

Commencement notice for remaining four elements of safety management system of Factories and Industrial Undertakings (Safety Management) Regulation gazetted

The Government published in the Gazette today (February 23) the Factories and Industrial Undertakings (Safety Management) Regulation (Commencement) Notice 2024 (CN), to appoint April 29, 2024, as the day on which the uncommenced provisions of the Factories and Industrial Undertakings (Safety Management) Regulation (Regulation) come into effect.

The uncommenced provisions refer to the remaining four elements of the safety management system (SMS) specified in Part 3 of Schedule 4 of the Regulation which include "Job-Hazards Analysis", "Safety and Health Awareness", "Accident Control and Hazard Elimination", and "Occupational Health Assurance Programme".

The Regulation was approved by the Legislative Council in 1999 and the 14 SMS elements listed in Schedule 4 of the Regulation was brought into operation by phases. The first 10 elements of the SMS specified in Parts 1 and 2 of Schedule 4 of the Regulation have been put into operation since April 1, 2002. The phased implementation of the Regulation aims to let the relevant industries become accustomed to the SMS and make necessary preparations for the implementation of the remaining four elements.

Upon the full operation of the Regulation, proprietors and contractors of relevant industrial undertakings (RIUs) (i.e. factories, construction sites, shipyards and designated undertakings having 100 or more workers in a day working therein, as well as construction projects with a contract value of HK\$100 million or more) are required to implement the SMS which contains all 14 elements, and to regularly carry out safety audits of their SMSs.

A spokesman for the Labour Department (LD) said, "Since the commencement of the Regulation, we conducted a number of reviews to assess the readiness of the industry on the implementation of the remaining four elements. The latest review showed that the general feedback from the industry was positive and there was no objection to the implementation of the remaining four elements. In addition, Occupational Safety Officers of the LD regularly visited the management of the RIUs to proactively promote the implementation of an SMS containing all 14 elements. Considering the Regulation has been enacted for more than two decades, the proprietors and contractors of the RIUs should have prepared for the implementation of the remaining four elements."

The Government also gazetted the revised Code of Practice on Safety Management (CoP) today. The major amendments include enhancing the requirements for conducting a safety audit and review, adding the requirements for notification of a safety audit and submission of a safety audit report, adding the assessment form on the SMS, so as to provide more practical guidance for the duty holders in complying with the requirements of the Regulation.

The spokesman added, "This CoP has a special legal status. In criminal proceedings, if a relevant person fails to observe any provision of this CoP, that failure may be taken by a court as a relevant factor in determining whether or not a person has breached the relevant occupational safety and health legislation."

The revised CoP can be downloaded from the LD's website (www.labour.gov.hk/eng/public/content2_8.htm). Enquiries about the CoP can be made at 2559 2297.

There will be a grace period of six months after the commencement date to allow sufficient time for the RIUs to make necessary preparations.

The CN will be tabled at the Legislative Council for negative vetting on February 28, 2024.