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# Occupational Safety and Occupational Health Legislation (Miscellaneous Amendments) Bill 2022

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# A BILL

## To

Amend the Factories and Industrial Undertakings Ordinance, the Occupational Safety and Health Ordinance and the subsidiary legislation under those Ordinances to adjust the level of penalties for certain offences; to provide that certain offences can be tried on indictment; to require the court to take into account the financial information of certain convicted persons in determining the amount of the fine; and to make related and miscellaneous amendments.

Enacted by the Legislative Council.

### **Part 1**

#### **Preliminary**

##### **1. Short title and commencement**

- (1) This Ordinance may be cited as the Occupational Safety and Occupational Health Legislation (Miscellaneous Amendments) Ordinance 2022.
- (2) Subject to subsection (3), this Ordinance comes into operation on the day on which it is published in the Gazette.

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Amendments) Bill 2022

Part 1  
Clause 2

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- (3) Sections 14 and 87 come into operation on the day on which section 3 of the Financial Reporting Council (Amendment) Ordinance 2021 (41 of 2021) comes into operation.

**2. Enactments amended**

The enactments specified in Parts 2 and 3 are amended as set out in those Parts.

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## Part 2

# Amendments to Factories and Industrial Undertakings Ordinance and its Subsidiary Legislation

## Division 1—Factories and Industrial Undertakings Ordinance (Cap. 59)

### 3. Section 6A amended (general duties of a proprietor)

(1) Section 6A(1) and (2)(c) and (e), English text—

**Repeal**

“him”

**Substitute**

“the proprietor”.

(2) Section 6A(3)—

**Repeal**

everything after “liable”

**Substitute**

“\_\_

(a) on summary conviction—to a fine of \$3,000,000;  
or

(b) on conviction on indictment—to a fine of  
\$10,000,000.”.

(3) Section 6A(4)—

**Repeal**

everything after “liable”

**Substitute**

“\_\_



- (a) on summary conviction—to a fine of \$3,000,000 and to imprisonment for 6 months; or
- (b) on conviction on indictment—to a fine of \$10,000,000 and to imprisonment for 2 years.”.

**4. Section 6B amended (general duties of persons employed)**

- (1) Section 6B(1)(a)—

**Repeal**

“himself and of other persons who may be affected by his”

**Substitute**

“the person and of other persons who may be affected by the person’s”.

- (2) Section 6B(1)(b)—

**Repeal**

“him”

**Substitute**

“the proprietor or other person”.

- (3) Section 6B(2)—

**Repeal**

everything after “liable”

**Substitute**

“on conviction to a fine of \$150,000.”.

- (4) Section 6B(3)—

**Repeal**

everything after “endanger”

**Substitute**

“the person or others commits an offence and is liable on conviction to a fine of \$150,000 and to imprisonment for 6 months.”.

**5. Section 6BA amended (proprietor of relevant industrial undertaking not to employ, etc. relevant person who does not have relevant certificate)**

(1) Section 6BA(12)—

**Repeal**

everything after “liable”

**Substitute**

“on conviction to a fine at level 6.”.

(2) Section 6BA(16)—

**Repeal**

everything after “liable”

**Substitute**

“on conviction to a fine at level 4.”.

**6. Section 7 amended (power of Commissioner to make regulations, etc.)**

(1) Section 7(1)(od)(ii)—

**Repeal**

“\$10,000”

**Substitute**

“level 4”.

(2) Section 7—

**Repeal subsection (5)**

**Substitute**

- “(5) Regulations made under this section may prescribe offences for contravention of the regulations, punishable by a fine, imprisonment or both.
- (6) The maximum fine that may be prescribed by a regulation made under this section for an offence is \$400,000 and the maximum imprisonment is 12 months.”.

**7. Section 10 amended (offences and penalties)**

- (1) Section 10(1)—

**Repeal**

everything after “liable”

**Substitute**

“on conviction to a fine at level 6.”.

- (2) Section 10(1A)—

**Repeal**

“to a fine of \$200,000”

**Substitute**

“on conviction to a fine of \$400,000”.

- (3) Section 10(1C)—

**Repeal**

“to a fine of \$200,000”

**Substitute**

“on conviction to a fine of \$400,000”.

- (4) Section 10—

**Repeal subsection (2)**

**Substitute**

“(2) A person who—

(a) fails to comply with a condition specified under section 7(4); or

(b) fails to comply with an order made under that section,

commits an offence and is liable on conviction to a fine of \$400,000 and to imprisonment for 6 months.”.

(5) Section 10(3)(c)—

**Repeal**

“upon him”

**Substitute**

“on the officer”.

(6) Section 10(3)—

**Repeal everything after paragraph (c)**

**Substitute**

“commits an offence and is liable on conviction to a fine at level 6.”.

(7) Section 10(4A)—

**Repeal**

“level 5”

**Substitute**

“level 6”.

**8. Section 12 substituted**

Section 12—

**Repeal the section**

**Substitute**

**“12. Continuing offences**

A person who is convicted of an offence under this Ordinance is, in addition to any other penalty prescribed for the offence, liable to a fine of \$10,000 for each day during the whole or any part of which the offence is knowingly and wilfully continued.”.

**9. Section 15 amended (procedure)**

Section 15(1)—

**Repeal paragraph (c).**

**10. Section 16 amended (presumptions)**

(1) Section 16(a)—

**Repeal**

“magistrate”

**Substitute**

“court”.

(2) Section 16(a)—

**Repeal**

everything after “offence was a young person or child at”

**Substitute**

“that date, it is, until the contrary is proved, presumed that the person was a young person or child at that date;”.

(3) Section 16(b)—

**Repeal**

“magistrate”

**Substitute**

“court”.

(4) Section 16(b)—

**Repeal**

everything after “that particular age at”

**Substitute**

“that date, it is, until the contrary is proved, presumed that the young person or child was under that particular age at that date;”.

**11. Section 17 amended (prosecution of offences)**

(1) Section 17—

**Repeal subsection (1)**

**Substitute**

“(1) A prosecution for an offence under this Ordinance, or an offence of conspiracy to commit such an offence, may—

- (a) be brought by the Commissioner in the Commissioner’s own name; and
- (b) be commenced and conducted by an officer of the Labour Department.

(1A) For the purposes of subsection (1), the offence must be tried before a magistrate as an offence that is triable summarily.”.

(2) Section 17—

**Repeal subsection (5).**

**12. Section 17A added**

After section 17—

**Add**

**“17A. Prosecution deadline**

- (1) A prosecution for an offence specified in Schedule 5 may only be started before the end of 12 months beginning on the date on which the offence is discovered by, or comes to the notice of, the Commissioner.
- (2) A prosecution for a summary offence (other than an offence specified in Schedule 5) under this Ordinance, or an indictable offence under this Ordinance that is to be tried summarily, may only be started before the end of 12 months beginning on the date on which the offence is committed.

**Note—**

This replaces the time limit under section 26 of the Magistrates Ordinance (Cap. 227) in respect of a summary offence.”.

**13. Section 20 added**

After section 19—

**Add**

**“20. Court to order convicted proprietor to give financial information**

- (1) If a proprietor of an industrial undertaking is convicted on indictment of an offence under this Ordinance, the court must order the proprietor to give information on the turnover of the proprietor’s business to determine the scale of operation of the proprietor.
- (2) For the purpose of complying with an order made under subsection (1), the proprietor must provide—

- (a) a copy of the return furnished by the proprietor for profits tax under section 51(1) of the Inland Revenue Ordinance (Cap. 112); or
  - (b) a document containing the turnover information of the proprietor's business that has been audited by a certified public accountant (practising) as defined by section 2(1) of the Professional Accountants Ordinance (Cap. 50).
- (3) If the proprietor fails to comply with an order made under subsection (1) by giving sufficient information, the court may further order the proprietor to give any other financial information that the court considers relevant in determining the scale of operation of the proprietor.
- (4) Information given in compliance with an order made under subsection (1) or an order made under subsection (3), or both, must cover the year in which the offence is committed.
- (5) In this section—

**turnover** (營業額) means the revenue arising in or derived from Hong Kong from the principal business activities carried on in Hong Kong by a proprietor, but excluding the revenue that arises incidentally or is exceptional in nature;

**year** (年份), in relation to a proprietor, means—

- (a) the financial year of the proprietor; or
- (b) if the proprietor does not have a financial year, a calendar year.”.



**14. Section 20 amended (court to order convicted proprietor to give financial information)**

Section 20(2)(b)—

**Repeal**

“Professional Accountants Ordinance (Cap. 50)”

**Substitute**

“Accounting and Financial Reporting Council Ordinance (Cap. 588)”.

**15. Section 21 added**

Before Schedule 1—

**Add**

**“21. Court to take into account financial information of convicted proprietor**

- (1) In determining the amount of the fine to be imposed on a proprietor referred to in section 20, the court—
  - (a) must take into account any information given in compliance with an order made under section 20(1) or an order made under section 20(3), or both; or
  - (b) if satisfied that the proprietor fails to comply with any such order by giving sufficient information, may take into account information from any other source that the court considers relevant in determining the scale of operation of the proprietor.
- (2) To avoid doubt, in determining the amount of the fine to be imposed on a proprietor who is convicted of a summary offence under this Ordinance, or of an indictable offence under this Ordinance that is tried

summarily, the court may take into account any financial information given by the proprietor to determine the scale of operation of the proprietor.”.

**16. Schedule 5 amended (offences to be prosecuted within 6 months from offence being discovered by or coming to notice of Commissioner)**

(1) Schedule 5, heading—

**Repeal**

“6”

**Substitute**

“12”.

(2) Schedule 5—

**Repeal**

“[s. 17(5)]”

**Substitute**

“[s. 17A]”.

**Division 2—Factories and Industrial Undertakings  
Regulations (Cap. 59 sub. leg. A)**

**17. Regulation 44 substituted**

Regulation 44—

**Repeal the regulation**

**Substitute**

**“44. Contravention of regulation 16F(2) or 20(4) is offence**

A person who contravenes regulation 16F(2) or 20(4) commits an offence and is liable on conviction to a fine at level 4.”.

**18. Regulation 44A added**

After regulation 44—

**Add**

**“44A. Contravention of regulation 21 is offence**

A person who contravenes regulation 21 commits an offence and is liable on conviction to a fine at level 5.”.

**19. Regulation 45 amended (penalty for contravention of regulation 16C(1), 16C(2), 24, 25, 33 or 36(1))**

(1) Regulation 45, heading—

**Repeal**

“Penalty for contravention of regulation 16C(1), 16C(2), 24, 25, 33 or 36(1)”

**Substitute**

“Contravention of regulation 16C(1) or (2), 24, 25, 33 or 36(1) is offence”.

(2) Regulation 45(1)(b)—

**Repeal**

“, 16C(2),”

**Substitute**

“or (2)”.

(3) Regulation 45—

**Repeal paragraph (2)**

**Substitute**

“(2) A person who is convicted of an offence under paragraph (1)—

(a) in respect of a contravention of regulation 16C(1), 25 or 33 is liable to a fine at level 6;

- (b) in respect of a contravention of regulation 16C(2) or 36(1) is liable to a fine at level 4; or
- (c) in respect of a contravention of regulation 24 is liable to—
  - (i) if the offence was committed without reasonable excuse—a fine of \$400,000 and to imprisonment for 12 months; or
  - (ii) in any other case—a fine of \$400,000.”.

**20. Regulation 46 amended (penalty for contravention of regulation 16B, 34, 37(1), 38 or 39)**

- (1) Regulation 46, heading—

**Repeal**

“Penalty for contravention of regulation 16B, 34, 37(1), 38 or 39”

**Substitute**

“Contravention of regulation 16B, 34, 37(1), 38 or 39 is offence”.

- (2) Regulation 46—

**Repeal paragraph (2)**

**Substitute**

- “(2) A person who is convicted of an offence under paragraph (1)—
- (a) in respect of a contravention of regulation 16B, 34 or 37(1) is liable to a fine at level 4; or
  - (b) in respect of a contravention of regulation 38 or 39 is liable to a fine at level 6.”.

**21. Regulation 47 amended (penalty for contravention of regulation 17, 18, 32, 35(1) or 36(3))**

(1) Regulation 47, heading—

**Repeal**

“Penalty for contravention of regulation 17, 18, 32, 35(1) or 36(3)”

**Substitute**

“Contravention of regulation 17, 18, 32, 35(1) or 36(3) is offence”.

(2) Regulation 47—

**Repeal paragraph (2)**

**Substitute**

“(2) A person who is convicted of an offence under paragraph (1)—

- (a) in respect of failure to make a report or making a false report, as referred to in paragraph (1)(c), is liable to a fine at level 6; or
- (b) in respect of a contravention of regulation 32, 35(1) or 36(3) is liable to a fine at level 4.”.

**Division 3—Factories and Industrial Undertakings (Blasting by Abrasives) Special Regulations (Cap. 59 sub. leg. C)**

**22. Regulation 3 amended (restriction on use of sand or free silica as an abrasive in a blasting process)**

Regulation 3—

**Repeal paragraph (4)**

**Substitute**

- “(4) A person who is convicted of an offence under paragraph (3) is liable to—
- (a) if the person is a proprietor—a fine at level 6; or
  - (b) in any other case—a fine at level 5.”.

**Division 4—Factories and Industrial Undertakings  
(First Aid in Notifiable Workplaces) Regulations  
(Cap. 59 sub. leg. D)**

**23. Regulation 8 amended (offences and penalties)**

Regulation 8—

**Repeal**

everything after “who”

**Substitute**

“—

- (a) contravenes regulation 3, 4, 6 or 7 commits an offence and is liable on conviction to a fine at level 4; or
- (b) contravenes regulation 5 commits an offence and is liable on conviction to a fine at level 6.”.

**Division 5—Factories and Industrial Undertakings  
(Notification of Occupational Diseases) Regulations  
(Cap. 59 sub. leg. E)**

**24. Regulation 4 amended (offences and penalties)**

Regulation 4—

**Repeal**

everything after “3(1)”

**Substitute**

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

**Division 6—Quarries (Safety) Regulations  
(Cap. 59 sub. leg. F)**

**25. Regulation 58 substituted**

Regulation 58—

**Repeal the regulation**

**Substitute**

**“58. Penalties**

A person who—

- (a) commits an offence under regulation 9, 14, 16, 20, 21, 22, 23, 24 or 57 is liable on conviction to a fine at level 4;
- (b) commits an offence under regulation 15, 17, 19(2)(a) or 25 is liable on conviction to a fine at level 6;
- (c) commits an offence under regulation 18 is liable on conviction to a fine of \$400,000;
- (d) commits an offence under regulation 19(2)(b), 27, 28, 32(3) (in relation to a requirement under regulation 32(1)), 36(2), 38, 42, 43, 44 or 47 is liable on conviction to a fine at level 5;
- (e) commits an offence under regulation 26, 30, 34, 40 or 49 is liable on conviction to a fine at level 3; or

- (f) commits an offence under regulation 29, 31, 32(3) (in relation to a requirement under regulation 32(2)), 33, 35, 37(2), 39, 41, 45, 46, 48, 50, 51, 52, 53, 54(3) or 56(2) is liable on conviction to a fine of \$150,000.”.

**Division 7—Factories and Industrial Undertakings  
(Woodworking Machinery) Regulations  
(Cap. 59 sub. leg. G)**

**26. Regulation 20 substituted**

Regulation 20—

**Repeal the regulation**

**Substitute**

**“20. Offences and penalties**

- (1) If regulation 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16 or 17 is contravened, the proprietor of the industrial undertaking in respect of which the contravention occurs commits an offence and is liable on conviction to a fine at level 6.
- (2) A person employed on a woodworking machine who contravenes regulation 19 commits an offence and is liable on conviction to a fine at level 5.”.

**Division 8—Factories and Industrial Undertakings  
(Electrolytic Chromium Process) Regulations  
(Cap. 59 sub. leg. H)**

**27. Regulation 11 substituted**

Regulation 11—



**Repeal the regulation**

**Substitute**

**“11. Offences and penalties**

- (1) A proprietor of an industrial undertaking who—
  - (a) contravenes regulation 4, 7 or 8 commits an offence and is liable on conviction to a fine at level 4; or
  - (b) contravenes regulation 5 or 6 commits an offence and is liable on conviction to a fine at level 6.
- (2) An employee who contravenes regulation 9 or 10 commits an offence and is liable on conviction to a fine at level 5.”.

**Division 9—Construction Sites (Safety) Regulations  
(Cap. 59 sub. leg. I)**

**28. Regulation 68 amended (offences and penalties relating to contractors)**

Regulation 68—

**Repeal paragraph (2)**

**Substitute**

- “(2) A person who is convicted of an offence under paragraph (1)—
- (a) in respect of a contravention of regulation 4A(1) or (1A), 5(2), 8, 9(1) or (2), 10(1) or (2), 20(1) or (2), 33, 34(1)(a) or (2), 38(6), 42, 43, 45(1) or (2), 46(1) or (1A), 48(1) or (1A), 50, 52(1), (1A) or (2), 52A(1), (1A) or (2), 56(1), 57, 58, 63 or 66(1) is liable to a fine at level 6;

- (b) in respect of a contravention of regulation 5(1), 31(1) or (3), 32(1) or (2), 34(1)(b), 35(1) or (3), 38(1), (2), (3) or (5), 38E(1) or (2), 38F(1), 39(1) or (2), 41, 41A, 44(1) or (2), 47(1), (1A), (2) or (3), 49(1), (1A), (2), (3) or (4), 53(2) or 54(1) or (1A) is liable to a fine of \$400,000;
- (c) in respect of a contravention of regulation 36, 38A(2) or (3), 38AA(2) or (3), 38B(1) or (1A), 38C, 38D or 38G(1) or (2) is liable to—
  - (i) if the offence was committed without reasonable excuse—a fine of \$400,000 and to imprisonment for 12 months; or
  - (ii) in any other case—a fine of \$400,000;
- (d) in respect of a contravention of regulation 38A(1), 38AA(1) or 40(1) is liable to a fine of \$400,000 and to imprisonment for 12 months; or
- (e) in respect of a contravention of regulation 38F(4), 51(1) or (2), 55, 59, 61(1), (2), (3), (4), (5) or (6), 62, 64, 65(2) or 67(1), (2) or (3) is liable to a fine at level 4.”.

**29. Regulation 69 amended (offences by persons employed)**

Regulation 69—

**Repeal**

everything after “endanger”

**Substitute**

“the contractor or workman or others commits an offence and is liable on conviction to—

- (a) in the case of a contractor—a fine at level 6; or

(b) in the case of a workman—a fine at level 5.”.

**30. Regulation 70 amended (offences by competent examiners, etc.)**

Regulation 70(2)—

**Repeal**

everything after “certificate”

**Substitute**

“or report that the examiner or person knows is false in a material particular commits an offence and is liable on conviction to a fine of \$150,000 and to imprisonment for 12 months.”.

**31. Regulation 71 amended (offences by other persons)**

(1) Regulation 71(1)—

**Repeal**

everything after “31(2)”

**Substitute**

“or 38I commits an offence and is liable on conviction to a fine of \$150,000.”.

(2) After regulation 71(1)—

**Add**

“(1A) A person who contravenes regulation 48(2) commits an offence and is liable on conviction to a fine at level 5.”.

(3) Regulation 71(2)—

**Repeal**

everything after “54(2),”

**Substitute**

“commits an offence and is liable on conviction to a fine of \$150,000.”.

**Division 10—Factories and Industrial Undertakings  
(Lifting Appliances and Lifting Gear) Regulations  
(Cap. 59 sub. leg. J)**

**32. Regulation 19 substituted**

Regulation 19—

**Repeal the regulation**

**Substitute**

**“19. Offences by owners**

An owner who—

- (a) contravenes regulation 4, 5, 6A(2), 7B, 7C, 7D, 7E(1), (2) or (3), 7H, 7I, 7J(1), (2) or (3), 8, 9(1) or (2), 12, 13, 15, 15B(1) or (3), 18(1)(a), (c), (d), (e), (eb), (h) or (i) or 18A(b) commits an offence and is liable on conviction to a fine of \$400,000;
- (b) contravenes regulation 7A, 7E(5), 7F, 10, 11, 12A, 14(1), 15A(1) or (2), 15B(2), 15C, 16(1), (2), (4) or (5), 17, 18(1)(b), (ea) or (g) or 18A(a) commits an offence and is liable on conviction to a fine at level 6;
- (c) contravenes regulation 7G(1) or 18B commits an offence and is liable on conviction to—
  - (i) if the offence was committed without reasonable excuse—a fine of \$400,000 and to imprisonment for 12 months; or
  - (ii) in any other case—a fine of \$400,000;

- (d) contravenes regulation 7G(2) commits an offence and is liable on conviction to a fine of \$400,000 and to imprisonment for 12 months; or
- (e) contravenes regulation 18C(1), (2), (4) or (5) commits an offence and is liable on conviction to a fine at level 4.”.

**33. Regulation 20 amended (offences by persons employed)**

Regulation 20—

**Repeal**

everything after “endanger”

**Substitute**

“the workman or others commits an offence and is liable on conviction to a fine at level 5.”.

**34. Regulation 21 amended (offences by competent examiners)**

(1) Regulation 21(1)—

**Repeal everything after paragraph (c)**

**Substitute**

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

(2) Regulation 21(2)—

**Repeal**

everything after “a report”

**Substitute**

“that the examiner knows is false in a material particular commits an offence and is liable on conviction to a fine of \$150,000 and to imprisonment for 12 months.”.

**35. Regulation 22 amended (offences by competent person)**

(1) Regulation 22(1)—

**Repeal**

everything after “7B(1)(c)”

**Substitute**

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

(2) Regulation 22(2)—

**Repeal**

everything after “a certificate”

**Substitute**

“that the person knows is false in a material particular commits an offence and is liable on conviction to a fine of \$150,000 and to imprisonment for 12 months.”.

**Division 11—Factories and Industrial Undertakings (Cargo and Container Handling) Regulations (Cap. 59 sub. leg. K)**

**36. Regulation 17 substituted**

Regulation 17—

**Repeal the regulation**

**Substitute**

**“17. Offences**

(1) A proprietor who—

- (a) contravenes regulation 3, 4, 5, 6(1)(e), (f) or (g) or (2) (in relation to a requirement under regulation 6(1)(e), (f) or (g)) or 14(1) or (2) commits an offence and is liable on conviction to a fine at level 6;
  - (b) contravenes regulation 6(1)(a), (b), (c) or (d) or (2) (in relation to a requirement under regulation 6(1)(a), (b), (c) or (d) or any electrical equipment that is defective or otherwise unsafe) commits an offence and is liable on conviction to a fine of \$400,000;
  - (c) contravenes regulation 10A or 10B commits an offence and is liable on conviction to a fine of \$400,000;
  - (d) contravenes regulation 12(1), (2), (4), (5), (6) or (8), 13, 14(3), 15(2) or 16 commits an offence and is liable on conviction to a fine at level 4; or
  - (e) fails to comply with any requirement of the Commissioner under regulation 12(3) or (7) commits an offence and is liable on conviction to a fine at level 4.
- (2) A person who—
- (a) contravenes regulation 7, 9 or 10 commits an offence and is liable on conviction to a fine at level 6; or
  - (b) contravenes regulation 8 commits an offence and is liable on conviction to a fine at level 5.”.

## **Division 12—Factories and Industrial Undertakings (Abrasive Wheels) Regulations (Cap. 59 sub. leg. L)**

### **37. Regulation 17 amended (offences and penalties)**

(1) Regulation 17—

#### **Repeal paragraph (1A)**

#### **Substitute**

“(1A) A proprietor who is convicted of an offence under paragraph (1)—

- (a) in respect of a contravention of regulation 5(1) or (2) or 6(1) is liable to a fine at level 4;
- (b) in respect of a contravention of regulation 5(3), 6(2), (3), (4) or (5), 7, 8, 9, 10, 11, 12, 13 or 15 is liable to a fine at level 6; or
- (c) in respect of a contravention of regulation 14 is liable to a fine at level 4.”.

(2) Regulation 17(2)—

#### **Repeal**

everything after “16”

#### **Substitute**

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

## **Division 13—Factories and Industrial Undertakings (Work in Compressed Air) Regulations (Cap. 59 sub. leg. M)**

### **38. Regulation 8 amended (man-locks)**

(1) Regulation 8(11)—

#### **Repeal**



everything after “emergencies”

**Substitute a full stop.**

- (2) After regulation 8(11)—

**Add**

“(12) A notice explaining in English and Chinese the use of the special valve must be affixed near the special valve.”.

**39. Regulation 14 amended (temperature in a working chamber)**

- (1) Regulation 14(3)—

**Repeal**

everything after “chamber”

**Substitute a full stop.**

- (2) After regulation 14(3)—

**Add**

“(4) The lock attendant in charge of the working chamber must record the readings of the thermometer at the end of each shift in the lock attendant’s register in Form 1 of the Fourth Schedule.”.

**40. Regulation 38 amended (offences and penalties)**

- (1) Regulation 38—

**Repeal paragraphs (1), (2) and (2A)**

**Substitute**

“(1) If regulation 4, 6(1), 7, 8(1), (2)(c), (3)(b), (4) or (7), 10(1), 13, 16(1)(a) or (2)(a), 21(1), (2), (4)(b), (5) or (9) or 23(1) or (3) is contravened, the contractor commits an offence and is liable on conviction to a fine of \$400,000.

- (2) If regulation 8(2)(a), (b), (d) or (e), (3)(a) or (c), (5), (6), (8), (9), (10) or (11), 9, 10(2) or (3), 14(1), (2) or (3), 15(3), 16(1)(b), (c), (d) or (e) or (2)(b) or (c), 17, 18, 19, 20, 21(3), (4)(a), (c), (d), (e), (f) or (g), (6)(a), (b), (c), (d) or (e), (7), (8), (10) or (11), 22, 23(2), (4) or (5) or 27(3) is contravened, the contractor commits an offence and is liable on conviction to a fine at level 6.
- (2A) If regulation 8(12), 15(1) or (2), 21(6)(f) or 36 is contravened, the contractor commits an offence and is liable on conviction to a fine at level 4.”.
- (2) Regulation 38(3)—
- Repeal**  
everything after “regulation”
- Substitute**  
“6(2), 24(1), 30 or 37 commits an offence and is liable on conviction to a fine at level 6.”.
- (3) Regulation 38(4)—
- Repeal**  
everything after “regulation”
- Substitute**  
“14(4) is contravened, the contractor commits an offence and is liable on conviction to a fine at level 4.”.
- (4) Regulation 38(5)—
- Repeal**  
everything after “regulation”
- Substitute**

“11(4) (in relation to a requirement under regulation 11(1)) commits an offence and is liable on conviction to a fine of \$400,000.”.

- (5) Regulation 38—

**Repeal paragraphs (6) and (6A).**

- (6) Regulation 38(7)—

**Repeal**

everything after “regulation”

**Substitute**

“11(4) (in relation to a requirement under regulation 11(2) or (3)) commits an offence and is liable on conviction to a fine at level 6.”.

- (7) Regulation 38(7A)—

**Repeal**

everything after “regulation”

**Substitute**

“24(2) commits an offence and is liable on conviction to a fine at level 4.”.

- (8) Regulation 38—

**Repeal paragraph (8).**

- (9) Regulation 38—

**Repeal paragraph (8A)**

**Substitute**

“(8A) An employer who fails to comply with regulation 12 commits an offence and is liable on conviction to—

- (a) if the offence was committed without reasonable excuse—a fine of \$400,000 and to imprisonment for 6 months; or

(b) in any other case—a fine of \$400,000.”.

- (10) Regulation 38(8B)—

**Repeal**

everything after “regulation”

**Substitute**

“26(1), (2), (3) or (5), 28(1), (2) or (3) or 31 is contravened, the employer commits an offence and is liable on conviction to a fine at level 6.”.

- (11) Regulation 38(8C)—

**Repeal**

everything after “25(1)”

**Substitute**

“, 32 or 33(1) commits an offence and is liable on conviction to a fine at level 6.”.

- (12) Regulation 38(8D)—

**Repeal**

everything after “25(2)”

**Substitute**

“or 27(1), (2) or (4) commits an offence and is liable on conviction to a fine at level 4.”.

- (13) Regulation 38(8E) and (8F)—

**Repeal**

“to a fine of \$200,000”

**Substitute**

“on conviction to a fine of \$400,000”.

- (14) Regulation 38(9)—

**Repeal**

everything after “who”

**Substitute**

“\_\_

- (a) fails to comply with regulation 5(2) or 11(4) (in relation to a requirement under regulation 11(2) or (3)) commits an offence and is liable on conviction to a fine at level 5; or
- (b) fails to comply with regulation 11(4) (in relation to a requirement under regulation 11(1)) commits an offence and is liable on conviction to a fine of \$150,000.”.

- (15) Regulation 38(10) and (10A)—

**Repeal**

everything after “5(1)”

**Substitute**

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

- (16) Regulation 38(11)—

**Repeal**

everything after “6(3)”

**Substitute**

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

- (17) Regulation 38(12)—

**Repeal**

everything after “who”

**Substitute**

“\_\_

- (a) fails to comply with regulation 11(1) commits an offence and is liable on conviction to a fine of \$150,000; or
  - (b) fails to comply with regulation 11(2) or (3) commits an offence and is liable on conviction to a fine at level 5.”.
- (18) Regulation 38—

**Repeal paragraph (13)**

**Substitute**

- “(13) A person who, without reasonable excuse, fails to comply with regulation 26(4) or 33(2) commits an offence and is liable on conviction to a fine at level 5.
- (14) A person who, without reasonable excuse, fails to comply with regulation 29 commits an offence and is liable on conviction to a fine at level 3.
- (15) A person who contravenes regulation 34 commits an offence and is liable on conviction to a fine of \$150,000.
- (16) A person who contravenes regulation 35 commits an offence and is liable on conviction to a fine at level 5.”.

**Division 14—Factories and Industrial Undertakings  
(Spraying of Flammable Liquids) Regulations  
(Cap. 59 sub. leg. N)**

**41. Regulation 16 substituted**

Regulation 16—

**Repeal the regulation**

**Substitute**

**“16. Offences and penalties**

- (1) If regulation 4 or 8 is contravened, the proprietor of the industrial undertaking in respect of which the contravention occurs commits an offence and is liable on conviction to a fine of \$400,000.
- (2) If regulation 5, 9, 10(1), (2) or (3), 11 or 12 is contravened, the proprietor of the industrial undertaking in respect of which the contravention occurs commits an offence and is liable on conviction to a fine at level 6.
- (3) A proprietor of an industrial undertaking who—
  - (a) contravenes regulation 6 commits an offence and is liable on conviction to a fine of \$400,000;
  - (b) contravenes regulation 7 commits an offence and is liable on conviction to a fine at level 6; or
  - (c) permits or suffers a contravention of regulation 12 commits an offence and is liable on conviction to a fine at level 6.
- (4) A person who contravenes regulation 13, 14 or 15 commits an offence and is liable on conviction to a fine at level 5.
- (5) A person who smokes or uses a naked flame inside any spraying room, spraying area or within a distance of 6 metres of any spraying area commits an offence and is liable on conviction to a fine of \$150,000.”.

**Division 15—Factories and Industrial Undertakings (Goods  
Lifts) Regulations (Cap. 59 sub. leg. O)**

**42. Regulation 2 amended (application)**

Regulation 2(2), English text—

**Repeal**

“subregulation (1)”

**Substitute**

“paragraph (1)”.

**43. Regulation 11 amended (offences by owners and others)**

Regulation 11—

**Repeal paragraphs (1), (2) and (3)**

**Substitute**

- “(1) An owner of a lift who contravenes regulation 4, 5(1), 7(6), 8(3) or 9(4) commits an offence and is liable on conviction to a fine at level 6.
- (2) An owner of a lift who contravenes regulation 6 commits an offence and is liable on conviction to a fine at level 4.
- (3) A person who contravenes regulation 9(2) or (3) or 10 commits an offence and is liable on conviction to a fine at level 5.”.

**44. Regulation 12 amended (offences by competent examiners)**

(1) Regulation 12—

**Repeal paragraph (1)**

**Substitute**

- “(1) A competent examiner who, having carried out an examination for the purposes of these regulations, fails to comply with regulation 5(2) commits an offence and is liable on conviction to a fine at level 5.
- (1A) A competent examiner who, having carried out an examination for the purposes of these regulations, fails to sign, within a reasonable time after the



examination, all entries in the relevant register kept under regulation 6(1) relating to the examination in compliance with regulation 6(2) commits an offence and is liable on conviction to a fine at level 3.”.

- (2) Regulation 12(2)(b)—

**Repeal**

“6(2)”

**Substitute**

“6(1)”.

- (3) Regulation 12(2)—

**Repeal everything after paragraph (b)**

**Substitute**

“that the examiner knows is false in a material particular commits an offence and is liable on conviction to a fine at level 5 and to imprisonment for 12 months.”.

**Division 16—Factories and Industrial Undertakings (Dry  
Batteries) Regulations (Cap. 59 sub. leg. P)**

**45. Regulation 19 substituted**

Regulation 19—

**Repeal the regulation**

**Substitute**

**“19. Offences and penalties**

- (1) A proprietor of a factory—

- (a) in or in respect of which regulation 4, 11, 12, 15 or 17 is contravened commits an offence and is liable on conviction to a fine at level 4; or

- (b) in or in respect of which regulation 5, 6, 7, 8, 9, 10, 13, 14, 16 or 18(3) is contravened commits an offence and is liable on conviction to a fine at level 6.
- (2) A person (other than a proprietor of a factory) who—
  - (a) contravenes regulation 11, 12, 14(4) or 15(2) commits an offence and is liable on conviction to a fine at level 3; or
  - (b) contravenes regulation 13, 14(3) or 18(1) or (2) commits an offence and is liable on conviction to a fine at level 5.”.

**Division 17—Factories and Industrial Undertakings  
(Guarding and Operation of Machinery) Regulations  
(Cap. 59 sub. leg. Q)**

**46. Regulation 13 amended (offences)**

- (1) Regulation 13—

**Repeal paragraph (1)**

**Substitute**

- “(1) A proprietor of a notifiable workplace—

- (a) in respect of which regulation 4, 6(2), 7, 8, 9, 10, 11(1), (2) or (3) or 12(1) is contravened commits an offence and is liable on conviction to a fine at level 6; or
- (b) in respect of which regulation 11(4) is contravened commits an offence and is liable on conviction to a fine at level 4.”.

- (2) Regulation 13(3)—

**Repeal**

everything after “12(3)”

**Substitute**

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

**Division 18—Factories and Industrial Undertakings  
(Cartridge-Operated Fixing Tools) Regulations  
(Cap. 59 sub. leg. R)**

**47. Regulation 18 amended (offences and penalties)**

(1) Regulation 18—

**Repeal paragraph (1)**

**Substitute**

“(1) A contractor engaged in construction work on a construction site or a proprietor of any other industrial undertaking—

- (a) in or in respect of which regulation 4, 5, 6, 7, 9, 10, 11, 12, 14 or 16 is contravened commits an offence and is liable on conviction to a fine at level 6;
- (b) in or in respect of which regulation 8 is contravened commits an offence and is liable on conviction to a fine at level 4; or
- (c) in or in respect of which regulation 13 is contravened commits an offence and is liable on conviction to a fine of \$400,000.”.

(2) Regulation 18(2)—

**Repeal**

everything after “who”

**Substitute**

“—

- (a) contravenes regulation 6, 7, 9(2) or (3), 11, 14(2) or 15 commits an offence and is liable on conviction to a fine at level 5; or
- (b) contravenes regulation 13 commits an offence and is liable on conviction to a fine of \$150,000.”.

**Division 19—Factories and Industrial Undertakings  
(Protection of Eyes) Regulations (Cap. 59 sub. leg. S)**

**48. Regulation 9 substituted**

Regulation 9—

**Repeal the regulation**

**Substitute**

**“9. Offences**

- (1) A proprietor of an industrial undertaking who contravenes regulation 5, 6 or 7 commits an offence and is liable on conviction to a fine at level 6.
- (2) A person who contravenes regulation 8 commits an offence and is liable on conviction to a fine at level 5.”.

## **Division 20—Factories and Industrial Undertakings (Noise at Work) Regulation (Cap. 59 sub. leg. T)**

### **49. Section 12 amended (offences)**

(1) Section 12(1)—

#### **Repeal**

everything after “section 3(1)”

#### **Substitute**

“or (2), 4, 5, 6(1) or (3), 8, 9(1) or 10 commits an offence and is liable on conviction to a fine at level 6.”.

(2) Section 12—

#### **Repeal subsection (2)**

#### **Substitute**

“(2) A person who—

- (a) fails to comply with section 3(3) commits an offence and is liable on conviction to a fine at level 3;
- (b) fails to comply with section 3(4) or (5) commits an offence and is liable on conviction to a fine at level 4; or
- (c) fails to comply with section 9(2) commits an offence and is liable on conviction to a fine at level 5.”.

**Division 21—Factories and Industrial Undertakings (Fire  
Precautions in Notifiable Workplaces) Regulations  
(Cap. 59 sub. leg. V)**

**50. Regulation 7 amended (smoking)**

Regulation 7(3)—

**Repeal**

everything after “paragraph (1)”

**Substitute**

“—

- (a) must take all reasonably practicable steps to ensure compliance with the prohibition; and
- (b) must display in prominent positions within the workplace sufficient number of notices bearing the words and characters “NO SMOKING 不准吸煙”, in letters and characters not less than 180 millimetres high.”.

**51. Regulation 14 amended (offences)**

(1) Regulation 14(1)—

**Repeal**

everything after “regulation 6(3)”

**Substitute**

“or 9(1) commits an offence and is liable on conviction to a fine at level 6.”.

(2) Regulation 14—

**Repeal paragraphs (2), (3) and (3A)**

**Substitute**

“(2) A proprietor of a notifiable workplace—

- 
- (a) in respect of which regulation 7(3)(a), 10(1) or (2) or 12 is contravened commits an offence and is liable on conviction to a fine of \$400,000; or
    - (b) in respect of which regulation 7(3)(b), 9(2) or 11 is contravened commits an offence and is liable on conviction to a fine at level 6.
  - (3) A proprietor of a notifiable workplace who contravenes regulation 7(4) commits an offence and is liable on conviction to a fine at level 4.
  - (3A) A person who—
    - (a) contravenes regulation 5(2) or 7(2) commits an offence and is liable on conviction to a fine of \$150,000; or
    - (b) contravenes regulation 6(4) commits an offence and is liable on conviction to a fine at level 5.”.
  - (3) Regulation 14(4)—
    - Repeal**  
“to a fine of \$200,000”
    - Substitute**  
“on conviction to a fine of \$400,000”.
  - (4) Regulation 14(5)—
    - Repeal**  
“to a fine of \$200,000”
    - Substitute**  
“on conviction to a fine of \$400,000”.

## **Division 22—Factories and Industrial Undertakings (Electricity) Regulations (Cap. 59 sub. leg. W)**

### **52. Regulation 31 amended (duties of and offences relating to proprietors and electrical contractors)**

(1) Regulation 31(1), after “16(1)”—

**Add**

“and (4)”.

(2) Regulation 31(1), after “29(1)”—

**Add**

“and (3)”.

(3) Regulation 31—

**Repeal paragraph (2)**

**Substitute**

“(2) If regulation 5, 6, 8, 9, 10, 14, 18, 19(1), 20, 21(1), 24 or 28(1) is contravened, the proprietor of the industrial undertaking in respect of which the contravention occurs commits an offence and is liable on conviction to a fine of \$400,000.

(2A) If regulation 7, 11, 12(1), 13, 15, 16(1), 17, 19(2), 22, 23, 25, 26, 28(2), 29(1) or 30(1) is contravened, the proprietor of the industrial undertaking in respect of which the contravention occurs commits an offence and is liable on conviction to a fine at level 6.

(2B) If regulation 16(4), 27 or 29(3) is contravened, the proprietor of the industrial undertaking in respect of which the contravention occurs commits an offence and is liable on conviction to a fine at level 4.”.

(4) Regulation 31(3) and (4)—

**Repeal**



“to a fine at level 5”

**Substitute**

“on conviction to a fine at level 6”.

**53. Regulation 32 substituted**

Regulation 32—

**Repeal the regulation**

**Substitute**

**“32. Offences relating to misuse of apparatus etc.**

- (1) A person commits an offence if the person—
  - (a) wilfully misuses or interferes with an apparatus or protective equipment in a manner that might cause electrical hazard to the person or others; or
  - (b) wilfully and without reasonable cause does any other thing that might cause electrical hazard to the person or others.
- (2) A person who commits an offence under paragraph (1)(a) is liable on conviction to a fine of \$150,000.
- (3) A person who commits an offence under paragraph (1)(b) is liable on conviction to a fine at level 5.
- (4) A person who contravenes regulation 16(3), 26 or 29(2) commits an offence and is liable on conviction to a fine at level 5.
- (5) A person who contravenes regulation 21(2) commits an offence and is liable on conviction to a fine of \$150,000.”.

**Division 23—Factories and Industrial Undertakings  
(Safety Officers and Safety Supervisors) Regulations  
(Cap. 59 sub. leg. Z)**

**54. Regulation 22 substituted**

Regulation 22—

**Repeal the regulation**

**Substitute**

**“22. Offences and penalties**

A proprietor of an industrial undertaking who—

- (a) contravenes regulation 14 or 16 commits an offence and is liable on conviction to a fine of \$400,000;
- (b) contravenes regulation 18(2), 19, 20 or 21(2) commits an offence and is liable on conviction to a fine at level 6; or
- (c) contravenes regulation 19A commits an offence and is liable on conviction to a fine at level 4.”.

**Division 24—Factories and Industrial Undertakings  
(Carcinogenic Substances) Regulations  
(Cap. 59 sub. leg. AA)**

**55. Regulation 10 amended (offences)**

(1) Regulation 10—

**Repeal paragraph (1)**

**Substitute**

- “(1) If regulation 3(1) or (2) is contravened, the proprietor of the industrial undertaking in respect of which the contravention occurs commits an offence and is liable on conviction to a fine of \$400,000.
- (1A) If regulation 8(1) is contravened, the proprietor of the industrial undertaking in respect of which the contravention occurs commits an offence and is liable on conviction to a fine at level 6.”.
- (2) Regulation 10(2)—  
**Repeal**  
“to a fine of \$200,000”  
**Substitute**  
“on conviction to a fine of \$400,000”.
- (3) Regulation 10(3)—  
**Repeal**  
everything after “regulation”  
**Substitute**  
“6(a) or (c) or 7(1) commits an offence and is liable on conviction to a fine at level 6.”.
- (4) Regulation 10(4)—  
**Repeal**  
everything after “regulation”  
**Substitute**  
“6(b), 7(2) or 9(1) or (2) commits an offence and is liable on conviction to a fine at level 4.”.
- (5) Regulation 10—  
**Repeal paragraph (5).**
- (6) Regulation 10—

**Repeal paragraph (6)**

**Substitute**

“(6) If regulation 9(3) is contravened, the proprietor of the industrial undertaking in respect of which the contravention occurs commits an offence and is liable on conviction to a fine at level 4.”.

**Division 25—Factories and Industrial Undertakings  
(Dangerous Substances) Regulations (Cap. 59 sub. leg. AB)**

**56. Regulation 16 amended (offences by proprietors)**

Regulation 16(1), (2) and (3)—

**Repeal**

“to a fine of \$50,000”

**Substitute**

“on conviction to a fine at level 6”.

**57. Regulation 17 amended (offences by persons employed)**

Regulation 17—

**Repeal**

“to a fine of \$10,000”

**Substitute**

“on conviction to a fine at level 5”.

**Division 26—Factories and Industrial Undertakings  
(Suspended Working Platforms) Regulation  
(Cap. 59 sub. leg. AC)**

**58. Section 29 amended (offences by owners)**

(1) Section 29(1), after “17,”—

**Add**

“19,”.

(2) Section 29(1)—

**Repeal**

“to a fine of \$200,000”

**Substitute**

“on conviction to a fine of \$400,000”.

(3) Section 29—

**Repeal subsection (2)**

**Substitute**

“(2) An owner who—

- (a) contravenes section 15(3), 17 or 22(a) commits an offence and is liable on conviction to a fine at level 6;
- (b) contravenes section 19 commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 12 months;
- (c) contravenes section 22(b) commits an offence and is liable on conviction to a fine of \$400,000; or
- (d) contravenes section 24, 25 or 26 commits an offence and is liable on conviction to a fine at level 4.”.

**59. Section 30 amended (offences by employees and other persons)**

Section 30(a) and (b)—

**Repeal**

“to a fine at level 5”

**Substitute**

“on conviction to a fine of \$150,000”.

**60. Section 31 amended (offences by competent examiners)**

Section 31(2)—

**Repeal**

everything after “an owner”

**Substitute**

“a report that the examiner knows is false in a material particular commits an offence and is liable on conviction to a fine of \$150,000 and to imprisonment for 12 months.”.

**Division 27—Factories and Industrial Undertakings  
(Asbestos) Regulation (Cap. 59 sub. leg. AD)**

**61. Section 23 amended (offences by proprietors)**

(1) Section 23—

**Repeal subsection (1)**

**Substitute**

“(1) A proprietor who—

- (a) fails to comply with section 5(1), (3) or (4), 6(1) or (3), 7, 8, 9, 10, 11, 12(1), 13(1), 14, 15, 16, 17(1), (2) or (5), 18, 19 or 20 commits an offence and is liable on conviction to a fine at level 6; or
- (b) fails to comply with section 6(4), 13(2) or 17(3) commits an offence and is liable on conviction to a fine at level 4.”.

(2) Section 23(2)—

**Repeal**

“to a fine of \$200,000”

**Substitute**

“on conviction to a fine of \$400,000”.

**62. Section 24 amended (offence by workman)**

Section 24—

**Repeal**

“to a fine at level 3”

**Substitute**

“on conviction to a fine at level 5”.

**63. Section 25 amended (offence by any person)**

Section 25—

**Repeal**

“to a fine at level 3”

**Substitute**

“on conviction to a fine at level 5”.

## **Division 28—Factories and Industrial Undertakings (Confined Spaces) Regulation (Cap. 59 sub. leg. AE)**

### **64. Section 14 amended (offences)**

(1) Section 14(1)(a)—

**Repeal**

“8, 9, 10(2) or (3) or 11(1) or (2)”

**Substitute**

“8(b) or (d), 9, 10(2) or (3) or 11(2)”.

(2) Section 14(1)(a)(i) and (ii)—

**Repeal**

“at level 6”

**Substitute**

“of \$400,000”.

(3) Section 14(1)(b)(i) and (ii)—

**Repeal**

“\$200,000”

**Substitute**

“\$400,000”.

(4) Section 14(1)(c)—

**Repeal**

“level 5.”

**Substitute**

“level 4; or”.

(5) After section 14(1)(c)—

**Add**



- “(d) contravenes section 8(a) or (c) or 11(1) commits an offence and is liable, on conviction—
- (i) if the offence was committed without reasonable excuse, to a fine at level 6 and to imprisonment for 6 months; and
  - (ii) in any other case, to a fine at level 6.”.
- (6) Section 14(2)(b), English text—
- Repeal**  
“his”
- Substitute**  
“the person’s”.
- (7) Section 14(2)(c)—
- Repeal**  
“his”
- Substitute**  
“the person’s”.
- (8) Section 14(2)(i)—
- Repeal**  
“level 5”
- Substitute**  
“level 3”.
- (9) Section 14(2)(ii) and (iii)—
- Repeal**  
“\$200,000”
- Substitute**  
“\$150,000”.
- (10) Section 14—

**Repeal subsection (3)**

**Substitute**

- “(3) A certified worker who—
- (a) contravenes section 13(a) or (c) commits an offence and is liable on conviction to a fine of \$150,000;
  - (b) contravenes section 13(b) commits an offence and is liable on conviction to a fine at level 5; or
  - (c) willfully and without reasonable cause does anything likely to endanger the certified worker or others, while working in a confined space, commits an offence and is liable on conviction to a fine at level 5 and to imprisonment for 6 months.”.

**Division 29—Factories and Industrial Undertakings (Safety Management) Regulation (Cap. 59 sub. leg. AF)**

**65. Section 34 amended (offences)**

- (1) Section 34(1)—

**Repeal**

“level 1”

**Substitute**

“level 2”.

- (2) Section 34(2)—

**Repeal**

“\$200,000”

**Substitute**

“\$400,000”.

- (3) Section 34(3)—

**Repeal**

“12, 14, 16(1)(a), 20, 22(1)(a), 24(2) or 32(1)”

**Substitute**

“14, 16(1)(a), 20, 22(1)(a) or 24(2)”.

- (4) Section 34—

**Repeal subsection (4)**

**Substitute**

“(4) A person who—

- (a) contravenes section 9(1)(c) or (d), 16(1)(d), 19(1)(b) or 22(1)(d) commits an offence and is liable on conviction to a fine at level 4;
- (b) contravenes section 9(3), 11(1)(a), (b) or (d), 16(1)(c), 17, 22(1)(c), 23 or 33(5) commits an offence and is liable on conviction to a fine at level 6;
- (c) contravenes section 12 commits an offence and is liable on conviction to a fine of \$200,000 and to imprisonment for 3 months;
- (d) contravenes section 15, 16(3), 18, 21 or 22(3) commits an offence and is liable on conviction to a fine at level 5; or
- (e) contravenes section 32(1) commits an offence and is liable on conviction to a fine of \$150,000 and to imprisonment for 3 months.”.

- (5) Section 34(5)—

**Repeal**

“level 5”

**Substitute**

“level 6”.

- (6) Section 34(6)—

**Repeal**

everything after “16(1)(b)”

**Substitute**

“or 22(1)(b) commits an offence and is liable on conviction to a fine of \$400,000 and to imprisonment for 3 months.”.

- (7) After section 34(6)—

**Add**

“(6A) A person who, without reasonable excuse, contravenes section 29(1)(a) or (b) commits an offence and is liable on conviction to a fine of \$200,000 and to imprisonment for 3 months.”.

- (8) Section 34(7)—

**Repeal**

everything after “exercise of”

**Substitute**

“the Commissioner’s power under section 33(1) or (2), commits an offence and is liable on conviction to a fine at level 6.”.

**Division 30—Factories and Industrial Undertakings  
(Loadshifting Machinery) Regulation (Cap. 59 sub. leg. AG)**

**66. Section 8 amended (offences and penalties)**

- (1) Section 8(1) and (2)—

**Repeal**

“to a fine at level 5”

**Substitute**

“on conviction to a fine at level 6”.

(2) Section 8(3)—

**Repeal**

“to a fine at level 3”

**Substitute**

“on conviction to a fine at level 5”.

**Division 31—Factories and Industrial Undertakings  
(Gas Welding and Flame Cutting) Regulation  
(Cap. 59 sub. leg. AI)**

**67. Section 7 amended (offences and penalties)**

(1) Section 7(1) and (2)—

**Repeal**

“to a fine at level 5”

**Substitute**

“on conviction to a fine at level 6”.

(2) Section 7(3)—

**Repeal**

“to a fine at level 3”

**Substitute**

“on conviction to a fine at level 5”.

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## Part 3

### Amendments to Occupational Safety and Health Ordinance and its Subsidiary Legislation

#### Division 1—Occupational Safety and Health Ordinance (Cap. 509)

**68. Section 6 amended (employers to ensure safety and health of employees)**

(1) Section 6(3)—

**Repeal**

everything after “is liable”

**Substitute**

“\_\_

(a) on summary conviction—to a fine of \$3,000,000;  
or

(b) on conviction on indictment—to a fine of  
\$10,000,000.”.

(2) Section 6(4)—

**Repeal**

everything after “is liable”

**Substitute**

“\_\_

(a) on summary conviction—to a fine of \$3,000,000  
and to imprisonment for 6 months; or

(b) on conviction on indictment—to a fine of  
\$10,000,000 and to imprisonment for 2 years.”.

**69. Section 7 amended (occupier of premises to ensure safety and health of persons employed at those premises)**

(1) Section 7(2)—

**Repeal**

everything after “is liable”

**Substitute**

“\_\_

- (a) on summary conviction—to a fine of \$3,000,000; or
- (b) on conviction on indictment—to a fine of \$10,000,000.”.

(2) Section 7(3)—

**Repeal**

everything after “is liable”

**Substitute**

“\_\_

- (a) on summary conviction—to a fine of \$3,000,000 and to imprisonment for 6 months; or
- (b) on conviction on indictment—to a fine of \$10,000,000 and to imprisonment for 2 years.”.

**70. Section 8 amended (employees at work to take care of others and to co-operate with employer)**

(1) Section 8(2)—

**Repeal**

“at level 3”

**Substitute**

“of \$150,000”.

(2) Section 8(3)—

**Repeal**

“at level 5”

**Substitute**

“of \$150,000”.

**71. Section 9 amended (Commissioner may serve improvement notice on employer or occupier)**

Section 9(5)—

**Repeal**

“\$200,000”

**Substitute**

“\$400,000”.

**72. Section 10 amended (Commissioner may serve suspension notice on employer or occupier)**

(1) Section 10(6)(a)—

**Repeal**

“\$500,000”

**Substitute**

“\$1,000,000”.

(2) Section 10(6)(b)—

**Repeal**

“\$50,000”

**Substitute**

“\$100,000”.



**73. Section 13 amended (person responsible for workplace to notify accidents and other matters)**

Section 13(6)—

**Repeal**

“level 5”

**Substitute**

“level 6”.

**74. Section 14 amended (occupier of relevant premises to report dangerous occurrence to occupational safety officer)**

Section 14(5)—

**Repeal**

“level 5”

**Substitute**

“level 6”.

**75. Section 15 amended (medical practitioner to notify occupational disease to Commissioner)**

Section 15(3)—

**Repeal**

“level 3”

**Substitute**

“level 5”.

**76. Section 17 amended (holding of formal inquiry into workplace accident or dangerous occurrence)**

(1) Section 17(6)—

**Repeal**

“level 5”

**Substitute**

“level 6”.

(2) Section 17(10)—

**Repeal**

“level 5”

**Substitute**

“level 6”.

**77. Section 23 amended (powers of occupational safety officers who have entered premises)**

Section 23(5)—

**Repeal**

“level 3”

**Substitute**

“level 4”.

**78. Section 24 amended (occupational safety officer may request certain information)**

Section 24(2)—

**Repeal**

“level 5”

**Substitute**

“level 6”.

**79. Section 25 amended (occupational safety officer may require responsible person to exhibit notice in workplace)**

Section 25(4)—

**Repeal**

“level 5”

**Substitute**

“level 6”.

- 80. Section 26 amended (offence to obstruct occupational safety officers and others exercising or performing functions under Ordinance)**

Section 26—

**Repeal**

“level 5”

**Substitute**

“level 6”.

- 81. Section 27 amended (offence to impersonate occupational safety officer)**

Section 27—

**Repeal**

“level 5”

**Substitute**

“level 6”.

- 82. Section 29 amended (offence for public officers and others to disclose certain information)**

Section 29(5)—

**Repeal**

“level 3”

**Substitute**

“level 4”.

**83. Section 31 amended (offence for employer to charge employees for anything done to fulfil statutory requirement)**

Section 31—

**Repeal**

“level 5”

**Substitute**

“level 6”.

**84. Section 34 amended (prosecution for offence may be brought in Commissioner’s name)**

(1) Section 34, heading—

**Repeal**

“for offence may be brought in Commissioner’s name”

**Substitute**

“of offences”.

(2) Section 34(1), after “Ordinance”—

**Add**

“, or an offence of conspiracy to commit such an offence”.

(3) After section 34(1)—

**Add**

“(1A) For the purposes of subsection (1), the offence must be tried before a magistrate as an offence that is triable summarily.”.

**85. Section 34A added**

After section 34—

**Add**

**“34A. Prosecution deadline**

A prosecution for a summary offence under this Ordinance, or an indictable offence under this Ordinance that is to be tried summarily, may only be started before the end of 12 months beginning on the date on which the offence is committed.

**Note—**

This replaces the time limit under section 26 of the Magistrates Ordinance (Cap. 227) in respect of a summary offence.”.

**86. Section 39A added**

Part VII, after section 39—

**Add**

**“39A. Court to order convicted person to give financial information**

- (1) The court must order a convicted person to give information on the turnover of the convicted person’s business to determine the scale of operation of the convicted person.
- (2) For the purpose of complying with an order made under subsection (1), the convicted person must provide—
  - (a) a copy of the return furnished by the convicted person for profits tax under section 51(1) of the Inland Revenue Ordinance (Cap. 112); or
  - (b) a document containing the turnover information of the convicted person’s business that has been audited by a certified public accountant (practising) as defined by section 2(1) of the Professional Accountants Ordinance (Cap. 50).

- (3) If the convicted person fails to comply with an order made under subsection (1) by giving sufficient information, the court may further order the convicted person to give any other financial information that the court considers relevant in determining the scale of operation of the convicted person.
- (4) Information given in compliance with an order made under subsection (1) or an order made under subsection (3), or both, must cover the year in which the offence is committed.
- (5) In this section—

**convicted person** (被定罪人士) means an employer, or an occupier of premises, who is convicted on indictment of an offence under this Ordinance;

**turnover** (營業額) means the revenue arising in or derived from Hong Kong from the principal business activities carried on in Hong Kong by a convicted person, but excluding the revenue that arises incidentally or is exceptional in nature;

**year** (年份), in relation to a convicted person, means—

- (a) the financial year of the convicted person; or
- (b) if the convicted person does not have a financial year, a calendar year.”.

**87. Section 39A amended (court to order convicted person to give financial information)**

Section 39A(2)(b)—

**Repeal**

“Professional Accountants Ordinance (Cap. 50)”

**Substitute**

“Accounting and Financial Reporting Council Ordinance  
(Cap. 588)”.

**88. Section 39B added**

At the end of Part VII—

**Add**

**“39B. Court to take into account financial information of  
convicted person**

- (1) In determining the amount of the fine to be imposed on a convicted person (as defined by section 39A(5)), the court—
  - (a) must take into account any information given in compliance with an order made under section 39A(1) or an order made under section 39A(3), or both; or
  - (b) if satisfied that the convicted person fails to comply with any such order by giving sufficient information, may take into account information from any other source that the court considers relevant in determining the scale of operation of the convicted person.
- (2) To avoid doubt, in determining the amount of the fine to be imposed on an employer, or an occupier of premises, who is convicted of a summary offence under this Ordinance, or of an indictable offence under this Ordinance that is tried summarily, the court may take into account any financial information given by the employer or occupier to determine the scale of operation of the employer or occupier.”.

**89. Section 42 amended (Commissioner may make regulations)**

(1) Section 42(5)(a)—

**Repeal**

“\$200,000”

**Substitute**

“\$400,000”.

(2) Section 42(5)(b)—

**Repeal**

“\$5,000”

**Substitute**

“\$10,000”.

**Division 2—Occupational Safety and Health Regulation  
(Cap. 509 sub. leg. A)**

**90. Section 3 amended (responsible person to ensure safe design and maintenance of plant)**

Section 3(3)—

**Repeal**

“level 5”

**Substitute**

“level 6”.

**91. Section 4 amended (responsible person to ensure dangerous parts of plant are guarded)**

Section 4(3)—

**Repeal**

“level 5”



**Substitute**

“level 6”.

**92. Section 5 amended (responsible person to ensure young persons do not clean plant)**

Section 5(2)—

**Repeal**

“level 5”

**Substitute**

“level 6”.

**93. Section 6 amended (responsible person to ensure that certain parts of workplace are securely fenced)**

Section 6(3)—

**Repeal**

“\$200,000”

**Substitute**

“\$400,000”.

**94. Section 7 amended (responsibilities of responsible person with respect to means of egress from workplace)**

Section 7(3)—

**Repeal**

“\$200,000”

**Substitute**

“\$400,000”.

**95. Section 8 amended (responsible person to ensure that means of escape are properly maintained)**

Section 8(2)—

**Repeal**

“\$200,000”

**Substitute**

“\$400,000”.

**96. Section 9 amended (offences relating to means of escape from workplace)**

Section 9(1)—

**Repeal**

“at level 5”

**Substitute**

“of \$150,000”.

**97. Section 10 amended (Commissioner may require additional fire safety measures)**

Section 10(2)—

**Repeal**

“\$200,000”

**Substitute**

“\$400,000”.

**98. Section 11 amended (offence to damage or interfere with fire safety measures provided at workplace)**

Section 11(1)—

**Repeal**

“at level 5”

**Substitute**

“of \$150,000”.

**99. Section 12 amended (responsible person to keep workplace clean and adequately ventilated)**

Section 12(5)—

**Repeal**

“level 5”

**Substitute**

“level 6”.

**100. Section 13 amended (responsible person to ensure that workplace is sufficiently lit)**

Section 13(2)—

**Repeal**

“level 5”

**Substitute**

“level 4”.

**101. Section 14 amended (responsible person to ensure that floors of workplace are adequately drained)**

Section 14(2)—

**Repeal**

“level 5”

**Substitute**

“level 6”.

**102. Section 15 amended (workplace to be provided with sanitary conveniences, etc.)**

Section 15(2)—

**Repeal**

“level 3”

**Substitute**

“level 4”.

**103. Section 16 amended (employees to be provided with adequate supplies of drinking water)**

Section 16(2)—

**Repeal**

“level 3”

**Substitute**

“level 6”.

**104. Section 18 amended (first aid facilities to be provided at workplace)**

Section 18(2)—

**Repeal**

“level 3”

**Substitute**

“level 4”.

**105. Section 19 amended (Commissioner may require additional first aid items to be provided)**

Section 19(3)—

**Repeal**

“level 3”

**Substitute**

“level 4”.

**106. Section 20 amended (responsible person to designate employees to be in charge of first aid facilities)**

Section 20(2)—

**Repeal**

“level 3”

**Substitute**

“level 4 in respect of contravention of subsection (1)(a), (b) or (c) or to a fine at level 6 in respect of contravention of subsection (1)(d)”.

**107. Section 23 amended (responsible person to make preliminary assessment of risks)**

Section 23(5)—

**Repeal**

“of \$200,000”

**Substitute**

“at level 6”.

**108. Section 24 amended (responsible person to avoid need to undertake certain manual handling operations)**

Section 24(2)—

**Repeal**

“of \$200,000”

**Substitute**

“at level 6”.

**109. Section 25 amended (responsible person to make further assessment of risks)**

Section 25(4)—

**Repeal**

“of \$200,000”

**Substitute**

“at level 6”.

**110. Section 26 amended (responsible person to keep record of assessment of manual handling operations)**

Section 26(3)—

**Repeal**

“level 6”

**Substitute**

“level 4”.

**111. Section 27 amended (responsible person to reduce risks and make arrangements for preventive and protective measures)**

Section 27(3)—

**Repeal**

everything after “and is liable on conviction to a fine” and before “at level 6”.

**112. Section 28 amended (responsible person to appoint assistants)**

Section 28(5)—

**Repeal**

“of \$200,000”

**Substitute**

“at level 6”.

**113. Section 29 amended (responsible person to provide certain information to employees)**

Section 29(2)—

**Repeal**

“of \$200,000”

**Substitute**

“at level 6”.

**114. Section 30 amended (duty of employer when allocating work tasks to employees)**

Section 30(3)—

**Repeal**

“of \$200,000”

**Substitute**

“at level 6”.

**115. Section 31 amended (employer to provide adequate training to employees)**

Section 31(4)—

**Repeal**

“of \$200,000”

**Substitute**

“at level 6”.

**Division 3—Occupational Safety and Health (Display  
Screen Equipment) Regulation (Cap. 509 sub. leg. B)**

**116. Section 11 amended (offences)**

(1) Section 11—

**Repeal subsection (1)**

**Substitute**

- “(1) A person responsible for a workplace who—
- (a) fails to comply with section 4(1), (2) or (4), 5 or 7 commits an offence and is liable on conviction to a fine at level 6; or
  - (b) fails to comply with section 4(5) or (6)(b) or 6 commits an offence and is liable on conviction to a fine at level 4.”.

- (2) Section 11(2)—

**Repeal**

“level 5”

**Substitute**

“level 6”.

- (3) Section 11(3)—

**Repeal**

“level 3”

**Substitute**

“level 5”.

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## Explanatory Memorandum

This Bill amends the Factories and Industrial Undertakings Ordinance (Cap. 59) (*Cap. 59*), the Occupational Safety and Health Ordinance (Cap. 509) (*Cap. 509*) and the subsidiary legislation under those Ordinances to strengthen the protection of the employees' occupational safety and health. The main objects of the Bill are—

- (a) to raise the maximum penalties for offences committed by proprietors of industrial undertakings, employers or occupiers of premises (collectively, *responsible persons*) to enhance the deterrent effect of the legislation on them;
- (b) to provide that certain offences committed by the responsible persons can be tried on indictment; and
- (c) to require the court to take into account the financial information of the responsible persons convicted on indictment in determining the amount of the fine.

2. The Bill is divided into 3 Parts.

### Part 1—Preliminary

3. Clause 1 sets out the short title and provides for commencement.

### Part 2—Amendments to Cap. 59 and its Subsidiary Legislation

4. Section 6A of Cap. 59 imposes general duties on a proprietor of an industrial undertaking to ensure the safety and health at work of persons employed by the proprietor. Clause 3 introduces amendments to the effect that if section 6A of Cap.

59 is contravened, the offence can be tried on indictment or summarily. The maximum penalty on summary conviction is raised from \$500,000 to \$3,000,000 and the maximum penalty on conviction on indictment is \$10,000,000.

5. Clause 12 adds a new section 17A to Cap. 59 to provide that the time limit in respect of prosecution for a summary offence under Cap. 59, or an indictable offence under Cap. 59 that is to be tried summarily, is 12 months beginning on—
  - (a) for an offence specified in Schedule 5 to Cap. 59—the date on which the offence is discovered by, or comes to the notice of, the Commissioner for Labour; or
  - (b) for any other offence—the date on which the offence is committed.
6. Clauses 13 and 15 respectively add new sections 20 and 21 to Cap. 59 to provide that if a proprietor of an industrial undertaking is convicted on indictment of an offence under Cap. 59, the court must order the proprietor to give information on the turnover of the proprietor's business to determine the scale of operation of the proprietor. The court must take into account those information in determining the amount of the fine to be imposed on the proprietor.
7. Other clauses in Part 2 (clauses 4 to 11 and 16 to 67) mainly contain technical amendments to various provisions of Cap. 59 and its subsidiary legislation to adjust the level of penalties for certain offences under those legislation, and to provide for related and miscellaneous matters.

### **Part 3—Amendments to Cap. 509 and its Subsidiary Legislation**

8. Section 6 of Cap. 509 requires every employer to ensure the safety and health at work of the employer's employees. Section

7 of Cap. 509 provides that 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 the safety of the premises. Clauses 68 and 69 respectively introduce amendments to the effect that if section 6 or 7 of Cap. 509 is contravened, the offence can be tried on indictment or summarily. The maximum penalty on summary conviction is raised from \$200,000 to \$3,000,000 and the maximum penalty on conviction on indictment is \$10,000,000.

9. Clause 85 adds a new section 34A to Cap. 509 to provide that the time limit in respect of prosecution for a summary offence under Cap. 509, or an indictable offence under Cap. 509 that is to be tried summarily, is 12 months beginning on the date on which the offence is committed.
10. Clauses 86 and 88 respectively add new sections 39A and 39B to Cap. 509 to provide that if an employer, or an occupier of premises, is convicted on indictment of an offence under Cap. 509 (*convicted person*), the court must order the convicted person to give information on the turnover of the convicted person's business to determine the scale of operation of the convicted person. The court must take into account those information in determining the amount of the fine to be imposed on the convicted person.
11. Other clauses in Part 3 (clauses 70 to 84 and 89 to 116) mainly contain technical amendments to various provisions of Cap. 509 and its subsidiary legislation to adjust the level of penalties for certain offences under those legislation, and to provide for related and miscellaneous matters.