

Chapter:	509	OCCUPATIONAL SAFETY AND HEALTH ORDINANCE	Gazette Number	Version Date
----------	-----	---	----------------	--------------

		Long title		30/06/1997
--	--	-------------------	--	------------

An Ordinance to ensure the safety and health of persons when they are at work, to provide for related matters, and to consequentially amend the Factories and Industrial Undertakings Ordinance and the Administrative Appeals Board Ordinance.

[The Ordinance, other than sections 6, 7 and 8	}	23 May 1997	<i>L.N. 281 of 1997</i>
Sections 6, 7 and 8	}	1 June 1998	<i>L.N. 230 of 1998</i>

(Originally 39 of 1997)

Part:	I	PRELIMINARY		30/06/1997
-------	---	--------------------	--	------------

Section:	1	Short title		30/06/1997
----------	---	--------------------	--	------------

- (1) This Ordinance may be cited as the Occupational Safety and Health Ordinance.
- (2) (Omitted as spent)

Section:	2	Purposes of Ordinance		30/06/1997
----------	---	------------------------------	--	------------

The purposes of this Ordinance are as follows-

- (a) to ensure the safety and health of employees when they are at work;
- (b) to prescribe measures that will contribute to making the workplaces of employees safer and healthier for them;
- (c) to improve the safety and health standards applicable to certain hazardous processes, plant and substances used or kept in workplaces;
- (d) generally to improve the safety and health aspects of working environments of employees.

Section:	3	Interpretation	54 of 2000	01/07/1997
----------	---	-----------------------	------------	------------

Remarks:

Adaptation amendments retroactively made - see 54 of 2000 s. 3

- (1) In this Ordinance, unless the context otherwise requires-
"activity" (活動) includes operation and process;
"Appeal Board" (上訴委員會) means the Administrative Appeals Board established under section 5 of the Administrative Appeals Board Ordinance (Cap 442);
"bodily injury" (身體傷害) includes injury to health;
"Commissioner" (處長) means the Commissioner for Labour;
"court" (法庭) includes a magistrate;
"dangerous occurrence" (危險事故) means an occurrence of a kind specified in Schedule 1;
"domestic premises" (住宅處所) means premises occupied as a private dwelling;
"domestic servant" (家庭傭工) has the same meaning as in the Employment Ordinance (Cap 57);
"employee" (僱員) means a natural person who works under a contract of employment or apprenticeship, but does not include a domestic servant;
"employer" (僱主) means a person who employs natural persons under contracts of employment or apprenticeship;

"function" (職能) includes a power and a duty;

"identity card" (身分證) means an identity card issued under the Registration of Persons Ordinance (Cap 177);

"improvement notice" (敦促改善通知書) means a notice served under section 9;

"occupational safety officer" (職業安全主任) means a public officer designated as such under section 20 or a person taken to be so designated because of that section;

"occupier" (佔用人), in relation to any premises or workplace, includes a person who has any degree of control over the premises or workplace and, in particular, includes a person to whom subsection (5) or (6) applies;

"offence of strict liability" (嚴格法律責任罪行) means an offence in relation to the prosecution of which it is not necessary for the prosecutor to prove-

(a) that the defendant did the act or omission constituting the offence intentionally, knowingly or recklessly; or

(b) that the defendant had knowledge of any specific ingredient of the offence;

"person responsible" (負責人), in relation to a workplace, has the meaning given by subsection (2);

"plant" (作業裝置) includes machinery, equipment, appliances, furniture, furnishings and fittings;

"premises" (處所) includes any vehicle and any public place, and also includes a part of particular premises;

"public analyst" (公職分析員) means the Government Chemist, the Government Pathologist or any analyst appointed in writing by the Chief Executive for the purposes of this Ordinance; (Amended 54 of 2000 s. 3)

"public place" (公眾地方) means-

(a) any public street, pier or public garden; or

(b) the permanent way of a railway; or

(c) any part of the territorial sea or any publicly navigable waterway; or

(d) any part of the airspace above Hong Kong; or

(e) any other place to which people are entitled to have access whether with or without payment;

"record" (紀錄) includes information recorded in electronic form;

"regulation" (規例) means a regulation under this Ordinance;

"serious bodily injury" (嚴重身體傷害), in relation to a person, includes any bodily injury that results in the person's admission at a hospital or clinic for treatment or observation;

"substance" (物質) means a natural or artificial substance, whether in the form of a solid, liquid, gas or vapour;

"suspension notice" (暫時停工通知書) means a notice served under section 10;

"vessel" (船隻) has the same meaning as in section 2 of the Shipping and Port Control Ordinance (Cap 313);

"work" (工作) means work as an employee;

"workplace" (工作地點) means any place where employees work, but does not include any of the following-

(a) an aircraft or vessel when located in a public place;

(b) when a vehicle that is designed or used for the carriage of people, animals or goods is located in a public place, the seat or position normally occupied by the driver of the vehicle;

(c) domestic premises at which the only employees are domestic servants;

(d) a place at which only self-employed persons work;

(e) any other place of a kind prescribed by a regulation for the purposes of this paragraph;

"workplace code of practice" (工作地點工作守則) means a code of practice issued under section 40(1) and, if such a code has been amended, means the code as amended.

(2) For the purposes of this Ordinance, the person responsible for a workplace is the employer of the employees who are employed to carry out work there, or if the employer does not exercise any degree of control over the relevant part or aspect of the workplace, means the occupier of the workplace.

(3) For the purposes of this Ordinance, risks arising out of the activities of persons at work are taken to include risks attributable to the manner of conducting an undertaking, risks attributable to the plant or substances used in connection with an undertaking and risks attributable to the condition of premises so used.

(4) For the purposes of this Ordinance, a person is at work only during the time when the person is actually at a workplace. However, a person is not to be regarded as being at work at a workplace for those purposes when the person is being conveyed as a passenger in a vehicle referred to in paragraph (b) of the definition of "workplace" in circumstances no different from those applicable to persons being so conveyed who are not at work at a workplace.

- (5) A person who, under a lease or contract, has an obligation for-
- (a) the maintenance or repair of premises; or
 - (b) the safety of, or the absence of risks to health arising from the condition or use of, any plant or substance located on premises,

is taken to be an occupier of the premises for the purposes of this Ordinance.

(6) A person who, under a lease or contract, has an obligation to provide, maintain or repair a means of access to, or egress from, premises is taken to be an occupier of the premises for the purposes of this Ordinance.

(7) Subsections (5) and (6) do not apply to persons in their capacity as occupiers of domestic premises.

Section:	4	Application of Ordinance to certain persons		30/06/1997
----------	---	--	--	------------

This Ordinance applies to independent contractors and self-employed persons only in their capacity as employers or as occupiers of premises where workplaces are located.

Section:	5	Ordinance to bind Government		30/06/1997
----------	---	-------------------------------------	--	------------

(1) This Ordinance binds the Government.

(2) Neither the Government nor any public officer in the officer's capacity as such is liable to be prosecuted for an offence against this Ordinance.

Part:	II	RESPONSIBILITY FOR SAFETY AND HEALTH OF EMPLOYEES AT WORK	L.N. 230 of 1998	01/06/1998
-------	----	--	------------------	------------

Section:	6	Employers to ensure safety and health of employees	L.N. 230 of 1998	01/06/1998
----------	---	---	------------------	------------

(1) Every employer must, so far as reasonably practicable, ensure the safety and health at work of all the employer's employees.

(2) The cases in which an employer fails to comply with subsection (1) include (but are not limited to) the following-

- (a) a failure to provide or maintain plant and systems of work that are, so far as reasonably practicable, safe and without risks to health;
- (b) a failure to make arrangements for ensuring, so far as reasonably practicable, safety and absence of risks to health in connection with the use, handling, storage or transport of plant or substances;
- (c) a failure to provide such information, instruction, training and supervision as may be necessary to ensure, so far as reasonably practicable, the safety and health at work of the employer's employees;
- (d) as regards any workplace under the employer's control-
 - (i) a failure to maintain the workplace in a condition that is, so far as reasonably practicable, safe and without risks to health; or
 - (ii) a failure to provide or maintain means of access to and egress from the workplace that are, so far as reasonably practicable, safe and without any such risks;
- (e) a failure to provide or maintain a working environment for the employer's employees that is, so far as reasonably practicable, safe and without risks to health.

(3) An employer who fails to comply with subsection (1) commits an offence and is liable on conviction to a fine of \$200000.

(4) An employer who fails to comply with subsection (1) intentionally, knowingly or recklessly commits an offence and is liable on conviction to a fine of \$200000 and to imprisonment for 6 months.

Section:	7	Occupier of premises to ensure safety and health of persons employed at those premises	L.N. 230 of 1998	01/06/1998
----------	---	---	------------------	------------

(1) If an employee's workplace is located on premises that are not under the control of the employee's employer, the occupier of the premises must ensure that-

- (a) the premises; and

- (b) the means of access to and egress from the premises; and
 - (c) any plant or substances kept at the premises,
- are, so far as reasonably practicable, safe and without risks to health.

(2) An occupier who fails to comply with subsection (1) commits an offence and is liable on conviction to a fine of \$200000.

(3) An occupier who fails to comply with subsection (1) intentionally, knowingly or recklessly commits an offence and is liable on conviction to a fine of \$200000 and to imprisonment for 6 months.

Section:	8	Employees at work to take care of others and to co-operate with employer	L.N. 230 of 1998	01/06/1998
----------	---	---	------------------	------------

(1) An employee while at work-

- (a) must, so far as reasonably practicable, take care for the safety and health of persons (including the employee) who are at the employee's workplace and who may be affected by the employee's acts or omissions at work; and
- (b) as regards any requirement imposed in the interests of safety or health on the employee's employer or any other person by this or any other Ordinance, must, so far as reasonably practicable, co-operate with the employer or other person so far as may be necessary to enable the requirement to be complied with.

(2) An employee who fails to comply with subsection (1) commits an offence and is liable on conviction to a fine at level 3.

(3) An employee who fails to comply with subsection (1) intentionally, knowingly or recklessly commits an offence and is liable on conviction to a fine at level 5 and to imprisonment for 6 months.

Part:	III	ENFORCEMENT		30/06/1997
-------	-----	--------------------	--	------------

Section:	9	Commissioner may serve improvement notice on employer or occupier		30/06/1997
----------	---	--	--	------------

(1) The Commissioner may serve an improvement notice on an employer, or an occupier of premises where a workplace is located, if of the opinion that the employer or occupier-

- (a) is contravening this Ordinance or the Factories and Industrial Undertakings Ordinance (Cap 59); or
- (b) has contravened either of those Ordinances in circumstances that make it likely that the contravention will be continued or repeated.

(2) An improvement notice must-

- (a) be in writing; and
- (b) identify the employer or occupier concerned; and
- (c) state that the Commissioner is of the opinion that the employer or occupier is contravening this Ordinance or the Factories and Industrial Undertakings Ordinance (Cap 59), or has contravened either of those Ordinances in circumstances referred to in subsection (1)(b); and
- (d) specify the provision of this Ordinance or the Factories and Industrial Undertakings Ordinance (Cap 59) in relation to which the Commissioner has formed that opinion; and
- (e) require the employer or occupier either-
 - (i) to remedy the contravention within a period specified in the notice; or
 - (ii) to refrain from continuing or repeating the contravention.

(3) The period specified in subsection (2)(e)(i) must be a reasonable one having regard to the requirement imposed on the employer or occupier concerned.

(4) The Commissioner may, by notice in writing served on the employer or occupier concerned, amend or revoke an improvement notice or suspend its operation.

(5) An employer or occupier who, without reasonable excuse, fails to comply with a requirement of an improvement notice commits an offence and is liable on conviction to a fine of \$200000 and to imprisonment for 12 months.

(6) In proceedings for an offence against subsection (5), the defendant has a reasonable excuse for not complying with a requirement of an improvement notice if the defendant establishes that it was not reasonably practicable to comply with the requirement.

Section:	10	Commissioner may serve suspension notice on employer or occupier		30/06/1997
----------	----	---	--	------------

(1) The Commissioner may serve a suspension notice on an employer who is responsible for, or on an occupier of, premises where a workplace is located, if of the opinion that because of-

- (a) an activity undertaken on the premises; or
- (b) the condition or use of the premises or of any plant or substance located on the premises,

there is an imminent risk of death or serious bodily injury.

(2) A suspension notice must-

- (a) be in writing; and
- (b) identify the employer or occupier concerned; and
- (c) specify the matters that, in the Commissioner's opinion, create, or are likely to create, a risk of death or serious bodily injury; and
- (d) direct the activity not to be undertaken, or the premises, plant or substance not to be used, while the notice remains in force.

(3) A suspension notice takes effect on the date on which it is served, or on such later date as is specified in the notice, and, except when its operation is suspended, remains in force until it is revoked.

(4) Where a suspension notice is in force in relation to an activity, premises, plant or a substance, the Commissioner must, by notice in writing served on the employer or occupier concerned, revoke the suspension notice on being satisfied that-

- (a) the undertaking of the activity on the premises; or
 - (b) the condition or use of the premises, or of any plant or substance located on the premises,
- no longer creates, and is no longer likely to create, an imminent risk of death or serious bodily injury.

(5) The Commissioner may, by notice in writing served on the employer or occupier concerned, amend a suspension notice or suspend its operation.

(6) An employer or occupier who, without reasonable excuse, contravenes a suspension notice commits an offence and is liable on conviction-

- (a) to a fine of \$500000 and to imprisonment for 12 months; and
- (b) to a further fine of \$50000 for each day or part of a day during which the offender knowingly and intentionally continues the contravention.

Section:	11	Right of employer or occupier to have suspension notice reviewed		30/06/1997
----------	----	---	--	------------

(1) Within 28 days after being served with a suspension notice, the employer or occupier concerned may make an application in writing to the Commissioner for a review of the notice.

(2) An application must-

- (a) be in writing; and
- (b) specify the grounds on which it is based.

(3) Within 14 days after receiving an application for the review of a suspension notice, the Commissioner must determine the application either by confirming the notice or by revoking or varying it.

(4) As soon as practicable after determining an application for the review of a suspension notice, the Commissioner must, by written notice, inform the applicant of the decision. If the suspension notice is not revoked as a result of the review, the decision must contain a statement of the reasons for the decision.

(5) A suspension notice is taken to be revoked if the Commissioner fails to determine an application for its review within 14 days after receiving the application.

(6) Subject to subsection (5), the operation of a suspension notice is not affected by the making of an application under this section or the lodgement of an appeal under section 12.

Section:	12	Employer or occupier may appeal to Appeal Board against Commissioner's decision		30/06/1997
----------	----	--	--	------------

(1) An employer or occupier affected by a decision of the Commissioner under section 11 may appeal to the Appeal Board against the decision.

(2) An appeal must be lodged with the Appeal Board within 28 days after the decision is notified in writing to the employer or occupier concerned.

(3) On the hearing of an appeal under this section relating to a suspension notice, the Appeal Board may do one of the following-

- (a) revoke the notice on the grounds that the circumstances that gave rise to the service of the notice have ceased to exist or that the directions contained in the notice are unreasonable;
- (b) if satisfied that the circumstances that gave rise to the service of the notice continue to exist, modify the notice on the ground that the directions contained in the notice are unreasonable;
- (c) refuse the appeal on the grounds that the circumstances that gave rise to the service of the notice continue to exist and that the directions contained in the notice are reasonable.

Part:	IV	WORKPLACE ACCIDENTS AND OCCUPATIONAL DISEASES		30/06/1997
-------	----	--	--	------------

Section:	13	Person responsible for workplace to notify accidents and other matters		30/06/1997
----------	----	---	--	------------

(1) If-

- (a) an accident occurs at a workplace; and
- (b) the accident causes the death of, or serious bodily injury to, an employee,

the person responsible for the workplace must notify the accident to an occupational safety officer within 24 hours after the time when the accident occurred.

(2) If-

- (a) notification of an accident under subsection (1) is not contained in a written report that contains the particulars required by subsection (3); or
- (b) an employee who is a victim of an accident that has occurred at a workplace (other than an accident notified under subsection (1)) has been incapacitated by the accident,

the person responsible for the workplace must in writing report the accident to an occupational safety officer within 7 days after the date of the accident.

(3) A report prepared for the purposes of subsection (2) must contain the following particulars-

- (a) the name and principal business address of the occupier of the premises concerned;
- (b) if the victim is an employee of an employer who is not the occupier of the premises, the name and principal business address of the employer;
- (c) the name, residential address, gender, identity card number, age (if known) and occupation (if any) of the victim of the accident;
- (d) details of the industrial, commercial or other activities carried on at the workplace;
- (e) particulars of the accident, including the injury and whether death or incapacity ensued and the activity that the victim was engaged in at the time of the accident.

(4) A report of an accident is not required under subsection (3) if notice of the accident has been given in accordance with section 15 of the Employees' Compensation Ordinance (Cap 282).

(5) If a victim of an accident that occurred at a workplace dies after the accident has been notified or reported in accordance with this section, the person responsible for the workplace must, within 24 hours after becoming aware of the death, report the death to an occupational safety officer and to the police officer in charge of the police station nearest to the workplace. The report can be made orally or in writing.

(6) A person responsible for a workplace who fails to comply with a requirement of this section commits an offence and is liable on conviction to a fine at level 5.

(7) In this section-

"accident" (意外) includes any event that detrimentally affects the health of a person;

"incapacitated" (喪失工作能力), in relation to a victim of an accident, means that the victim is permanently or temporarily incapacitated from working in any capacity in which, but for the accident, the victim would have been capable of working.

(8) For the purposes of this section, a victim of an accident is incapacitated from working only if the incapacity prevents the victim from working for at least 3 days.

Section:	14	Occupier of relevant premises to report dangerous occurrence to occupational safety officer		30/06/1997
----------	----	--	--	------------

(1) The occupier of premises where a workplace is located must report to an occupational safety officer any dangerous occurrence that occurs at the workplace.

(2) The report must be in writing and be lodged within 24 hours after the dangerous occurrence concerned.

(3) The report must contain the following particulars-

(a) the time of the occurrence;

(b) particulars of damage to, or the destruction of, property;

(c) the circumstances of the occurrence.

(4) This section must be complied with even though the occurrence has been notified or reported in accordance with section 13.

(5) An occupier of premises who fails to comply with a requirement of this section commits an offence and is liable on conviction to a fine at level 5.

Section:	15	Medical practitioner to notify occupational disease to Commissioner		30/06/1997
----------	----	--	--	------------

(1) If, on examining an employee or a former employee or the body of a person who was immediately before the death an employee or former employee, a medical practitioner-

(a) finds or suspects that the employee or former employee is or was suffering from an occupational disease specified in Schedule 2; and

(b) believes that the disease was or may have been attributable to an occupation specified in column 3 of that Schedule,

the practitioner must notify the finding or suspicion to the Commissioner.

(2) The notification must be in writing and on a form provided or approved by the Commissioner and must be lodged as soon as practicable after the conclusion is formed.

(3) A medical practitioner who, without reasonable excuse, fails to comply with this section commits an offence and is liable on conviction to a fine at level 3.

Section:	16	Holding of informal inquiry into workplace accident or dangerous occurrence		30/06/1997
----------	----	--	--	------------

(1) Whenever an accident or dangerous occurrence occurs in a workplace, the Commissioner may arrange for an inquiry to be held to determine the causes of the accident or occurrence and the circumstances in which it occurred.

(2) An occupational safety officer designated by the Commissioner is to conduct the inquiry.

(3) The occupational safety officer designated to conduct an inquiry is required to conduct the inquiry in an informal manner and to report the findings of the inquiry to the Commissioner. The report must be in writing.

(4) The occupational safety officer conducting an inquiry may terminate the inquiry if, in the course of the inquiry, that officer considers that it is not possible to conclude the inquiry-

(a) because a person who appears to that officer to have relevant information or relevant documents is unable or unwilling-

(i) to provide the information; or

(ii) to produce the documents; or

(iii) to answer questions about any relevant matter; or

(b) for any other reason.

(5) On terminating an inquiry under subsection (4), the occupational safety officer concerned must notify the termination to the Commissioner. The notice must be in writing and must state the reasons for the termination.

(6) This section applies to an accident or dangerous occurrence whether or not it involves the death of, or bodily injury to, a person.

Section:	17	Holding of formal inquiry into workplace accident or dangerous occurrence	25 of 1998 s. 2	01/07/1997
----------	----	--	-----------------	------------

Remarks:

Amendments retroactively made-see 25 of 1998 s. 2

(1) On receiving a termination notice under section 16, the Commissioner may arrange for an inquiry to be held into the causes of the accident or dangerous occurrence and the circumstances in which it occurred.

(2) The Commissioner may conduct the inquiry personally or designate a deputy commissioner for labour to conduct it.

(3) The Commissioner or the deputy commissioner for labour conducting the inquiry may-

- (a) examine witnesses and parties on oath; and
- (b) by notice in writing, direct the attendance at the inquiry of witnesses in order to give evidence or to produce documents or other material evidence.

(4) A person cannot be required to produce at an inquiry any document or other material evidence that the person could not be required to produce in civil proceedings before a court.

(5) The Commissioner or the deputy commissioner for labour conducting an inquiry is not bound by the rules of evidence and can receive any evidence that appears to be relevant to determining the matters being inquired into.

(6) A person who-

- (a) without reasonable excuse, fails to attend to give evidence or produce documents or other material evidence at an inquiry after being required to do so; or
- (b) on attending the inquiry-
 - (i) refuses to answer a question put to the person or to produce a document or other material evidence that is in the possession or under the control of the person; or
 - (ii) in answer to a question put to the person, provides information that is to the person's knowledge false or misleading; or
 - (iii) produces a document or other material evidence that is to the person's knowledge false or misleading,

commits an offence and is liable on conviction to a fine at level 5 and to imprisonment for 3 months.

(7) A person to whom a question is put at an inquiry is not excused from answering the question on the ground that the answer might tend to incriminate the person.

(8) However, neither the question nor the answer is admissible in evidence against the person in criminal proceedings (other than proceedings charging the person with having committed in relation to the answer perjury under section 31 of the Crimes Ordinance (Cap 200) or an offence under subsection (6)(b)(ii))-

- (a) if the person claims before answering the question that the answer might tend to incriminate the person; or
- (b) if the person's entitlement to make such a claim was not brought to the person's attention before the question was answered.

(9) A person giving evidence or producing a document or other material evidence at an inquiry is, subject to subsection (7), entitled to the same privileges and immunities as a witness in civil proceedings before the Court of First Instance. (Amended 25 of 1998 s. 2)

(10) A person who, at an inquiry, behaves in an insulting or threatening manner towards another person, commits an offence and is liable on conviction to a fine at level 5 and to imprisonment for 3 months.

Section:	18	Coronial inquest not affected by inquiry under section 17		30/06/1997
----------	----	--	--	------------

The holding of an inquiry under section 17 does not affect the holding of an inquiry under the Coroners Ordinance (Cap 14).

Part:	V	APPOINTMENT AND FUNCTIONS OF OFFICERS		30/06/1997
-------	---	--	--	------------

Section:	19	Appointment of officers to administer Ordinance	54 of 2000	01/07/1997
----------	----	--	------------	------------

Remarks:

Adaptation amendments retroactively made - see 54 of 2000 s. 3

(1) The Chief Executive may appoint a Commissioner for Labour and such other officers as the Chief Executive considers necessary for the administration and enforcement of this Ordinance and the Factories and Industrial Undertakings Ordinance (Cap 59). (Amended 54 of 2000 s. 3)

(2) Persons holding office under section 3 of the Factories and Industrial Undertakings Ordinance (Cap 59) immediately before the commencement of this section are taken to be appointed under subsection (1) on the same terms and with the same entitlements as those applicable to those persons immediately before that commencement.

Section:	20	Commissioner may assign designations to officers		30/06/1997
----------	----	---	--	------------

(1) The Commissioner may designate as occupational safety officers any of the officers appointed or taken to be appointed under section 19.

(2) The Commissioner may also assign ranks to those officers and designations and ranks to other officers so appointed or taken to be so appointed.

(3) The Commissioner is, by virtue of holding office as such, an occupational safety officer.

(4) Persons who are taken to be appointed under section 19 and who, immediately before the commencement of this section, were inspectors within the meaning of the Factories and Industrial Undertakings Ordinance (Cap 59) are taken to be occupational safety officers.

(5) The following persons are also occupational safety officers-

- (a) every health officer;
- (b) any other public officer authorized in writing by the Commissioner, either generally or specially for a specific purpose or occasion, to exercise and perform the functions of an occupational safety officer.

Section:	21	Exercise or performance of functions by occupational safety officers		30/06/1997
----------	----	---	--	------------

(1) The Commissioner is required to issue a certificate of authority to each occupational safety officer (other than the Commissioner or a health officer).

(2) A certificate of authority must-

- (a) state that it is issued under this Ordinance; and
- (b) give the name of the person to whom it is issued; and
- (c) describe the nature of the functions conferred or imposed on the person; and
- (d) state that it is issued with the Commissioner's authority.

(3) When exercising or performing a function under this Ordinance or any other Ordinance, an occupational safety officer-

- (a) may be accompanied and assisted by such persons as the officer reasonably requires in order to exercise or perform the function; and
- (b) must, if required to do so, produce for inspection the officer's certificate of authority.

(4) Subsection (3)(b) does not apply to the Commissioner or a health officer, but, when exercising or performing a function of an occupational safety officer, the Commissioner or a health officer must, if required to do so, produce for inspection evidence of his or her appointment as such.

Section:	22	Power to enter premises where workplace is located		30/06/1997
----------	----	---	--	------------

(1) An occupational safety officer may, without warrant, enter and inspect premises if the officer believes on reasonable grounds that-

- (a) the premises are being used as a workplace; or
- (b) a contravention of this Ordinance is being or has been committed on the premises.

(2) A magistrate may, on the application of the Commissioner, issue a warrant authorizing an occupational safety officer to enter premises with such force as may be necessary if the magistrate is satisfied, on sworn information-

- (a) that-
 - (i) an occupational safety officer has sought admission to those premises but admission has been refused; or

- (ii) refusal of admission to the premises is reasonably expected; or
- (iii) the premises are unoccupied; or
- (iv) the case is one of urgency; and

(b) that there is a good reason for an occupational safety officer to enter the premises.

(3) On leaving unoccupied premises entered in accordance with this section, an occupational safety officer must ensure that they are as effectively secured against trespassers as the officer found them at the time of entry.

(4) A warrant issued under this section continues in force for 1 month or until the purpose for which entry is required has been fulfilled, whichever first occurs.

Section:	23	Powers of occupational safety officers who have entered premises		30/06/1997
----------	----	---	--	------------

(1) An occupational safety officer who has entered premises under section 22 may do all or any of the following-

- (a) seize any article that the officer reasonably believes to be evidence of a contravention of this Ordinance;
- (b) conduct tests or examinations of any plant or substance found on the premises;
- (c) conduct tests to determine the atmospheric or other physical condition of the environment of the premises;
- (d) if the officer reasonably believes that any substance found on the premises could prejudice the safety or health of employees who work on the premises, take samples of the substance for analysis;
- (e) take photographs of the premises or of any plant or substance found on the premises;
- (f) if the officer is a medical practitioner, carry out a medical examination of a person (but only with the person's consent);
- (g) require the occupier of the premises or any person who is apparently an employee or agent of that occupier to provide the officer with such assistance and facilities as is or are reasonably necessary to enable the officer to exercise or perform the officer's functions;
- (h) require any person found on the premises to produce for inspection the person's identity card if the officer reasonably suspects that the person has committed an offence against this Ordinance or is able to provide evidence of the commission of such an offence;
- (i) require any person on the premises to produce for inspection records under the control of the person relating to the safety or health of employees employed at the premises and, if any such records are not in the English or Chinese language, to produce a statement in writing in English or Chinese setting out the contents of those records;
- (j) make copies of all or any part of any such records or statements.

(2) An occupational safety officer who proposes to take a sample of a substance that is capable of being easily divided into parts must tell the occupier of the premises concerned or, if that occupier is not available, the person apparently in charge of those premises that that occupier or person is entitled to request the sample to be divided in accordance with subsection (3).

(3) If such a request is made to an occupational safety officer, the officer must-

- (a) divide the sample into 3 more or less equal parts; and
- (b) give one part of the sample to the person by whom or on whose behalf the request was made; and
- (c) submit another part to a public analyst for analysis; and
- (d) retain the third part for future comparison.

(4) In legal proceedings arising under this Ordinance, a certificate, purporting to be signed by or with the authority of the public analyst by whom or under whose supervision a sample submitted for analysis under this section was analysed and stating the results of the analysis, is admissible in evidence in those proceedings.

(5) A person who, for commercial purposes, uses the results of an analysis of a part of a sample submitted for analysis under this section commits an offence and is liable on conviction to a fine at level 3.

(6) An occupational safety officer may-

- (a) in order to make copies of records or statements produced in accordance with this section, take away and retain them for such period as may be reasonably necessary; and
- (b) if the officer reasonably believes that the records or statements are evidence of an offence against this Ordinance, take away and retain them until proceedings for the offence have been heard and finally determined.

(7) Before taking away records or statements, an occupational safety officer must tender a receipt to the person from whose custody they are taken. The officer must give that person, or any person authorized by that person, access to the documents during the Labour Department's ordinary hours of business.

Section:	24	Occupational safety officer may request certain information		30/06/1997
----------	----	--	--	------------

(1) An occupational safety officer may request a person to provide-

- (a) information that may identify the occupier of premises that the officer reasonably believes to be a workplace; or
- (b) information that may assist the officer to determine whether or not a contravention of this Ordinance is being or has been committed,

but only if the officer reasonably believes that the person has that information and cannot reasonably obtain the information from another source.

(2) A person who-

- (a) without reasonable excuse, refuses to comply with a request made to the person under subsection (1); or
- (b) in response to such a request, provides information that the person knows or ought reasonably to know is false or misleading,

commits an offence and is liable on conviction to a fine at level 5.

(3) A person does not have a reasonable excuse for refusing to comply with a request made under subsection (1) only because provision of the information might tend to incriminate the person. However, neither the request nor the information is admissible in criminal proceedings (other than proceedings charging the person with having committed in relation to the provision of the information an offence under subsection (2))-

- (a) if, before complying with the request, the person claims that the information provided might tend to incriminate the person; or
- (b) if the person's entitlement to make such a claim was not brought to the person's attention before the request was complied with.

(4) The power conferred by this section may be exercised whether or not the occupational safety officer concerned is on premises entered in accordance with section 22.

Section:	25	Occupational safety officer may require responsible person to exhibit notice in workplace		30/06/1997
----------	----	--	--	------------

(1) An occupational safety officer may require the person responsible for a workplace to exhibit at the workplace any specified notice relevant to-

- (a) the operation of this Ordinance; or
- (b) any plant or substance installed or kept at the workplace; or
- (c) any commercial or industrial activity carried on at the workplace.

(2) A requirement under this section must be in writing and may specify the period for which, and the manner and place in which, the relevant notice is to be exhibited.

(3) If no such period is specified, the person responsible for the workplace must exhibit the notice for not less than 12 months. If no such place or manner is specified, that person must exhibit the notice conspicuously in a part of the workplace frequently visited by the employees concerned.

(4) A person responsible for a workplace who, without reasonable excuse-

- (a) fails to comply with a requirement made under this section; or
- (b) contravenes subsection (3),

commits an offence and is liable on conviction to a fine at level 5.

Section:	26	Offence to obstruct occupational safety officers and others exercising or performing functions under Ordinance		30/06/1997
----------	----	---	--	------------

A person who-

- (a) without lawful excuse, resists, obstructs or delays an occupational safety officer who is exercising or performing or attempting to exercise or perform a function under this Ordinance; or

- (b) without lawful excuse, fails to comply with a requirement made to the person in accordance with section 23(1)(h) or (i); or
 - (c) without lawful excuse, prevents, or attempts to prevent, another person from assisting an occupational safety officer in the exercise or performance of the officer's functions under this Ordinance; or
 - (d) directly or indirectly, intimidates or threatens an occupational safety officer or person assisting such an officer in the exercise or performance of the officer's functions under this Ordinance,
- commits an offence and is liable on conviction to a fine at level 5 and to imprisonment for 6 months.

Section:	27	Offence to impersonate occupational safety officer		30/06/1997
----------	----	---	--	------------

A person who impersonates, or falsely represents that the person is, an occupational safety officer commits an offence and is liable on conviction to a fine at level 5 and to imprisonment for 6 months.

Section:	28	Public officers not personally liable for certain acts and omissions		30/06/1997
----------	----	---	--	------------

(1) A public officer, or a person assisting an occupational safety officer as provided by section 21(3)(a), is not personally liable for any act done or omitted to be done by the officer or person if the officer or person did or omitted to do the act in the honest belief that the act or omission was required or authorized by or under this Ordinance.

(2) Subsection (1) does not affect any liability that the Government may have because a public officer or person has done or omitted to do an act to which that subsection applies.

Part:	VI	MISCELLANEOUS OFFENCES		30/06/1997
-------	----	-------------------------------	--	------------

Section:	29	Offence for public officers and others to disclose certain information		30/06/1997
----------	----	---	--	------------

(1) A public officer commits an offence if, without lawful authority, the officer discloses to a person the name of, or any information that could identify, a person who has made a complaint-

- (a) alleging a contravention of this Ordinance or the Factories and Industrial Undertakings Ordinance (Cap 59); or
- (b) as a result of which the officer or any other public officer has become aware of such a contravention.

(2) A public officer also commits an offence if, without lawful authority, the officer discloses-

- (a) to the occupier of a workplace, or to an agent or employee of the occupier; or
- (b) if the employer of employees employed at a workplace is not the occupier of that place, to the employer, or to an agent or employee of the employer,

that a visit to the workplace was made as a result of a complaint of a kind referred to in subsection (1).

(3) A person who is or was formerly employed as a public officer commits an offence if, without lawful authority, the person discloses to another person-

- (a) information relating to manufacturing or commercial secrets or working processes that was obtained through the exercise or performance of a function under this Ordinance or the Factories and Industrial Undertakings Ordinance (Cap 59); or
- (b) information notified by a medical practitioner in accordance with section 15.

(4) For the purposes of this section, a person has lawful authority to disclose information if the disclosure-

- (a) is made in connection with the administration of this Ordinance (or the Factories and Industrial Undertakings Ordinance (Cap 59)); or
- (b) is made for the purpose of complying with a requirement of another Ordinance; or
- (c) is ordered by a court, or by a person authorized by law to examine witnesses, in connection with the hearing or determination of any matter by the court or person.

(5) A person who is convicted of an offence against this section is liable to a fine at level 3.

(6) This section applies to a person who has accompanied or assisted an occupational safety officer as referred to in section 21(3)(a) or section 4(2A) of the Factories and Industrial Undertakings Ordinance (Cap 59) as if the person were such an officer.

Section:	30	Offence for person to interfere with or misuse article provided for safety or health of employees		30/06/1997
----------	----	--	--	------------

A person who intentionally or recklessly interferes with, or misuses, an article provided at a workplace in the interests of the safety or health of employees employed at the workplace commits an offence and is liable on conviction to a fine at level 5.

Section:	31	Offence for employer to charge employees for anything done to fulfil statutory requirement		30/06/1997
----------	----	---	--	------------

An employer who-

- (a) imposes or attempts to impose; or
- (b) authorizes the imposition of,

a charge on any of the employer's employees for anything done or provided under or for the purposes of this Ordinance commits an offence and is liable on conviction to a fine at level 5.

Section:	32	Offence to prevent aid from being given to employee at workplace		30/06/1997
----------	----	---	--	------------

A person who, by intimidation or by any other act or any omission, intentionally or recklessly prevents, obstructs or delays, without lawful authority or other reasonable excuse, the giving or receiving of aid in respect of an illness or injury of an employee at a workplace commits an offence and is liable on conviction to a fine at level 5 and to imprisonment for 6 months.

Section:	33	Liability of directors, partners, etc.		30/06/1997
----------	----	---	--	------------

(1) Where the person convicted of an offence against this Ordinance is a company and it is proved that the offence was committed with the consent or connivance of, or was attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the company, the director, manager, secretary or other similar officer shall be guilty of the like offence.

(2) Where the person convicted of an offence against this Ordinance is a firm and it is proved that the offence was committed with the consent or connivance of, or was attributable to any neglect on the part of, any partner in the firm or any person concerned in the management of the firm, the partner or the person concerned in the management of the firm shall be guilty of the like offence.

Part:	VII	PROCEEDINGS FOR OFFENCES		30/06/1997
-------	-----	---------------------------------	--	------------

Section:	34	Prosecution for offence may be brought in Commissioner's name	L.N. 362 of 1997	01/07/1997
----------	----	--	------------------	------------

(1) An occupational safety officer may, in the name of the Commissioner, bring and conduct a prosecution for any offence against this Ordinance.

(2) Subsection (1) applies despite section 12 of the Magistrates Ordinance (Cap 227), but nothing in this section limits the functions of the Secretary for Justice under that Ordinance with respect to the prosecution of offences. (Amended L.N. 362 of 1997)

Section:	35	Not necessary to specify certain matters in summons for offence		30/06/1997
----------	----	--	--	------------

(1) A summons relating to an offence against this Ordinance may be addressed to the occupier of premises where a specified workplace is located without actually naming that occupier.

(2) In a summons for an offence against this Ordinance alleging a failure to comply with a requirement or an

obligation that has to be complied with only in so far as it is practicable or is reasonably practicable to do so, it is not necessary to aver that it was practicable, or was reasonably practicable, for the defendant to comply with the requirement or obligation.

Section:	36	Evidentiary statements		30/06/1997
----------	----	-------------------------------	--	------------

(1) In proceedings for an offence against this Ordinance, a statement, purporting to be signed by the Commissioner, is admissible in all legal proceedings as evidence of the matters contained in the statement if the statement-

- (a) relates to-
 - (i) a record kept by the Commissioner for the purposes of this Ordinance; or
 - (ii) any other matter relating to occupational safety or health at work contained in an official document of a kind prescribed by a regulation; and
- (b) certifies that the contents of the statement are in accordance with particulars contained in the record or document.

(2) It is unnecessary to prove the signature of the Commissioner in a statement admissible under this section.

Section:	37	Evidence of employer-employee relationship		30/06/1997
----------	----	---	--	------------

Evidence that a person is engaged or employed in a particular economic activity that is, or was at a relevant time, carried on by another person, or was engaged or employed in a business or undertaking of which another person is the proprietor, is, for the purposes of any legal proceedings arising under this Ordinance, evidence-

- (a) that the person so engaged or employed is, or was at that time, an employee of the other person; and
- (b) that the other person is, or was at that time, the employer of the person so engaged or employed.

Section:	38	Onus on defendant to prove certain matters		30/06/1997
----------	----	---	--	------------

In proceedings for an offence against this Ordinance involving a failure-

- (a) to comply with a requirement or an obligation that has to be complied with only in so far as it is practicable or reasonably practicable to do so; or
- (b) to take steps, reasonable steps or reasonably practicable steps to comply with the requirement or obligation,

the onus is on the defendant to establish that compliance with the requirement or obligation was not practicable or was not reasonably practicable, or that steps, reasonable steps or reasonably practicable steps were taken to comply with the requirement or obligation.

Section:	39	Person not liable to be prosecuted twice for same act or omission		30/06/1997
----------	----	--	--	------------

A person who has been convicted or acquitted of having committed an offence under a provision of the Factories and Industrial Undertakings Ordinance (Cap 59) in relation to an act or omission is not liable to be proceeded against for an offence under a corresponding provision of this Ordinance relating to the same act or omission.

Part:	VIII	WORKPLACE CODES AND SUBSIDIARY LEGISLATION		30/06/1997
-------	------	---	--	------------

Section:	40	Workplace codes of practice		30/06/1997
----------	----	------------------------------------	--	------------

(1) The Commissioner may issue codes of practice for the purpose of providing practical guidance to employers and employees, and to occupiers of workplaces who are not employers.

(2) A workplace code of practice-

- (a) may consist of a code, standard, rule, specification or provision relating to occupational safety or health approved by the Commissioner; and

- (b) may apply, incorporate or refer to any document that has been formulated or published by a body or authority either as in force at the time when the document is approved by the Commissioner or as amended, formulated or published from time to time.
- (3) The Commissioner may amend or revoke a code of practice issued under this section.
- (4) The Commissioner is required to publish in both English and Chinese-
 - (a) any code of practice issued under this section; and
 - (b) if the code is subsequently amended, the amendments made to the code.

The publication may be in such form as the Commissioner considers will communicate the contents of the code or of the amendments to the people affected.

(5) Whenever a code of practice is issued under this section or the code is amended or revoked, the Commissioner is required to publish in the Gazette a notice of the issue, amendment or revocation.

(6) The Commissioner is required to make available at the head office of the Labour Department, during ordinary business hours, all workplace codes of practice for inspection by members of the public. No charge is to be made for the inspection of a workplace code of practice.

(7) A workplace code of practice takes effect on the date on which notice of the code is published in the Gazette or on such later date as is specified in the notice.

(8) An amendment to a workplace code of practice takes effect on the date on which notice of the amendment is published in the Gazette or on such later date as is specified in the notice.

(9) A workplace code of practice ceases to have effect on the date on which notice of revocation of the code is published in the Gazette or on such later date as is specified in the notice.

Section:	41	Effect of workplace code of practice		30/06/1997
----------	----	---	--	------------

(1) A person does not incur a civil or criminal liability only because the person has contravened a provision of a workplace code of practice.

(2) However, if, in any legal proceedings the court is satisfied that a workplace code of practice is relevant to determining a matter that is in issue in the proceedings-

- (a) the code of practice is admissible in evidence in the proceedings; and
- (b) proof that the person contravened or did not contravene a relevant provision of the code may be relied on by any party to the proceedings as tending to establish or negate that matter.

(3) In any legal proceedings, a document that purports to be a copy of a workplace code of practice is, in the absence of evidence to the contrary, to be presumed to be a true copy of the code.

(4) A workplace code of practice is not subsidiary legislation for the purposes of Part V of the Interpretation and General Clauses Ordinance (Cap 1).

Section:	42	Commissioner may make regulations		30/06/1997
----------	----	--	--	------------

- (1) The Commissioner may make regulations for or with respect to all or any of the following-
 - (a) ensuring the safety and health of employees when they are at work;
 - (b) imposing additional responsibilities on employers and employees and on occupiers of workplaces who are not employers;
 - (c) prescribing anything required or permitted to be prescribed by a regulation;
 - (d) generally, providing for the better carrying into effect of the provisions and purposes of this Ordinance.
- (2) In particular, the Commissioner may make regulations for or with respect to all or any of the following-
 - (a) ensuring the provision at workplaces of adequate facilities for treating bodily injuries to employees as a result of accidents occurring at those workplaces;
 - (b) providing for the removal from, and the avoidance at, workplaces of dangers and potential dangers to employees at those workplaces;
 - (c) prescribing precautions to be taken to prevent outbreaks of fire at workplaces and to protect employees employed at those workplaces from the consequences of outbreaks of fire there (including provision of adequate means of escape);
 - (d) ensuring that workplaces are maintained in a hygienic condition;
 - (e) prohibiting persons, or persons of a specified class, from being employed to undertake any specified kind of activity at a workplace or regulating the carrying on of an activity of that kind at a workplace;
 - (f) prohibiting persons who are responsible for workplaces from operating or using any specified kind of

- plant at those workplaces, or regulating the operation or use of any such plant;
- (g) prohibiting persons who are responsible for workplaces from storing or using any specified kind of substance at those workplaces, or regulating the storage or use of any substance of that kind;
 - (h) providing for the medical examination of employees employed at workplaces and for the keeping of records of those examinations;
 - (i) requiring persons who are responsible for workplaces to notify particulars of those workplaces to the Commissioner and, where those particulars change, to notify the Commissioner of the changes;
 - (j) providing for activities undertaken at workplaces to be assessed in order to determine the extent of risk of those activities to the safety or health of employees employed at those workplaces;
 - (k) requiring persons who are responsible for workplaces to keep records of specified activities carried on at those workplaces;
 - (l) requiring persons, in any circumstances arising out of the risk of absorbing any substance at a workplace or the risk of bodily injury arising out of the use of any substance at a workplace, to undergo a specified biochemical or biological test;
 - (m) prescribing measures for detecting and investigating cases in which absorption of any substance, or bodily injury arising out of the use of any substance, has occurred (including medical examinations, the carrying out of biochemical or biological tests and notification of absences of employees from work);
 - (n) conferring rights of appeal from specified kinds of decisions of the Commissioner or an occupational safety officer under this Ordinance and providing for the hearing and determination of those appeals;
 - (o) prescribing information that occupational safety officers are required to provide to employers or other persons in specified circumstances;
 - (p) providing for the forms to be used for the purposes of this Ordinance.
- (3) All regulations made by the Commissioner shall be subject to the approval of the Legislative Council.
- (4) A regulation may apply, adopt or incorporate by reference, with or without modification, any publication (including any Ordinance or subsidiary legislation), either as in force at the time of publication or as in force from time to time.
- (5) A regulation may make it an offence for a person to do or omit to do any specified act and may authorize-
- (a) the imposition of a fine, not exceeding \$200000, for such an offence; and
 - (b) if the offence is a continuing one, the imposition of a further fine of \$5000 for each day or part of a day during which the offence has continued.
- (6) A regulation may declare any particular offence created under subsection (5) to be an offence of strict liability.
- (7) A regulation that creates an offence that is not one of strict liability may, in addition to or instead of a fine, authorize the imposition of a sentence of imprisonment for a period of not more than 12 months, but only if, in the case of proceedings for such an offence, it is proved that the defendant committed the offence intentionally or recklessly or with knowledge of all of the ingredients of the offence.
- (8) A regulation may-
- (a) apply generally or be limited in its application by reference to specified exceptions or factors; or
 - (b) apply differently according to different factors of a specified kind; or
 - (c) authorize any matter or thing to be determined, applied or regulated by any specified person or group of persons,
- or may do any combination of those things.

Section:	43	Commissioner may amend Schedules		30/06/1997
----------	----	---	--	------------

The Commissioner may, by order published in the Gazette, amend Schedule 1 or 2 by adding a new item or by replacing or altering an existing item, but only if the amendment promotes the purposes of this Ordinance.

Part:	IX	SUPPLEMENTARY		30/06/1997
-------	----	----------------------	--	------------

Section:	44	Commissioner may grant exemptions from operation of Ordinance		30/06/1997
----------	----	--	--	------------

(1) The Commissioner may, by notice in writing, exempt a person from the operation of a specified requirement of this Ordinance if the Commissioner is satisfied that-

- (a) it is not reasonably practicable for the person to comply with the requirement; and
- (b) having regard to the relevant circumstances, it is reasonable that the person should be exempted from the requirement.

(2) The Commissioner may, in granting such an exemption, impose conditions on the exempted person.

(3) An exemption granted under this section ceases to have effect if any condition imposed under this section on the exempted person is contravened. In that event this Ordinance applies to the person as if the exemption had not been granted.

(4) The power conferred by this section must be exercised by the Commissioner personally or by a public officer specifically designated by the Commissioner for the purpose.

(5) The Commissioner must keep a register of exemptions and ensure that every exemption granted in accordance with this section is recorded in the register. The Commissioner must also ensure that the register-

- (a) is kept at the head office of the Labour Department; and
- (b) is made available for inspection by members of the public without charge during the ordinary business hours of that office.

(6) The Commissioner may at any time, by notice in writing served on the exempted person, revoke an exemption granted under this section or vary any condition to which such an exemption is subject.

Section:	45	Requirements imposed by Ordinance on 2 or more different persons		30/06/1997
----------	----	---	--	------------

(1) A requirement imposed by or under this Ordinance on 2 or more different persons is taken to have been complied with by each of those persons if any one of them has fully complied with the requirement.

(2) This section is subject to any express provision of this Ordinance to the contrary.

Section:	46	Regulations and codes of practice under Ordinance to prevail		30/06/1997
----------	----	---	--	------------

(1) A provision of a regulation made under this Ordinance is to prevail over any inconsistent provision of a regulation made under the Factories and Industrial Undertakings Ordinance (Cap 59).

(2) A provision of a code of practice issued under this Ordinance is to prevail over any inconsistent provision of a code of practice issued under the Factories and Industrial Undertakings Ordinance (Cap 59).

Section:	47	How documents are to be served for purposes of Ordinance		30/06/1997
----------	----	---	--	------------

A document to be served for the purposes of this Ordinance may be served-

- (a) in the case of a person other than a body corporate or partnership-
 - (i) by delivering it to the person personally; or
 - (ii) by sending it by registered post in a letter addressed to the person at the person's usual place of residence or business or, if the person's address is unknown, addressed to the person's last known place of residence or business; or
- (b) in the case of a body corporate-
 - (i) by delivering it to any place in Hong Kong at which the body carries on business and giving it to a person apparently concerned in the management of, or apparently employed by, the body; or
 - (ii) by sending it to the body by registered post by letter addressed to the body at its registered office in Hong Kong or at any place in Hong Kong at which the body carries on business; or
- (c) in the case of a partnership-
 - (i) by delivering it to any place in Hong Kong at which the partnership carries on business and giving it to a person apparently concerned in the management of, or apparently employed by, the

- partnership; or
- (ii) by sending it to the partnership by registered post by letter addressed to the partnership at any place in Hong Kong at which the partnership carries on business.

Section:	48	(Omitted as spent)		30/06/1997
----------	----	---------------------------	--	------------

(Omitted as spent)

Section:	49	(Omitted as spent)		30/06/1997
----------	----	---------------------------	--	------------

(Omitted as spent)

Section:	50	(Omitted as spent)		30/06/1997
----------	----	---------------------------	--	------------

(Omitted as spent)

Section:	51	Savings and transitional provisions		30/06/1997
----------	----	--	--	------------

Schedule 5 (containing savings and transitional provisions) has effect.

Schedule:	1	DANGEROUS OCCURRENCES		30/06/1997
-----------	---	------------------------------	--	------------

[sections 3 & 43]

1. The disintegration of a revolving vessel, wheel, grindstone or grinding wheel that is operated by mechanical power.
2. The collapse or failure of a lifting appliance (except the breakage of chain or rope slings).
3. An explosion or fire that-
 - (a) causes damage to the structure of any workplace, or to any plant or substance at a workplace; and
 - (b) prevents the continuation of ordinary work at the workplace.
4. An electrical short circuit or electrical failure of electrical plant that-
 - (a) is followed by, or associated with, an explosion or fire; or
 - (b) causes structural damage to the plant,
 being a short circuit, failure, explosion, fire or damage that stops the operation of the plant or prevents it from being used.
5. An explosion of a receiver or container used for the storage at a pressure greater than atmospheric pressure or of any gas or gases (including air) or any liquid or solid resulting from the compression of gases.
6. A total or partial collapse of a roof, wall, floor, structure or foundation of premises where a workplace is located.
7. A total or partial collapse of any overburden, face, tip or embankment within a quarry.
8. The overturning of, or a collision with any object by-
 - (a) a bulldozer, dumper, excavator, grader, lorry or shovel loader; or
 - (b) a mobile machine used for the handling of any substance in a quarry.

In this Schedule-

"lifting appliance" (起重機械) includes crane, derrick, winch and hoist.

Schedule:	2	NOTIFIABLE OCCUPATIONAL DISEASES	L.N. 214 of 2004; L.N. 14 of 2005	08/02/2005
-----------	---	---	--------------------------------------	------------

[sections 15 & 43]

Item	Disease	Occupation
1.	Inflammation, ulceration or malignant disease of the skin or subcutaneous tissues or of the bones, or blood dyscrasia, or cataract, due to electro-magnetic radiations (other than radiant heat), or to ionising particles	Any occupation involving exposure to electro-magnetic radiations other than radiant heat, or to ionising particles.
2.	Heat cataract	Any occupation involving frequent or prolonged exposure to rays from molten or red-hot material.
3.	Dysbarism, including decompression sickness, barotrauma and osteonecrosis	Any occupation involving subjection to compressed or rarefied air or other gases or gaseous mixtures.
4.	Cramp of the hand or forearm due to repetitive movements	Any occupation involving prolonged periods of handwriting, typing or other repetitive movements of the fingers, hand or arm.
5.	Subcutaneous cellulitis of the hand (beat hand)	Any occupation involving manual labour causing severe or prolonged friction or pressure on the hand.
6.	Bursitis or subcutaneous cellulitis arising at or about the knee due to severe or prolonged external friction or pressure at or about the knee (beat knee)	Any occupation involving manual labour causing severe or prolonged external friction or pressure at or about the knee.
7.	Bursitis or subcutaneous cellulitis arising at or about the elbow due to severe or prolonged external friction or pressure at or about the elbow (beat elbow)	Any occupation involving manual labour causing severe or prolonged external friction or pressure at or about the elbow.
8.	Traumatic inflammation of the tendons of the hand or forearm (including elbow), or of the associated tendon sheaths (Amended L.N. 147 of 1999)	Any occupation involving manual labour, or frequent or repeated movements of the hand or wrist.

9.	Anthrax	Any occupation involving contact with animals infected with anthrax or the handling (including the loading and unloading or transport) of animal products or residues.
10.	Glanders	Any occupation involving contact with equine animals or their carcasses.
11.	Infection by leptospira	Any occupation involving- (a) work in places which are, or are liable to be, infested by rats, field mice or voles, or other small mammals; or (b) work at dog kennels or the care or handling of dogs; or (c) contact with bovine animals or their meat products or pigs or their meat products.
12.	Pulmonary disease due to the inhalation of the dust of mouldy hay or other mouldy vegetable produce and characterized by symptoms and signs attributable to a reaction in the peripheral part of the bronchopulmonary system, and giving rise to a defect in gas exchange (farmer's lung)	Any occupation involving exposure to the dust of mouldy hay or other mouldy vegetable produce attributable to employment in- (a) agriculture, horticulture or forestry; or (b) loading or unloading or handling in storage the hay or produce; or (c) handling bagasse.
13.	Infection by organisms of the genus brucella	Any occupation involving contact with- (a) animals infected by brucella; or (b) the carcasses or any parts of those animals; or (c) any untreated products derived from those carcasses or parts; or (d) laboratory specimens or vaccines of, or containing, brucella.
14.	Tuberculosis	Any occupation involving close and frequent contact with a source of tuberculosis infection that is attributable to employment- (a) in the medical treatment or nursing of a person or persons suffering from tuberculosis, or in a service ancillary to that treatment or nursing; or (b) in attending to a person suffering from tuberculosis, where the need for attendance arises because of the person's physical or mental infirmity; or (c) as a research worker engaged in research in connection with tuberculosis; or (d) as a laboratory worker, pathologist or post-mortem worker, where the employment involves working with materials that are a source of tuberculosis infection; or (e) in any occupation ancillary to employment in an occupation specified in paragraph (d).
15.	Parenterally contracted viral hepatitis	Any occupation involving contact with- (a) human blood or human blood products; or (b) a source of viral hepatitis.
16.	Infection by streptococcus suis	Any occupation involving contact with pigs infected by streptococcus suis, or with the carcasses, products or residues of pigs so infected.
17.	Avian chlamydiosis	Any occupation involving contact with birds infected with chlamydia psittaci, their remains or untreated products.

- | | | |
|-----|--|---|
| 18. | Poisoning by lead or a compound of lead | Any occupation involving-
(a) the use or handling of; or
(b) exposure to the fumes, dust or vapour of, lead or a compound of lead, or a substance containing lead. |
| 19. | Poisoning by manganese or a compound of manganese | Any occupation involving-
(a) the use or handling of; or
(b) exposure to the fumes, dust or vapour of, manganese or a compound of manganese, or a substance containing manganese. |
| 20. | Poisoning by phosphorus or an inorganic compound of phosphorus or the anti-cholinesterase or pseudo anti-cholinesterase action or organic phosphorus compounds | Any occupation involving-
(a) the use or handling of; or
(b) exposure to the fumes, dust or vapour of, phosphorus or a compound of phosphorus, or a substance containing phosphorus. |
| 21. | Poisoning by arsenic or a compound of arsenic | Any occupation involving-
(a) the use or handling of; or
(b) exposure to the fumes, dust or vapour of, arsenic or a compound of arsenic, or a substance containing arsenic. |
| 22. | Poisoning by mercury or a compound of mercury | Any occupation involving-
(a) the use or handling of; or
(b) exposure to the fumes, dust or vapour of, mercury or a compound of mercury, or a substance containing mercury. |
| 23. | Poisoning by carbon bisulphide | Any occupation involving-
(a) the use or handling of; or
(b) exposure to the fumes, or vapour of, carbon bisulphide or a compound of carbon bisulphide, or a substance containing carbon bisulphide. |
| 24. | Poisoning by benzene or homologue of benzene | Any occupation involving-
(a) the use or handling of; or
(b) exposure to the fumes of, or vapour containing, benzene or any of its homologues. |
| 25. | Poisoning by a nitro-derivative, amino-derivative or chloro-derivative of benzene or of a homologue of benzene, or poisoning by nitro-chlorobenzene | Any occupation involving-
(a) the use or handling of; or
(b) exposure to the fumes of, or vapour containing, a nitro-derivative, amino-derivative or chloro-derivative of benzene or nitro-chlorobenzene. |
| 26. | Poisoning by dinitrophenol or a homologue or by substituted dinitrophenols or by the salts of those substances | Any occupation involving-
(a) the use or handling of; or
(b) exposure to the fumes of, or vapour containing, dinitrophenol or a homologue or substituted dinitrophenols or the salts of those substances. |

27.	Poisoning by halogen derivatives of hydrocarbons of the aliphatic series	Any occupation involving- (a) the use or handling of; or (b) exposure to the fumes of, or vapour containing, halogen derivatives of hydrocarbons of the aliphatic series.
28.	Poisoning by diethylene dioxide (dioxan)	Any occupation involving- (a) the use or handling of; or (b) exposure to the fumes of, or vapour containing, diethylene dioxide (dioxan).
29.	Poisoning by chlorinated naphthalene	Any occupation involving- (a) the use or handling of; or (b) exposure to the fumes of, or dust or vapour containing, chlorinated naphthalene.
30.	Poisoning by oxides of nitrogen	Any occupation involving- (a) the use or handling of; or (b) exposure to the fumes of, or dust or vapour containing, oxides of nitrogen.
31.	Poisoning by beryllium or a compound of beryllium	Any occupation involving- (a) the use or handling of; or (b) exposure to the fumes, dust or vapour of, beryllium or a compound of beryllium or a substance containing beryllium.
32.	Poisoning by cadmium	Any occupation involving- (a) the use or handling of; or (b) exposure to the dust or fumes of, cadmium.
33.	Dystrophy of the cornea of the eye (including ulceration of the corneal surface)	Any occupation involving- (a) the use or handling of; or (b) exposure to, arsenic, tar, pitch, bitumen, mineral oil (including paraffin) or soot, or any compound, product or residue of any of those substances.
34.	Primary epitheliomatous cancer of the skin	Any occupation involving- (a) the use or handling of; or (b) exposure to, arsenic, tar, pitch, bitumen, mineral oil (including paraffin) or soot, or any compound, product or residue of any of those substances.
35.	Chrome ulceration including perforation of nasal septum	Any occupation involving the use or handling of- (a) chromic acid, chromate or bichromate or ammonium, potassium, sodium or zinc; or (b) any preparation or solution containing any of those substances.
36.	Primary neoplasm of the epithelial lining of the urinary tract (renal pelvis, ureter, bladder and urethra), including papilloma, carcinoma-in-situ and invasive carcinoma	Any occupation involving the production, use or handling of- (a) alpha-naphthylamine, betanaphthylamine or methylene-bis-orthochloraniline, or disphenyl substituted by at least one nitro or primary amino group or by at least one nitro and primary amino group (including benzidine); and (b) any of those substances if further ring substituted by halogeno methyl or methoxyl group and the salts of any of those substances and the production of auramine and magenta.

37.	Peripheral neuropathy	poly-	Any occupation involving- (a) the production, use or handling of; or (b) exposure to, any physical form of, or any preparation or solution containing n-Hexane or methyl-n-butyl ketone.
38.	Localised new growth of the skin, papillomatous or keratotic		Any occupation involving- (a) the use or handling of; or (b) exposure to, arsenic, tar, pitch, bitumen, mineral oil (including paraffin) or soot, or any compound, product or residue of any of those substances.
39.	Occupational vitiligo		Any occupation involving- (a) the use or handling of; or (b) exposure to, paratertiary-butyl phenol, paratertiary-butyl catechol, para-amyl-phenol, hydroquinone or the monobenzyl or monobutyl ether of hydroquinone.
40.	Inflammation or ulceration of the skin produced by dust, liquid or vapour (including the condition known as chloracne but excluding chrome ulceration)		Any occupation involving exposure to dust, liquid or vapour, where the exposure is capable of irritating the skin.
41.	Inflammation or ulceration of the mucous membrane of the upper respiratory passages or mouth produced by dust, liquid or vapour		Any occupation involving exposure to dust, liquid or vapour.
42.	Carcinoma of the nasal cavity or associated air sinuses (nasal carcinoma)		Any occupation involving- (a) the manufacture or repair of wooden goods; or (b) the manufacture or repair of footwear or components of footwear made wholly or partly of leather or fibre board.
43.	Byssinosis		Any occupation involving exposure to raw cotton dust.
44.	Occupational asthma		Any occupation involving the use or handling of, or exposure to, any of the following agents which may irritate or sensitise the respiratory system- (a) isocyanates; (b) platinum salts; (c) fumes or dusts arising from the manufacture, transport or use of hardening agents (such as epoxy resin curing agents) based on phthalic anhydride, trimellitic anhydride or triethylenetetramine; (d) fumes arising from the use of rosin as a soldering flux; (e) formaldehyde; (f) proteolytic enzymes; (g) animals or insects used for the purposes of research or education or in laboratories; (h) dusts arising from the sowing, cultivation, harvesting, drying, handling, milling, transport or storage of barley, oats, rye, wheat or maize, or the handling, milling, transport or storage of meal or flour made from them.

(i) any other sensitising agent inhaled at work. (Added L.N. 147 of 1999)

- | | | |
|-----|--|---|
| 45. | Silicosis | Any occupation. |
| 46. | Asbestos-related diseases
(such as asbestosis and mesothelioma) | Any occupation. |
| 47. | Occupational deafness | Any occupation. |
| 48. | Carpal tunnel syndrome | Any occupation involving repetitive use of hand-held powered tools whose internal parts vibrate so as to transmit that vibration to the hand, but excluding those which are solely powered by hand. (Added L.N. 147 of 1999) |
| 49. | Legionnaires' disease | Any occupation involving the repair, maintenance or service of-
(a) cooling systems that use fresh water; or
(b) hot water service systems. (Added L.N. 147 of 1999) |
| 50. | Severe acute respiratory syndrome | Any occupation involving close and frequent contacts with a source or sources of severe acute respiratory syndrome infection that is attributable to employment-
(a) in the medical treatment or nursing of a person suffering from severe acute respiratory syndrome, or in a service ancillary to that treatment or nursing; or
(b) in attending to a person suffering from severe acute respiratory syndrome, where the need for attendance arises because of the person's physical or mental infirmity; or
(c) in identifying, detecting, tracing, isolating, detaining, supervising or surveillance of a person suffering from severe acute respiratory syndrome; or
(d) as a research worker engaged in research in connection with severe acute respiratory syndrome, or in a service ancillary to that research; or
(e) as a laboratory worker, pathologist, post-mortem worker or funeral services worker, where the employment involves the handling of any human body or other materials that are a source of severe acute respiratory syndrome infection, or in a service ancillary to that handling. (Added L.N. 214 of 2004) |
| 51. | Avian influenza A | Any occupation involving close and frequent contacts with a source or sources of avian influenza A infection that is attributable to employment-
(a) as a worker engaged in the handling of poultry or birds or their uncooked remains or residues, or their untreated products, that are a source of avian influenza A infection, or in a service ancillary to that handling; or (Amended L.N. 14 of 2005)
(b) as a research worker engaged in research in connection with avian influenza A, or in a service ancillary to that research; or
(c) as a laboratory worker engaged in the handling of materials that are a source of avian influenza A infection, or in a service ancillary to that handling. (Added L.N. 214 of 2004) |

Schedule:	3	(Omitted as spent)		30/06/1997
-----------	---	--------------------	--	------------

(Omitted as spent)

Schedule:	4	(Omitted as spent)		30/06/1997
-----------	---	--------------------	--	------------

(Omitted as spent)

Schedule:	5	SAVINGS AND TRANSITIONAL PROVISIONS	54 of 2000	01/07/1997
-----------	---	--	------------	------------

Remarks:

Adaptation amendments retroactively made - see 54 of 2000 s. 3

[section 51]

1. Chief Executive may make savings and transitional regulation

(1) The Chief Executive may make regulations, subject to the approval of the Legislative Council, containing provisions of a savings or transitional nature consequent on the enactment of this Ordinance. (Amended 54 of 2000 s. 3)

(2) A provision referred to in subsection (1) may, if the regulation so provides, take effect from the date of assent to this Ordinance or a later date.

(3) To the extent to which a provision referred to in subsection (1) takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as-

- (a) to affect, in a manner prejudicial to any person (other than the Government or a public body), the rights of that person existing before the date of its publication; or
- (b) to impose liabilities on any person (other than the Government or a public body) in respect of anything done, or omitted to be done, before the date of its publication.

2. Inquiries under Factories and Industrial Undertakings Ordinance

Despite the repeal of sections 11A and 11B of the Factories and Industrial Undertakings Ordinance (Cap 59), an inquiry pending under either of those sections immediately before their repeal may be continued and completed as if those sections had not been repealed.