

**Property Management Services Authority**  
**Code of Conduct**  
**Handling Suspended Working Platform Works**

**Code No.: C14/2022**

**Effective Date: 28 October 2022**

**Preamble**

The following code of conduct (“Code”) is issued by the Property Management Services Authority pursuant to section 5 of the Property Management Services Ordinance (“PMSO”) and contains practical guidance for the purposes of section 4 of the PMSO (disciplinary offences). Although a licensee<sup>1</sup> does not incur a legal liability only because the licensee has contravened a provision of the Code, the Code is admissible in evidence in disciplinary hearings, and proof that a licensee contravened or did not contravene the relevant provision of the Code may be relied on as tending to establish or negate a matter that is in issue in the hearings.

**Background**

A licensed property management company (licensed PMC) may, in respect of the property for which property management services (PMSs) are provided by it, from time to time, carry out construction work<sup>2</sup> involving suspended working platforms<sup>3</sup> (which may be a permanent suspended working platform<sup>4</sup> or a temporary suspended working platform<sup>5</sup>; and which may be operated by a licensed PMC or operated by other

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<sup>1</sup> The term “licensee” means the holder of the following licence: a PMC licence; a PMP (Tier 1) licence; a PMP (Tier 2) licence; a provisional PMP (Tier 1) licence; or a provisional PMP (Tier 2) licence.

<sup>2</sup> According to Section 2 of the the Factories and Industrial Undertakings Ordinance (Cap. 59), “industrial undertakings” include “any construction work”, and “construction work” is defined as (a) the construction, erection, installation, reconstruction, repair, maintenance (including redecoration and external cleaning), renewal, removal, alteration, improvement, dismantling, or demolition of any structure or works specified in Schedule 3; (b) any work involved in preparing for any operation referred to in paragraph (a), including the laying of foundations and the excavation of earth and rock prior to the laying of foundations; (c) the use of machinery, plant, tools, gear, and materials in connexion with any operation referred to in paragraph (a) or (b).

<sup>3</sup> According to Section 3 of the Factories and Industrial Undertakings (Suspended Working Platforms) Regulation (Cap. 59AC) (Suspended Working Platforms Regulation), “suspended working platform” is defined as a scaffold (not being a slung scaffold) or a working platform suspended from a building or structure by means of lifting gear and capable of being raised or lowered by lifting appliances (but does not include a boatswain’s chair or similar device), and includes all lifting appliances, lifting gear, counterweights, ballast, outriggers, other supports and the whole of the mechanical and electrical apparatus required in connection with the operation and safety of such a scaffold or working platform.

<sup>4</sup> According to Section 3.2.1 of the Code of Practice for Safe Use and Operation of Suspended Working Platforms issued by the Labour Department, a “permanent suspended working platform” is designed especially to be permanently installed on a specific building or structure for the inspection, cleaning and maintenance of the facades. It is also known as a building maintenance unit.

<sup>5</sup> According to Section 3.3.1 of the Code of Practice for Safe Use and Operation of Suspended Working Platforms issued by the Labour Department, a “temporary suspended working platform” is temporarily assembled on a building or a structure. It will be dismantled at the end of the work for which it was installed.

contractors). The Suspended Working Platforms Regulation has made stipulation regulations governing owners<sup>6</sup> of suspended working platforms, and in addition, the owner has to ensure that:

### **The construction/maintenance/dismantling of suspended working platform**

- 2.1
- (a) The suspended working platform is of good design and construction; of adequate strength for the purpose for which it is used; made of sound material and free from patent defect; properly installed or assembled; and properly maintained<sup>7</sup>;
  - (b) the arrangement for fixing and anchoring the suspended working platform are adequate to secure its safety; it is adequately and securely supported; every structure supporting it is of good construction and adequate strength, of sound materials and free from patent defect<sup>8</sup>;
  - (c) where outriggers are used, the outriggers are of adequate length and strength and properly installed and supported; firmly anchored at the inner ends; and securely fastened to any ballast or counterweights<sup>9</sup>;
  - (d) the suspended working platform is at least 440 millimetres wide and of sufficient length to allow the number of persons using it to do so safely; except to the extent necessary for drainage, it is either closely boarded, planked or plated; provided on all sides with toe boards and guard-rails which are placed up to the required standard<sup>10</sup>; and
  - (e) the suspended working platform can only be erected, dismantled or its originally designed structure attend under the supervision of a competent person<sup>11</sup>.

### **Test and examination of suspended working platform**

- 2.2
- (a) The suspended working platform has been inspected by a competent person<sup>12</sup> in the immediately preceding 7 days before its use and has obtained a certificate (i.e. Form 1 – Certificate of Weekly Inspections of

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<sup>6</sup> According to Section 3 of the Suspended Working Platforms Regulation, “owner” in relation to any suspended working platform, includes the lessee or hirer thereof, and any overseer, foreman, agent or person in charge or having the control or management of the suspended working platform, and the contractor who has control over the way any construction work which involves the use of the suspended working platform is carried out and, in the case of a construction site, includes the contractor responsible for the construction site.

<sup>7</sup> Refer to Section 4(a)-(e) of the Suspended Working Platforms Regulation.

<sup>8</sup> Refer to Section 5(1)(a)-(c) of the Suspended Working Platforms Regulation.

<sup>9</sup> Refer to Section 5(2)(a)-(c) of the Suspended Working Platforms Regulation.

<sup>10</sup> Refer to Section 8(a)-(d) of the Suspended Working Platforms Regulation.

<sup>11</sup> Refer to Section 16 of the Suspended Working Platforms Regulation.

<sup>12</sup> As defined in Section 3 of the Suspended Working Platforms Regulation, “competent person”, in relation to any duty to be performed by such a person under the Suspended Working Platforms Regulation, means a person who is — (a) appointed by the owner to ensure that the duty is carried out; and (b) by reason of substantial training and practical experience, competent to perform the duty.

Suspended Working Platform) in which the competent person has made a statement to the effect that it is in safe working order<sup>13</sup>;

- (b) all the suspension ropes and safety ropes have been inspected and found in safe working condition by a competent person prior to the commencement of daily work; and a notice in English and Chinese in the following form is prominently displayed on the platform—“All wire ropes shall be inspected prior to commencement of daily work 每日開工前須檢查所有繩索<sup>14</sup>”;
- (c) the suspended working platform has been thoroughly examined by a competent examiner<sup>15</sup> in the immediately preceding 6 months before its use and the owner of the suspended working platform has obtained a certificate (i.e. Form 2 – Certificate of Thorough Examination of Suspended Working Platform) in which the competent examiner has made a statement to the effect that it is in safe working order<sup>16</sup>;
- (d) the suspended working platform has been load tested and thoroughly examined by a competent examiner during the immediately preceding 12 months before its use and the owner of the suspended working platform has obtained a certificate (i.e. Form 3 – Certificate of Load Test and Thorough Examination of Suspended Working Platform) in which the competent examiner has made a statement to the effect that it is in safe working order<sup>17</sup>; and
- (e) If, after the suspended working platform has been thoroughly examined/ has been load tested and thoroughly examined, where
  - (i) a suspended working platform has undergone substantial repair;
  - (ii) re-erection, including erection following its removal to a different location;
  - (iii) adjustment to any member of the suspended working platform, being an adjustment which involves changes in the arrangements for anchoring or supporting the suspended working platform; or
  - (iv) failure or collapse after such test/examination,

then the suspended working platform has to be further load tested and thoroughly examined by a competent examiner and the owner of the suspended working platform has to obtain from the competent examiner another certificate (i.e. Form 3 – Certificate of Load Test and Thorough

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<sup>13</sup> Refer to Section 19(1)(a) and (b) of the Suspended Working Platforms Regulation.

<sup>14</sup> Refer to Section 19(2)(a) and (b) of the Suspended Working Platforms Regulation.

<sup>15</sup> As defined in Section 3 of the Suspended Working Platforms Regulation, “competent examiner”, in relation to the carrying out of any thorough examination or load test and thorough examination required by the Suspended Working Platforms Regulation, means a person who is— (a) appointed by the owner required by the Suspended Working Platforms Regulation to ensure that such thorough examination or load test and thorough examination is carried out; (b) a professional engineer registered under the Engineers Registration Ordinance (Cap. 409) within a relevant discipline specified by the Commissioner for Labour; and (c) by virtue of previous experience, competent to carry out such thorough examination or load test and thorough examination.

<sup>16</sup> Refer to Section 20(1) of the Suspended Working Platforms Regulation.

<sup>17</sup> Refer to Section 20(2) of the Suspended Working Platforms Regulation.

Examination of Suspended Working Platform) in which the competent examiner has made a statement to the effect that it is in safe working order<sup>18</sup>.

### **Safety equipment of suspended working platform**

- 2.3
- (a) The wire ropes or chains of the suspended working platform are securely attached to the outriggers or other supports<sup>19</sup>;
  - (b) the wire ropes or chains of the suspended working platform are of such length that the platform is capable of being lowered to the ground or a safe landing place<sup>20</sup>;
  - (c) adequate arrangements are made to prevent undue tipping, tilting or swinging of the platform and to secure it to prevent undue horizontal movement while it is being used<sup>21</sup>; and
  - (d) every person using the suspended working platform shall be provided with a safety belt and an independent lifeline or an anchorage with fittings; every person carried on it is wearing a safety belt that is attached to a safety equipment; and a notice in English and Chinese in the following form is displayed prominently on the suspended working platform—“Every person riding on a suspended working platform shall wear a safety belt properly attached to an independent lifeline or an appropriate anchorage 吊船上的人員須佩戴安全帶；安全帶須繫於獨立救生繩上或穩固的繫穩物上<sup>22</sup>”.

### **Safe usage of suspended working platform**

- 2.4
- (a) Every person working on the suspended working platform shall be at least 18 years old and has undergone training that is either recognized by the Commissioner for Labour or provided by the manufacturer of the suspended working platform or its local agent, on general construction of the suspended working platform and how to operate it safely, and has obtained a certificate in respect of such training<sup>23</sup>; and
  - (b) the suspended working platform is not used under weather conditions likely to endanger its stability or cause danger to the persons carried thereon; and after exposure to weather conditions likely to have affected the stability of the suspended working platform, cause the suspended

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<sup>18</sup> Refer to Section 20(3) of the Suspended Working Platforms Regulation.

<sup>19</sup> Refer to Section 6(c) of the Suspended Working Platforms Regulation.

<sup>20</sup> Refer to Section 6(d) of the Suspended Working Platforms Regulation.

<sup>21</sup> Refer to Section 6(e) of the Suspended Working Platforms Regulation.

<sup>22</sup> Refer to Section 15(1)-(3) of the Suspended Working Platforms Regulation.

<sup>23</sup> Refer to Section 17(1)(a) and (b) of the Suspended Working Platforms Regulation.

working platform to be load tested and thoroughly examined by a competent examiner as soon as practicable thereafter and before the suspended working platform is used again<sup>24</sup>.

3. The PMSA has formulated the Code to provide practical guidance to licensed PMCs on suspended working platform work performed in respect of properties for which PMSs are provided by them.

## Code

### PMC carrying out suspended working platform work by itself

A(1) A licensed PMC, when arranging for employees or other persons to carry out construction work by itself involving work on a suspended working platform for the property in respect of which PMSs are provided by it, has to:

- (a) comply with the relevant requirements of the Suspended Working Platforms Regulation (the stipulations set out in paragraphs 2.1-2.4 refer);
- (b) so far as reasonably practicable, ensure the safety and health at work of the staff members or other persons carrying out the respective work in accordance with section 6A of the Factories and Industrial Undertakings Ordinance and section 6 of the Occupational Safety and Health Ordinance (Cap. 509) (the stipulations at **Appendix 1** and **Appendix 2** refer);
- (c) ensure that the staff members or other persons carrying out the respective work are holders of relevant certificates in accordance with section 6BA of the Factories and Industrial Undertakings Ordinance (the stipulations at **Appendix 3** refer); and
- (d) ensure that there is in force a policy of work insurance procured for the work carried out on suspended working platform<sup>25</sup>.

A(2) Regarding the work mentioned in paragraph A(1) of the Code, if the workers are employed directly by the owners' organisation<sup>26</sup> (if any), the licensed PMC has to inform the owners' organisation of the relevant requirements of the Suspended Working Platforms Regulation (the stipulations set out in paragraphs 2.1-2.4 refer), the stipulations set out in **Appendix 1** to **Appendix 3**, and to take out a policy of work insurance that is in force as required and remind them to abide by

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<sup>24</sup> Refer to Section 18(1)(a) and (b) of the Suspended Working Platforms Regulation.

<sup>25</sup> Related legislation/subsidiary legislation (e.g. the requirement that the concerned employers has to take out employees' compensation insurance as stipulated in the Employees' Compensation Ordinance (Cap. 282)).

<sup>26</sup> The term "owners' organisation" has the same meaning as defined by section 2 of the PMSO i.e. "in relation to a property, means an organisation (whether or not formed under the Building Management Ordinance (Cap. 344) (BMO) or a deed of mutual covenant) that is authorised to act on behalf of all the owners of the property".

those stipulations.

### **PMC arranging for suspended working platform work**

- B(1) A licensed PMC, when engaging a suspended working platform contractor to carry out construction work involving work on a suspended working platform (whether it is a permanent or temporary suspended working platform) for the property in respect of which PMSs are provided by it, has to:
- (a) ensure that the contractor concerned abides by the contractual terms of the suspended working platform work contract entered into;
  - (b) remind the contractor concerned to abide by the Suspended Working Platforms Regulation (the stipulations set out in paragraphs 2.1-2.4 refer), the stipulations set out in **Appendix 1 to Appendix 3**, and to take out a policy of work insurance that is in force as required; and
  - (c) check the policy of work insurance that is in force and taken out for the work on the suspended working platform by the contractor concerned.
- B(2) If the contractor mentioned in paragraph B(1) of the Code is engaged by the owners' organisation (if any) directly, the licensed PMC has to remind the owners' organisation of the guidelines set out in paragraphs B(1)(a) to (c) of the Code so as to enable the owners' organisation to remind the contractor concerned of the same requirements accordingly.

### **PMC handling suspended working platform work carried out by individual flat owner**

- C(1) When owners of individual flats carry out by themselves construction work involving the use of suspended working platform of PMCs:
- (a) a licensed PMC has to draw up the terms and procedures for the application for the rental/borrowing of the suspended working platform (if there is no owners' organisation); or agree with the owners' organisation (if any) on the terms and procedures in such application<sup>27</sup>;
  - (b) if the suspended working platform work described in paragraph C(1) of the Code is carried out by the employees of the licensed PMC, the licensed PMC has to abide by the Suspended Working Platforms Regulation (the stipulations set out in paragraphs 2.1-2.4 refer), the stipulations set out in **Appendix 1 to Appendix 3**, and take out a policy of work insurance that is

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<sup>27</sup> The agreement should not affect the work of a licensed PMC as the manager to carry out its duties pursuant to the Buildings Management Ordinance (Cap. 344)(BMO) or the deed of mutual covenant of the respective property. The term "manager" has the same meaning as that defined by section 34D of the BMO.

in force as required;

- (c) if the suspended working platform work described in paragraph C(1) of the Code is performed by persons engaged by the owners' organisation, a licensed PMC has to remind the owners' organisation to abide by the Suspended Working Platforms Regulation (the stipulations set out in paragraphs 2.1-2.4 refer), the stipulations set out in **Appendix 1** to **Appendix 3**, and to take out a policy of work insurance that is in force as required;
  - (d) if the suspended working platform work described in paragraph C(1) of the Code is performed by a suspended working platform contractor engaged by a licensed PMC, the licensed PMC has to
    - (i) ensure that the contractor concerned abides by the contractual terms of the suspended working platform work contract entered into;
    - (ii) remind the contractor concerned to abide by the Suspended Working Platforms Regulation (the stipulations set out in paragraphs 2.1-2.4 refer), the stipulations set out in **Appendix 1** to **Appendix 3**, and to take out a policy of work insurance that is in force as required; and
    - (iii) check the policy of work insurance that is in force and taken out for the work on the suspended working platform by the contractor concerned;
  - (e) If, as requested by the owner of the individual flat and agreed upon by the licensed PMC, the suspended working platform work described in paragraph C(1) of the Code is carried out by the suspended working platform contractor which has at the time been responsible for the inspection/repair/maintenance of the suspended working platform, the licensed PMC has to remind the owner of the individual flat of the stipulations set out in C(1)(d)(i)-(iii) so as to enable the owner to remind the contractor concerned of the same requirements accordingly.
- C(2) Where the property concerned does not have suspended working platform installed or if the suspended working platform of the licensed PMC concerned is not fit for the construction work carried out by the individual flat owner, and the owner concerned needs to use of the suspended working platform of other contractors:
- (a) if the suspended working platform is provided by the suspended working platform contractor engaged by the individual flat owner and the work concerned is carried out by that contractor, the licensed PMC has to remind the individual flat owner concerned the stipulations below so as to enable

the individual flat owner to remind the contractor concerned of the same requirements accordingly:

- (i) ensure that the contractor concerned abides by the contractual terms of the suspended working platform work contract entered into;
  - (ii) remind the contractor concerned to abide by the Suspended Working Platforms Regulation (the stipulations set out in paragraphs 2.1-2.4 refer), the stipulations set out in **Appendix 1** to **Appendix 3**, and to take out a policy of work insurance that is in force as required; and
  - (iii) check the policy of insurance that is in force and taken out by the contractor concerned for the work on the suspended working platform.
- (b) if the suspended working platform is provided by the suspended working platform contractor engaged by a licensed PMC and the work concerned is carried out by that contractor, the licensed PMC has to abide by the stipulations set out in paragraphs C(2)(a)(i)-(iii) of the Code.

#### **Monitoring suspended working platform work**

- D(1) A licensed PMC has to, so far as reasonably practicable, monitor and record suspended working platform work as stated in the Code. If abnormalities (e.g. those working on the suspended working platform are not wearing safety belts, loosen parts are detected on the suspended working platform, etc.) are found, it has to handle and follow-up with the matter properly.
- D(2) If a licensed PMC discovers that the contractor concerned contravenes the law concerned when carrying out suspended working platform work (e.g. using the suspended working platform in bad weather conditions<sup>28</sup>), the licensed PMC has to instruct the contractor concerned (if engaged by the licensed PMC or the owners' organisation) to stop the suspended working platform work immediately; or demand the flat owners concerned to instruct the contractor concerned (if engaged by the individual flat owner) to do so immediately, and discuss with the owners' organisation (if any) to take follow-up action (e.g. reporting to the relevant law enforcement agencies). If there is no owner's organisation, the licensed PMC has to, so far as reasonably practicable, take appropriate follow-up action (e.g. reporting to the relevant law enforcement agencies).

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<sup>28</sup> In accordance with Section 18 of the Suspended Working Platforms Regulation, the owner of a suspended working platform shall ensure that the suspended working platform is not used under weather conditions likely to endanger its stability or cause danger to the persons carried thereon.



### **Issuing notice**

E(1) A licensed PMC has to, so far as reasonably practicable, display notices in a prominent place in the lobby of the property concerned to inform owners and relevant persons (i.e. residents of various flats) about the suspended working platform work before such work commences.

### **Follow-up work after completion of suspended working platform work**

F(1) A licensed PMC, after completion of work on a permanent suspended working platform:-

- (a) (i) has to, if the suspended working platform work is carried out by its employees, clear up by itself the affected area, and properly restore damaged facilities and areas arising from the suspended working platform work;
  - (ii) has to remind related workers, if the suspended working platform work is carried out by persons engaged by the owners' organisation directly, to clear up the affected area, and properly restore damaged facilities and areas arising from the suspended working platform work; and
  - (iii) has to ensure that the contractor concerned, if the suspended working platform work is carried out by a suspended working platform contractor engaged by the licensed PMC or by a flat owner directly, to clear up the affected area, and properly restore damaged facilities and areas arising from the suspended working platform work.
- (b) refund the suspended working platform deposit concerned timely (if applicable).

F(2) A licensed PMC, after completion of work on a temporary suspended working platform, has to:

- (a) remind the contractor concerned that the suspended working platform has to be dismantled by trained workers under the direction and immediate supervision of competent persons<sup>29</sup>;
- (b) ensure that the contractor concerned dismantles the suspended working platform and clears up the area concerned; and
- (c) ensure that the contractor concerned restores properly the damaged facilities and areas arising from the suspended working platform work.

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<sup>29</sup> Refer to Section 16 of the Suspended Working Platforms Regulation.

### **Keeping records**

- G(1) Except for the suspended working platform work contract entered into by the contractor and the flat owner concerned and the relevant documents, a licensed PMC has to keep all records, documents and information of each case of suspended working platform work for not less than six years<sup>30</sup>.

– End –

If there is any inconsistency between the Chinese version and the English version of this Code, the Chinese version shall prevail.

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<sup>30</sup> This guideline is made with reference to section 20A(4) of the BMO.

**Factories and Industrial Undertakings Ordinance**

**6A.**

**General duties of a proprietor**

- (1) It shall be the duty of every proprietor of an industrial undertaking to ensure, so far as is reasonably practicable, the health and safety at work of all persons employed by him at the industrial undertaking.
- (2) Without prejudice to the generality of a proprietor's duty under subsection (1), the matters to which that duty extends include in particular—
  - (a) the provision and maintenance of plant and systems of work that are, so far as is reasonably practicable, safe and without risks to health;
  - (b) arrangements for ensuring, so far as is reasonably practicable, safety and absence of risks to health in connection with the use, handling, storage and transport of articles and substances;
  - (c) the provision of such information, instruction, training and supervision as is necessary to ensure, so far as is reasonably practicable, the health and safety at work of all persons employed by him at the industrial undertaking;
  - (d) so far as is reasonably practicable as regards any part of the industrial undertaking under the proprietor's control, the maintenance of it in a condition that is safe and without risks to health and the provision and maintenance of means of access to and egress from it that are safe and without such risks; and
  - (e) the provision and maintenance of a working environment for all persons employed by him at the industrial undertaking that is, so far as is reasonably practicable, safe, and without risks to health.
- (3) Subject to subsection (4), a proprietor of an industrial undertaking who contravenes this section commits an offence and is liable to a fine of \$500,000.
- (4) A proprietor of an industrial undertaking who contravenes this section wilfully and without reasonable excuse commits an offence and is liable to a fine of \$500,000 and to imprisonment for 6 months.

## **Occupational Safety and Health Ordinance**

### **6.**

#### **Employers to ensure safety and health of employees**

- (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 \$200,000.
- (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 \$200,000 and to imprisonment for 6 months.

**Factories and Industrial Undertakings Ordinance**

**6BA.**

**Proprietor of relevant industrial undertaking not to employ, etc. relevant person who does not have relevant certificate**

(1) In this section—

***appointed day***

(指定日期) means the day appointed under subsection (17);

***certificate***

(證明書) means a certificate referred to in subsection (2);

***equivalent document***

(同等文件) means a document recognized by the Commissioner for the purposes of section 6BA(7)(a) as being equivalent to a person's relevant certificate;

***relevant certificate***

(有關證明書), in relation to a relevant person employed at a relevant industrial undertaking, means the certificate issued to the person in respect of his attendance at the relevant safety training course which relates to that undertaking;

***relevant industrial undertaking***

(有關工業經營) means an industrial undertaking the subject of a notice under subsection (2);

***relevant person***

(有關人士), in relation to a relevant industrial undertaking, means a person the subject of a notice under subsection (2) in the case of that undertaking;

***relevant safety training course***

(有關安全訓練課程), in relation to a relevant person, means the safety training course the subject of a notice under subsection (2) in the case of the class of persons to which that person belongs.

- (2) The Commissioner may, by notice in the Gazette, or by notice in writing published in such other manner as the Commissioner thinks fit, recognize a safety training course—
- (a) for a class of persons—
    - (i) employed at an industrial undertaking specified in column 1 of Schedule 4; and
    - (ii) belonging to the persons specified opposite the undertaking in column 2 of that Schedule; and
  - (b) in respect of which a certificate is issued to a person who attends the course.
- (3) A certificate issued to a person who attends a safety training course which is subsequently recognized under subsection (2) shall, unless otherwise provided in the notice under that subsection recognizing the course, for the purposes of this Ordinance have the same effect as a certificate issued to a person who attends the course on or after the day on which the course is so recognized.
- (4) Where the Commissioner is satisfied that a relevant person has undergone training—

(a) equivalent to the training provided by a relevant safety training course; and  
(b) of a standard not less than the standard of the training provided by that course,  
then—

- ( i ) the Commissioner may issue or cause to be issued to the person a certificate in the same terms as the certificate that would have been issued to the person if he had attended that course; and
- ( ii ) the certificate so issued shall, for the purposes of this Ordinance, have the same effect as a certificate issued to a person who has attended that course.

(5) On and after the appointed day, every proprietor of a relevant industrial undertaking—

- (a) shall not employ at the undertaking a relevant person who has not been issued a relevant certificate or whose relevant certificate has expired;
- (b) in the case of a relevant person employed at the undertaking—
  - (i) immediately before that day who has not been issued a relevant certificate or whose relevant certificate has expired, shall cease to continue to employ the person at the undertaking on the expiration of 1 month after that day unless, before that expiration, the person has been issued a relevant certificate;
  - (ii) on or after that day whose relevant certificate expires during the course of his employment, shall cease to continue to employ the person at the undertaking on the expiration of 1 month after the expiration of the certificate unless, before the expiration of that month, the person has been issued a relevant certificate.

(6) A certificate shall expire on—

- (a) the day specified in the certificate, being a day not less than 1 year, and not more than 3 years, after the day on which the certificate was issued;
- (b) if no such day is specified, on the expiration of 3 years after the day on which the certificate was issued.

(7) On and after the appointed day, it shall be the duty of every relevant person employed at a relevant industrial undertaking who has been issued a relevant certificate which has not expired to—

- (a) carry with the person the certificate or an equivalent document while at work at the undertaking;
- (b) produce the certificate upon demand by—
  - (i) subject to paragraph (c), the proprietor of the undertaking or an agent of the proprietor authorized by the proprietor for the purpose; or
  - (ii) subject to paragraph (d), an occupational safety officer;
- (c) if unable to comply with a demand under paragraph (b)(i), make a statement—
  - (i) subject to subparagraph (ii), in a register kept by the proprietor of the undertaking under subsection (8), that he has been issued the certificate and the certificate has not expired and containing such other particulars as are required by the register; and
  - (ii) if and only if he has not made a like statement in that register on the day immediately preceding the day on which that demand is made;
- (d) if unable to comply with a demand under paragraph (b)(ii), produce the certificate at a place and within a period—
  - (i) specified by the occupational safety officer who made the demand; and
  - (ii) which are reasonable in all the circumstances.

(8) On and after the appointed day, every proprietor of a relevant industrial undertaking shall—

- (a) establish and maintain a register or registers for the purposes of subsection (7)(c) in such form as is specified by the Commissioner;
  - (b) not cause or permit any statement referred to in subsection (7)(c) made in any such register to be removed therefrom at any time before the expiration of 18 months from the date on which the statement was made in the register.
- (9) Where a relevant certificate which has not expired has been lost, defaced or destroyed, the relevant person to whom it was issued shall, unless he has ceased to be employed at a relevant industrial undertaking, as soon as is reasonably practicable make an application to the Commissioner to be issued a replacement relevant certificate in the same terms (and any such application may consist of, or require the accompaniment of, a statutory declaration made by the person as to the loss, defacement or destruction of the certificate).
- (10) The Commissioner shall issue or cause to be issued a replacement relevant certificate pursuant to an application under subsection (9) upon being satisfied that the relevant certificate which it will replace has in fact been lost, defaced or destroyed.
- (11) A replacement relevant certificate issued pursuant to an application under subsection (9) shall, for the purposes of this Ordinance, have the same effect as the relevant certificate which it replaces.
- (12) Subject to subsection (13), a proprietor who contravenes subsection (5) commits an offence and is liable to a fine at level 5.
- (13) It shall be a defence to a prosecution for an offence under subsection (12) for the proprietor to show that he believed, and that it was reasonable for him to believe, that the relevant person to whom the offence relates had been issued with a relevant certificate and that the certificate had not expired.
- (14) A relevant person employed at a relevant industrial undertaking who—
- (a) makes a statement referred to in subsection (7)(c); and
  - (b) is not a person who has been issued a relevant certificate which has not expired at the time of making that statement,
- commits an offence and is liable to a fine at level 3.
- (15) A relevant person who, without reasonable excuse, contravenes subsection (7)(d) commits an offence and is liable to a fine at level 3.
- (16) A proprietor who contravenes subsection (8) commits an offence and is liable to a fine at level 3.
- \*(17) The Secretary for Education and Manpower may, by notice in the Gazette, appoint a day for the purposes of subsections (5), (7) and (8).
- (18) A notice under subsection (17) is subsidiary legislation.
- (19) For the avoidance of doubt, it is hereby declared that subsection (5)(b) shall not operate to entitle an employer to terminate the contract of employment of an employee otherwise than in accordance with the provisions of the Employment Ordinance (Cap. 57) in the case of an employee within the meaning of section 2(1) of that Ordinance.

Editorial Note:

\* 1 May 2001 was the day appointed under this subsection—see Cap. 59 sub. leg. AH.