading:	Safe guarding the edges of excavations, etc.	Version Date:	30/06/1997

The contractor responsible for any construction site at which there is an excavation, shaft, pit or opening in the ground shall ensure that-

- (a) no material is placed or stacked close to the edge of the excavation, shaft, pit, or opening so as to endanger any person who is working in it; and
- (b) no load or plant is placed or moved near the edge of the excavation, shaft, pit or opening if it is likely to cause the side of the excavation, shaft, pit, or opening to collapse and thereby endanger any person.

(L.N. 280 of 1978)

Chapter:	59I	Title:	CONSTRUCTION SITES (SAFETY) REGULATIONS	Gazette Number:	
Regulation:	41A	Heading:	Requirements for emergency escape	Version Date:	30/06/1997

The contractor responsible for any construction site, at which there is an excavation, shaft, tunnel, pit or opening in the ground and where there is reason to apprehend danger to persons employed therein from rising water or from an irruption of water or material, shall ensure that adequate means are provided, so far as practicable, to enable such persons to reach positions of safety in the event of emergency.

(L.N. 280 of 1978)

Chapter:	59I	Title:	CONSTRUCTION SITES (SAFETY) REGULATIONS	Gazette Number:	
Regulation:	42	Heading:	Prevention of inhalation of dust and fumes	Version Date:	30/06/1997

PART VII

MISCELLANEOUS SAFETY REQUIREMENTS

Where any construction work involves the grinding, cleaning, spraying, mixing, or working of any material which causes dust or fumes to be given off of a character and extent likely to be injurious to the health of workmen employed in the work, the contractor responsible for the work shall take all reasonable steps as are necessary to prevent the inhalation of the dust or fumes by the workmen, either by providing adequate ventilation or by the provision and use of suitable respirators or other effective means.

(71 of 1989 s. 13)

Chapter:	59I	Title:	CONSTRUCTION SITES (SAFETY) REGULATIONS	Gazette Number:	
Regulation:	43	Heading:	Protection of eyes	Version Date:	30/06/1997

The contractor responsible for any construction site, where there is carried on any process which results in particles of material or dust being produced in such a manner as to be likely to enter or damage the eyes of any workman engaged in the process, shall ensure that-

- (a) suitable goggles or effective screens are provided for the protection of the workman; and
- (b) the workman uses the goggles or screens, as the case may be.

Chapter:	59I	Title:	CONSTRUCTION SITES (SAFETY) REGULATIONS	Gazette Number:	
Regulation:	44	Heading:	Fencing of machinery	Version Date:	30/06/1997

(1) A contractor shall ensure that-

- (a) every flywheel and moving part of any prime mover;
- (b) every part of transmission machinery; and
- (c) every dangerous part of other machinery (whether or not driven by mechanical power),

for which he is responsible is securely fenced to the satisfaction of the Commissioner unless it is in such a position or of such construction as to be as safe to every workman on the construction site as it would be if it were securely fenced.

(2) Where under paragraph (1) parts of any machinery are required to be fenced, the contractor shall ensure that the fencing is kept in position while the parts are in motion or in use, except where the parts are necessarily exposed for examination or for any lubrication or adjustment shown by the examination to be immediately necessary.

Chapter:	59I	Title:	CONSTRUCTION SITES (SAFETY) REGULATIONS	Gazette Number:	
Regulation:	45	Heading:	Trained and competent workmen to operate mechanical equipment	Version Date:	30/06/1997

(1) The contractor responsible for any mechanical equipment shall ensure that, when it is used on a construction site, it is not operated except by a workman who is trained and competent to operate it:

Provided that the equipment may be operated by a workman not so qualified if he is operating it under the supervision of another worker who is so qualified.

(2) The contractor responsible for any mechanical equipment shall ensure that no person under 18 years of age is employed-

(a) to operate the equipment; or

(b) to give signals to the operator of the equipment.

(3) In this regulation, "mechanical equipment" (機動設備) includes any bulldozer, compactor, dumper, excavator, grader, loader, locomotive, lorry, scraper, truck and any mobile machine which is used for the handling of any material on a construction site.

(L.N. 238 of 1983)

Chapter:	59I	Title:	CONSTRUCTION SITES (SAFETY) REGULATIONS	Gazette Number:	
Regulation:	46	Heading:	Cleaning of dangerous machinery by young persons	Version Date:	30/06/1997

(1) A contractor responsible for a construction site shall ensure that no young person is permitted to clean any dangerous part of any machinery or plant in the construction site while the machinery or plant is in motion by the aid of any mechanical power.

(L.N. 304 of 1996)

(2) For the purpose of paragraph (1), a dangerous part of any machinery or plant has the meaning assigned to "dangerous part" (危險部件) in the Factories and Industrial Undertakings (Guarding and Operation of Machinery) Regulations (Cap 59 sub. leg.).

Chapter:	59I	Title:	CONSTRUCTION SITES (SAFETY) REGULATIONS	Gazette Number:	
Regulation:	47	Heading:	Use of electricity on construction sites	Version Date:	30/06/1997

(1) Where workmen employed at a construction site are liable to come into contact with any live electric cable or apparatus, the contractor responsible for the site shall, both before the commencement of the work at the site and during its progress, take such measures (whether by rendering the cable or apparatus electrically dead or otherwise) as will prevent them from being endangered by the cable or apparatus.

(2) A contractor responsible for a construction site where there is any electrically charged overhead cable or apparatus shall take such precautions, by the provision of adequate and suitably placed barriers or other means, as will prevent the cable or apparatus from being a source of danger to workmen employed on the site (whether as a result of a lifting appliance coming into contact with the cable or apparatus or otherwise).

Chapter:	59I	Title:	CONSTRUCTION SITES (SAFETY) REGULATIONS	Gazette Number:	
Regulation:	48	Heading:	Safety helmets	Version Date:	30/06/1997

(1) A contractor responsible for a construction site shall-

(a) provide each workman employed on the site with a suitable safety helmet; and

(b) take all reasonable steps to ensure that no workman remains on the site unless he is wearing a suitable safety helmet.

(2) No person shall enter a construction site unless he is wearing a suitable safety helmet.

(L.N. 280 of 1978)

Chapter:	59I	Title:	CONSTRUCTION SITES (SAFETY) REGULATIONS	Gazette Number:	
Regulation:	49	Heading:	Protection from falling materials	Version Date:	30/06/1997

(1) Where workmen are employed at any place on a construction site, the contractor responsible for the site shall take such precautions as are necessary to prevent any workman working at that place from being struck by any falling material or object.

(2) The contractor responsible for a construction site shall take steps to ensure that scaffolding materials, tools, other objects and material are-

(a) not thrown, tipped, or shot down from a height where they are liable to cause injury to any person on or near the site; and

(b) where practicable, properly lowered in a safe manner by means of a lifting appliance or lifting gear.

(3) At any construction site where proper lowering is impracticable or where any part of a building or other structure is being demolished or broken off, the contractor responsible for the construction site shall take all reasonable steps as are necessary to protect workmen employed at the site from falling or flying debris. (71 of 1989 s. 13)

Chapter:	59I	Title:	CONSTRUCTION SITES (SAFETY) REGULATIONS	Gazette Number:	
Regulation:	50	Heading:	Lighting of working places, etc.	Version Date:	30/06/1997

Where at a construction site any workman is required or authorized (whether expressly or impliedly) to-

- (a) work in any place on the site;
- (b) use any approach to that place;
- (c) be in any part of the site where raising or lowering operations are in progress; or
- (d) be in the vicinity of any dangerous opening (whether in the ground or in a structure),

the contractor responsible for the site shall ensure that the place, approach, part or opening is adequately and suitably lit to the extent necessary to secure that workman's safety.

Chapter:	59I	Title:	CONSTRUCTION SITES (SAFETY) REGULATIONS	Gazette Number:	
Regulation:	51	Heading:	Projecting nails	Version Date:	30/06/1997

The contractor responsible for a construction site shall ensure that no timber or material with projecting nails or other sharp objects are used or left on the site if the nails or objects are a source of danger to workmen employed there.

Chapter:	59I	Title:	CONSTRUCTION SITES (SAFETY) REGULATIONS	Gazette Number:	
Regulation:	52	Heading:	Materials kept on construction sites	Version Date:	30/06/1997

(1) The contractor responsible for a construction site shall ensure that all platforms, gangways, floors, or other places on the site used as passageways are kept clear of any loose materials which are not required for immediate use.

(2) The contractor responsible for any construction site where materials are being kept or stored shall ensure that they are not-

(a) insecurely stacked in a place where they may be dangerous to workmen employed at the site; or

(b) stacked in such a way as to overload and render unsafe any floor or other part of a building or structure on the site.

Chapter:	59I	Title:	CONSTRUCTION SITES (SAFETY) REGULATIONS	Gazette Number:	
Regulation:	52A	Heading:	Prevention of drowning	Version Date:	30/06/1997

(1) Where a construction site is situated on, or adjacent to, water into which a workman is liable to fall with risk of drowning, the contractor responsible for the site shall-

(a) provide suitable rescue equipment and keep it in an efficient state; and

(b) take measures to arrange for the prompt rescue of any such person in danger of drowning.

(2) Where there is a special risk of such a fall from land or from a structure adjacent to or above the water or from a floating stage, the contractor responsible for the construction site shall provide secure fencing to prevent such a fall.

(3) Any fencing provided under paragraph (2) may be removed or remain unerected for the time and to the extent necessary for the access of persons or the movement of materials.

(L.N. 280 of 1978)

Chapter:	59I	Title:	CONSTRUCTION SITES (SAFETY) REGULATIONS	Gazette Number:	
Regulation:	53	Heading:	Power to prohibit smoking	Version Date:	30/06/1997

(1) Where, in any construction site, any flammable liquid or any mixture containing any such liquid or any substance or thing which in the opinion of the Commissioner involves danger from fire is used or intended to be used, the Commissioner may by order in writing prohibit smoking and the use of naked lights in such construction site.

(2) The contractor responsible for a construction site in which smoking or the use of naked lights is prohibited in accordance with the provisions of paragraph (1) shall take such steps to enforce the prohibition as the Commissioner may by notice direct.

Chapter:	59I	Title:	CONSTRUCTION SITES (SAFETY) REGULATIONS	Gazette Number:	
Regulation:	54	Heading:	Maintenance of fire escapes and fire-fighting appliances	Version Date:	30/06/1997

(1) The contractor responsible for a construction site shall maintain in good condition and free from obstruction all the means of escape in case of fire and all fire-fighting appliances provided in such construction site.

(2) No person shall wilfully alter, damage, obstruct or otherwise impair any such means of escape, or fire-fighting appliance.

Chapter:	59I	Title:	CONSTRUCTION SITES (SAFETY) REGULATIONS	Gazette Number:	
Regulation:	56	Heading:	Information to be furnished to Commissioner	Version Date:	30/06/1997

PART VIII

NOTIFICATION OF CONSTRUCTION WORK

(1) Subject to paragraph (2), a contractor who undertakes construction work shall, within 7 days after the commencement of the work, furnish in writing to the Commissioner the following information-

- (a) the contractor's name and address;
- (b) if the contractor is a firm, the name under which it carries on business and the name and address of every partner in the firm;
- (c) the name and address of every subcontractor employed on the work;
- (d) the location of the construction site;
- (e) the nature of the work;
- (f) the date upon which the work was commenced;
- (g) whether any mechanical power is being or will be used in connection with the work and, if so, the nature of the mechanical power; and
- (h) the expected duration of the work.

(2) Paragraph (1) shall not apply if-

- (a) at the date of commencement of the work-
 - (i) the contractor has reasonable grounds for believing that the work will be completed in a period of less than 6 weeks from that date; or
 - (ii) any other construction work is being undertaken at the same construction site and the information specified in paragraph (1) has been furnished to the Commissioner in respect of that construction work; or

(b) not more than 10 workmen are or will be employed on the work at any one time.

Chapter:	59I	Title:	CONSTRUCTION SITES (SAFETY) REGULATIONS	Gazette Number:	L.N. 240 of 1999
Regulation:	68	Heading:	Offences and penalties relating to contractors	Version Date:	01/10/1999

(1) Any contractor who-

(a) contravenes any of the provisions of regulation 4A, 5, 8, 9, 10(1) or (2), 20, 31(1) or (3), 32, 33, 34, 35(1) or (3), 36, 38, 38A(1), (2) or (3), 38B(1), 38C, 38D, 38E, 38F(1) or (4), 38G, 39(1) or (2), 40(1), 41, 41A, 42, 43, 44, 45, 46, 47, 48(1), 49, 50, 51, 52, 52A, 53(2), 54(1), 55, 56(1), 57, 58, 59, 61(1), (2), (4), (5) or (6), 62, 63, 64, 65(2), 66(1) or 67(1), (2) or (3); or (L.N. 221 of 1994; L.N. 552 of 1995)

(b) fails to comply with any requirement under regulation 61(3),

shall be guilty of an offence. (L.N. 280 of 1978; L.N. 118 of 1981; L.N. 238 of 1983)

(2) A person guilty of an offence under paragraph (1) shall-

(a) in respect of a contravention of regulation 5, 31(1) or (3), 32, 34, 35(1) or (3), 38, 38E, 38F(1), 39(1) or (2), 41, 41A, 47 or 49, be liable to a fine of \$200000; (L.N. 21 of 1994; L.N. 552 of 1995)

(b) in respect of a contravention of regulation 4A, 8, 9, 10(1) or (2), 20, 33, 42, 43, 44, 45, 46, 48(1), 50, 51, 52, 52A, 53(2) or 54(1), be liable to a fine of \$50000; (L.N. 21 of 1994; L.N. 221 of 1994)

(c) (Repealed L.N. 21 of 1994)

(d) in respect of a contravention of regulation 38F(4), 55, 56(1), 57, 58, 59, 61(1), (2), (3), (4), (5) or (6), 62, 63, 64, 65(2), 66(1) or 67(1), (2) or (3), be liable to a fine of \$10000;

(e) (Repealed L.N. 21 of 1994)

(f) in respect of a contravention of regulation 38A(1) or 40(1), be liable to a fine of \$200000 and to imprisonment for 12 months; (71 of 1989 s. 13)

(g) in respect of a contravention of regulation 36, 38A(2) or (3), 38B(1), 38C, 38D or 38G be liable, where the offence was

committed without reasonable excuse, to a fine of \$200000 and to imprisonment for 12 months and in any other case to a fine of \$200000. (71 of 1989 s. 13)

(h)-(i) (Repealed L.N. 76 of 1999)

(L.N. 118 of 1981; L.N. 238 of 1983; L.N. 285 of 1993; L.N. 21 of 1994; L.N. 64 of 1999; L.N. 76 of 1999)

Chapter:	59I	Title:	CONSTRUCTION SITES (SAFETY) REGULATIONS	Gazette Number:	L.N. 240 of 1999
Schedule:	3	Heading:	REQUIREMENTS WITH WHICH CERTAIN SAFETY EQUIPMENT MUST COMPLY	Version Date:	01/10/1999

[regulation 38B(4)]

1. Width of working platforms, gangways and runs

(1) Subject to subsections (2) and (3), the width of any working platform, gangway or run shall be not less than 400 millimetres.

(2) Subject to subsection (3), the width of any gangway or run used for the movement of materials shall be not less than 650 millimetres.

(3) Where it is impracticable by reason of limitations of space to provide a working platform, gangway or run of the width required by subsection (1) or (2), then, in lieu of complying with that subsection, the working platform, gangway or run shall be as wide as is reasonably practicable.

2. Working platforms, etc. to be closely boarded, etc.

(1) Subject to subsection (2), every working platform, gangway and run shall be closely boarded or planked.

(2) Subsection (1) shall not apply to a working platform, gangway or run-

(a) consisting of open metal work having interstices none of which exceeds 4000 square millimetres in area; or

(b) the boards or planks of which are so secured as to prevent their moving and so placed that the space between adjacent boards or planks does not exceed 25 millimetres,

if there is no risk of persons below the platform, gangway or run being struck by materials or articles falling through the platform, gangway or run.

3. Boards and planks in working platforms,
gangways and runs

Every board or plank forming part of a working platform, gangway or run shall-

- (a) be of sound construction, adequate strength and free from patent defect;
- (b) be of a thickness capable of affording adequate security having regard to the distance between the supports and be not less than 200 millimetres in width and not less than 25 millimetres in thickness or not less than 150 millimetres in width when the board or plank exceeds 50 millimetres in thickness;
- (c) not protrude beyond its end support to a distance exceeding 150 millimetres unless it is sufficiently secured to prevent tipping;
- (d) rest securely and evenly on its supports; and
- (e) rest on at least 3 supports unless, taking into account the distance between the supports and the thickness of the board or plank the conditions are such as to prevent undue or unequal sagging.

4. Coverings for opening

Every covering provided for an opening shall be-

- (a) so constructed as to prevent the fall of persons, materials and articles; and
- (b) clearly and boldly marked as to show its purpose or be securely fixed in position.

5. Height of toe-boards, etc.

The height of a toe-board or other similar barrier shall be not less than 200 millimetres.

6. Height of guard-rails

Subject to section 7, the height of a guard-rail above any place of work on a working

platform, gangway, run or stairway shall be-

- (a) in the case of a top guard-rail, not less than 900 millimetres and not more than 1150 millimetres;
- (b) in the case of an intermediate guard-rail, not less than 450 millimetres and not more than 600 millimetres.

7. Exception to section 6

Section 6 shall not apply to a working platform on a bamboo scaffold if the platform is protected by not less than 2 horizontal bamboo members of the scaffold spaced at intervals between 750 millimetres to 900 millimetres.

8. Temporary removal, etc. of guard-rails, etc.

(1) Guard-rails, toe-boards and barriers may be removed or remain unerected for the time and to the extent necessary for the access of persons or the movement of materials or other purposes of the work concerned, but shall be replaced or erected as soon as practicable after the expiration of that time.

(2) Toe-boards shall not be required for stairs.

(L.N. 76 of 1999)

Factories and Industrial Undertakings (Lifting Appliances and Lifting Gear) Regulations (Cap. 59 sub. leg. J)

Chapter:	59J	Title:	FACTORIES AND INDUSTRIAL UNDERTAKINGS (LIFTING APPLIANCES AND LIFTING GEAR) REGULATIONS	Gazette Number:	
Regulation:	3	Heading:	Interpretation	Version Date:	30/06/1997

(1) In these regulations, unless the context otherwise requires-

"automatic safe load indicator" (安全負荷自動顯示器) means a device intended to be fitted to a crane that automatically gives an audible and visible warning to the operator thereof that the crane is approaching its safe working load and that automatically gives a further audible and visible warning when the crane has exceeded its safe working load;

"competent examiner" (合資格檢驗員), in relation to the carrying out of any test and examination required by these regulations, means a person who is-

- (a) appointed by the owner required by these regulations to ensure that the test and examination is carried out;
- (b) a registered professional engineer registered under the Engineers Registration Ordinance (Cap 409) within a relevant discipline specified by the Commissioner; and
- (c) by reason of his qualifications, training and experience, competent to carry out the test and examination;

"competent person" (合資格的人), in relation to any duty required to be performed by him under these regulations, means a person who is-

- (a) appointed by the owner required by these regulations to ensure that the duty is carried out by a competent person; and
- (b) by reason of training and practical experience, competent to perform the duty;

"construction site" (建築地盤) means a place where construction work is undertaken and includes any area in the immediate vicinity which is used for the storage of materials or plant used or intended to be used for the purpose of the construction work;

"crane" (起重機) means any appliance equipped with mechanical means of raising and lowering a load and for transporting the load while suspended; and also all chains,

ropes, swivels, or other tackle (down to and including the hook), used in the operation of a crane; but does not include-

- (a) a hoist block running on a fixed rail or wire;
- (b) a stacker or conveyer whereby a load is moved by means of a belt or platform; or
- (c) an earth or mineral moving or excavating appliance not fitted with a grab;

"lifting appliance" (起重機械) means a crab, winch, teagle, pulley block or gin wheel used for raising or lowering, and a crane, sheerlegs, excavator, pile driver, pile extractor, dragline, aerial ropeway, aerial cableway transporter or overhead runway, and also any part of any such appliance;

"lifting gear" (起重裝置) means a chain sling, rope sling, ring or similar gear, and a link, hook, plate clamp, shackle, swivel or eyebolt;

"maintained" (維修、保持) means maintained in an efficient state, in efficient working order and good repair;

"owner" (擁有人), in relation to any lifting appliance or lifting gear, includes the lessee or hirer thereof, and any overseer, foreman, agent or person in charge or having the control or management of the lifting appliance or lifting gear and, in the case of a lifting appliance situated on or used in connection with work on a construction site, also includes the contractor responsible for the construction site;

"raising or lowering or as a means of suspension" (升降或作懸吊之用) means raising or lowering or as a means of suspension of a load on a lifting appliance or lifting gear;

"repair" (修理) includes renewal, alteration or addition;

"safe working load" (安全操作負荷), in relation to a lifting appliance or to lifting gear, means either-

- (a) the appropriate safe working load for operating the lifting appliance or lifting gear as specified in the current certificate of test and thorough examination delivered in the approved form by a competent examiner in respect of that lifting appliance or lifting gear for the purposes of these regulations; or (L.N. 23 of 1994)
- (b) where no such certificate is required, the relevant safe working load shown in the table referred to in regulation 18(1)(b);

"thorough examination" (徹底檢驗) means a visual examination, carried out as carefully as the conditions permit in order to arrive at a reliable conclusion as to the safety of the parts examined, and if necessary for the purpose the visual examination

shall be supplemented if necessary by other means such as a hammer test and, parts of the lifting appliance or lifting gear shall be dismantled.

(2) For the purposes of these regulations, a contractor is responsible for a construction site if he is undertaking construction work there or, where there is more than one contractor undertaking construction work at the site, if he is the principal contractor undertaking construction work there.

(L.N. 285 of 1993)

Factories and Industrial Undertakings (Suspended Working Platforms) Regulation (Cap. 59 sub. leg. AC)

Chapter:	59AC	Title:	FACTORIES AND INDUSTRIAL UNDERTAKINGS (SUSPENDED WORKING PLATFORMS) REGULATION	Gazette Number:	
Section:	3	Heading:	Interpretation	Version Date:	30/06/1997

(1) In this Regulation, unless the context otherwise requires-

"climber" (爬升器) means a lifting appliance through which a suspension rope passes which is controlled either by friction grips or by turns of the rope round drums within the appliance and the lower end of which rope is not anchored to the climber;

"competent examiner" (合資格檢驗員), in relation to the carrying out of any thorough examination or load test and thorough examination required by this Regulation, means a person who is-

- (a) appointed by the owner required by this Regulation to ensure that such thorough examination or load test and thorough examination is carried out;
- (b) a registered professional engineer registered under the Engineers Registration Ordinance (Cap 409) within a relevant discipline specified by the Commissioner; and
- (c) by virtue of his previous experience, competent to carry out such thorough examination or load test and thorough examination;

"competent person" (合資格的人), in relation to any duty to be performed by such a person under this Regulation, means a person who is-

- (a) appointed by the owner to ensure that the duty is carried out; and
- (b) by reason of substantial training and practical experience, competent to perform the duty;

"construction site" (建築地盤) means a place where construction work is undertaken and also any area in the immediate vicinity of any such place which is used for the storage of materials or plant used or intended to be used for the purpose of the construction work; (80 of 1997 s. 102)

"lifting appliance" (起動機械) includes a winch, climber, chain block, hoisting block, pulley block or gin wheel used for raising or lowering, or as a means of suspension of, a suspended working platform;

"lifting gear" (起重裝置) includes a chain sling, wire rope sling or similar gear and a ring, link, hook, shackle, swivel or eyebolt;

"maintain" (維修) means maintain in safe working order and in good repair;

"owner" (擁有人), in relation to any suspended working platform, includes the lessee or hirer thereof, and any overseer, foreman, agent or person in charge or having the control or management of the suspended working platform and, in the case of a construction site, includes the contractor responsible for the construction site;

"repair" (修理) includes renewal, alteration or addition;

"safe working load" (安全操作負荷), in relation to a suspended working platform, means the safe working load for operating it as specified in the current certificate of thorough examination or load test and thorough examination given by a competent examiner;

"slung scaffold" (吊索式棚架) means a scaffold suspended by means of lifting gear, ropes or chains or rigid members and not provided with means of raising or lowering by a lifting appliance or similar device;

"suspended working platform" (吊船) means a scaffold (not being a slung scaffold) or a working platform suspended from a building or structure by means of lifting gear and capable of being raised or lowered by lifting appliances (but does not include a boatswain's chair or similar device), and includes all lifting appliances, lifting gear, counterweights, ballast, outriggers, other supports and the whole of the mechanical and electrical apparatus required in connection with the operation and safety of such a scaffold or working platform.

(2) For the purpose of this Regulation, a contractor is responsible for a construction site if he is undertaking construction work there or, where there is more than one contractor undertaking construction work at the site, if he is the principal contractor undertaking construction work there.

(Enacted 1994)

Factories and Industrial Undertakings (Loadshifting Machinery) Regulation (Cap. 59 sub.leg. AG)

Chapter:	59AG	Title:	FACTORIES AND INDUSTRIAL UNDERTAKINGS (LOADSHIFTING MACHINERY) REGULATION	Gazette Number:	L.N. 281 of 2000
Section:	2	Heading:	Interpretation	Version Date:	20/11/2000

(1) In this Regulation, unless the context otherwise requires-
 "certificate" (證書) means a certificate issued to a person by the organizer of a training course which evidences that, by virtue of his attendance at the training course designed for that purpose, he is trained and competent to operate a particular type of loadshifting machine;

"construction site" (建築地盤) has the meaning assigned to it by regulation 2(1) of the Construction Sites (Safety) Regulations (Cap 59 sub. leg.);

"fork-lift truck" (叉式起重車) means any self-propelled vehicle equipped with a mast along which travels a power-operated device for elevating and carrying loads;

"loadshifting machine" (負荷物移動機) means a power-operated mobile machine of a type specified in the Schedule and which is operated by a person riding on the machine;

"responsible person" (負責人), in relation to a loadshifting machine, means a person who is having the management or in charge of the machine but does not include a person who operates the machine and, in the case of a loadshifting machine situated on or used in connection with work on a construction site, also means the contractor responsible for the construction site;

"training course" (訓練課程) means a training course that is-

- (a) recognized by the Commissioner;
- (b) conducted for the purpose of instructing a person in the operation of a type of loadshifting machine; and
- (c) designed to ensure that a person is adequately trained and competent to operate a type of loadshifting machine.

(2) For the purposes of this Regulation, a contractor is responsible for a construction site if he is undertaking construction work there or, where there is more than one contractor undertaking construction work at the site, if he is the principal contractor undertaking construction work there.