

立法會

Legislative Council

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From : Clerk to the Legislative Council

To : All Members of the Legislative Council

Council meeting of 26 November 2003

**Proposed resolution under
the Factories and Industrial Undertakings Ordinance**

I forward for Members' consideration a proposed resolution which the Secretary for Economic Development and Labour will move at the Council meeting of 26 November 2003 under the Factories and Industrial Undertakings Ordinance. The President has directed that "it be printed in the terms in which it was handed in" on the Agenda of the Council.

2. The draft speech, in both English and Chinese versions, which the Secretary for Economic Development and Labour will deliver when moving the proposed resolution, is also attached.

(Ray CHAN)
for Clerk to the Legislative Council

Encl.

**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.

(Draft)

**Speech by Secretary for Economic Development and Labour
in moving the motion on
*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*
at the Legislative Council on 26 November 2003**

Madam President,

I move that the Factories and Industrial Undertakings (Lifting Appliances and Lifting Gear) (Amendment) Regulation 2003, the Factories and Industrial Undertakings (Suspended Working Platforms) (Amendment) Regulation 2003 and the Factories and Industrial Undertakings (Loadshifting Machinery) (Amendment) Regulation 2003 be approved.

2. The Amendment Regulations made by the Commissioner for Labour under Section 7 of the Factories and Industrial Undertakings Ordinance (“FIUO”) aim to extend the duties now imposed on the principal contractor of a construction site to other contractors and sub-contractors who have control over the use of these machines or equipment on the site.

3. Under the Construction Sites (Safety) Regulations (“CSSR”), a principal contractor is held primarily responsible for site safety and for any plant on the site where there are multiple contractors. Just a while ago, I have moved a motion to amend the CSSR to extend the duties

imposed on the principal contractor to other contractors and sub-contractors with a view to improving the overall safety performance on our construction sites.

4. Similar to the CSSR, the Factories and Industrial Undertakings (Lifting Appliances and Lifting Gear) Regulations (“LALGR”), the Factories and Industrial Undertakings (Suspended Working Platforms) Regulation (“SWPR”) and the Factories and Industrial Undertakings (Loadshifting Machinery) Regulation (“LMR”) also contain provisions holding the principal contractor primarily responsible for compliance with these regulations on construction sites. The principal contractor is held liable for breaches of these regulations even if the breaches are committed by other contractors or sub-contractors. We, therefore, recommend amending these regulations correspondingly to reflect the proposed changes to the CSSR.

5. We recommend amending the definition of “owner” in the LALGR and the SWPR and of “responsible person” in the LMR to include a contractor who has control over the way any construction work involving the use of the machines or equipment is carried out. The proposed amendments will not diminish the responsibility of the principal contractor as his status as an “owner” or a “responsible person” remains unchanged.

6. The proposed amendments will not bring about increased cost to the construction industry. The responsibilities of the principal contractor will be the same as before. For contractors and sub-contractors, as they already have a general duty to ensure the safety and health of their employees under the FIUO, the compliance costs incurred from the amendments will be minimal.

7. We propose that the Amendment Regulations come into effect

immediately after enactment.

8. We have consulted the Legislative Council Panel on Manpower and the Labour Advisory Board. They were supportive of the proposed amendments. I now urge Honourable Members to support my motion and pass the Amendment Regulations.

9. Madam President, I beg to move.