



註冊小型工程承建商簽署人協會有限公司
Registered Minor Works Contractor Signatory Association Ltd.

電郵及手遞

傳真: 2185 7845

致 立法會
人力事務委員會
張超雄主席

<勞工處建議修例提高職安健罰則>

各位議員好，本會對勞工處是次修例安排非常失望，諮詢手法好有問題，選擇性邀請持份者諮詢。職安健修例牽涉行業甚廣，建造業/貨倉/碼頭/酒樓食肆廚房/醫院/交通運輸業等等，諮詢時間很短就提交立法會。

勞工處原定3月22日諮詢會突然取消，本會已經去信查問及安排集會，並已經申請警方不反對通知書，到現在勞工處尚未回覆是否取消3月22日諮詢會，各種手段不應是一個政府部門處事方式。

本會現正致函立法會<人力事務委員會>，反對勞工處是次修例提高職安健罰則，並要求勞工處撤回文件。

如有任何問題可致電黃永華 [REDACTED]，謝謝。



委員會主席

2019年3月17日

副件：給梁永恩副處長信件
業界提供初步分析表



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電郵及郵寄

致 勞工處
 職業安全及健康
 梁永恩副處長

2019年3月11日職業安全及健康法例的罰則會議

並已經在會上遞交本會書面意見：

- (A) 本會支持提升職業安全及健康條例，減少工業傷亡。
- (B) **諮詢文件第六點**
實際判刑偏低
 處方對法庭判刑偏低，處方有否向法庭提出上訴或提供數字給我們參考
- (C) **諮詢文件第九點**
進一步改善職安健表現
 處方多年來有增撥資源，加入強制課程，向 RMAA 僱主及工人提升職安健意識
- (D) **諮詢文件第十九點**
 針對僱主/東主 6A 一般責任修文修訂有第 19 項、20 項、22 項，而 /6B 第 20 項中只提罰款統一至 5 萬
 我指出 6A 大幅修改，而有關工人 6B 就沒有修改
- (E) **諮詢文件第十五點**
最高罰款金額與被定罪單位的營業額掛鈎百分之十，完全不能接受
- (F) 對於勞工處是次修例諮詢文件，本會要求勞工處撤回諮詢文件



委員會主席
 2019年3月16日

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Raising Penalties of Occupational Safety and Health Legislation - Consultation Paper Summary

提高 Occupational Safety and Health ("OSH") related legislation
E. Factories and Industrial Undertakings Ordinance ("FIUO") - Cap. 59
工廠及工業操作條例 - 第59章
F. Occupational Safety and Health Ordinance ("OSHO") - Cap. 507
職業安全健康條例 - 第507章

修訂條文的修訂 修訂條文 REG provisions Key provisions under both Ordinances	修訂條文 Revised Provisions	Revised penalty	現行罰則級別 - 最高 Current maximum fine - FIOU	建議罰則級別 - 最高 Proposed maximum fine - OSHO	建議修訂 Suggested maximum imprisonment term	若修訂 If proposed provisions are enacted	若修訂條文生效 Subject to Seriousness Consideration	備註 Remarks
8	一般責任 - 僱主/雇主的僱用或租入的一項責任 - 僱主須採取合理措施確保其僱員安全 1. 安全的工作系統和安全的作業環境 2. 提供安全設備 - 護欄 - 警告標語等	"Adopt the new fines to HK\$20,000 as both FIOU and OSHO before making further adjustment" "Current contraventions of these regulations are necessary offences (嚴重罪行)" "In order to assured the OSH provisions for employers/ proprietors/ occupiers of premises that they can be involved in (可被控罪行) for extremely serious cases (only include fatal or serious injury cases) involving extremely high culpability or serious negligence and leading to serious consequences. Offences can be defined as willful or recklessness or omissions."	200,000.00 and 500,000.00	3,000,000.00	6 months	2 years	No	Things to be considered: 1. Examples of extremely serious cases 2. Definition of serious injury 3. Definition of Turnover (gross income)? Net income? Net income before Land Rent Income after tax?
	General Duty provisions - in the OSH legislation require employers/ proprietors/ occupiers of premises to take care of their employees (which includes: 1. the provision of safe systems of work and plant 2. necessary safety supervision, training, instruction and information etc.)	"For prosecutions taken out in summary offences, the timebar for issuing summonses will be extended from 6 months to 1 year"						"Whether or not prosecution will eventually be taken out for a particular case as an indictable offence will depend on specific details of the case, evidence collected by LO, OSH's private and public release considerations."
	一般責任 - 僱主須採取合理措施確保其僱員安全 General Duty provisions - basic OSH duties of employers to take care of themselves and other persons	"Align the case, fine to HK\$50,000 before making further adjustment" "max fines across-the-board to increase 3 times"	10,000.00, 25,000.00 and 50,000.00	150,000.00	Subject to the respective provisions	remain unchanged	No	
6	如果不得因於執行或協助執行修訂條文 1. 禁止因於執行或協助執行修訂條文	"max fines across-the-board to increase 3 times"	500,000.00	1,500,000.00	Subject to the respective provisions	remain unchanged	No	
	breach of the requirement of suspension notice 2. 禁止因於提供或協助提供通知書	"max fines across-the-board to increase 3 times" Daily"	50,000.00	150,000.00	Subject to the respective provisions	remain unchanged	No	
	Continuous breach of the requirement of suspension notice 3. 持續的罪行	"max fines across-the-board to increase 3 times" Daily"	5,000.00	15,000.00	Subject to the respective provisions	remain unchanged	No	
	A continuing offence A. 延遲完全或只延遲部分安全裝置或設施人沒有按照修訂條文的個人罪行 B. Registered safety officers or the registered safety trade scheme operators do not record a personal data within the time limit	"max fines across-the-board to increase 3 times" Daily"	2,000.00	6,000.00	Subject to the respective provisions	remain unchanged	No	
649	其他修訂 Other provisions	"To keep the penalty in accordance with the seriousness of the offence" "To re-align the seriousness categories of 112 provisions which resulting in ailing or lowering the seriousness of offences" "To keep the reliability of the 2 or 3 levels of max fines" "i.e. minor offences vs serious offences vs and serious offences vs very serious offences i.e. LA" "max fine across-the-board to increase 3 times"	15,000.00 50,000.00 200,000.00	45,000.00 150,000.00 600,000.00	Subject to the respective provisions	remain unchanged	Yes	Minor Offences Serious Offences Very Serious Offences 4 factors to determine the seriousness of the offences 1. 罪行是否直接造成員工受傷 2. 受傷的嚴重程度 3. 受害者的數目 4. 受害者的程度
								1. whether the offences directly cause harm to employees
								2. seriousness of the harm caused by the offences
								3. seriousness of the harm