

**Business Facilitation Advisory Committee
Food Business and Related Services Task Force**

**Briefing on the Occupational Safety and Health Law related to
Notification of Workplaces, Drainage and Maintenance of Floors
and Guarding of Machinery in Food Business Establishments**

Purpose

This paper briefs members on the legal requirements related to notification of workplaces, drainage and maintenance of floors and guarding of machinery in food business establishments as stipulated in the Occupational Safety and Health (OSH) legislation.

OSH Law Related To Food Business Establishments

2. The Labour Department (LD) administers the Occupational Safety and Health Ordinance (Cap. 509), the Factories and Industrial Undertakings Ordinance (Cap. 59) and their subsidiary legislation to safeguard the safety and health of employees at work.
3. According to the previous conviction records, some common OSH related prosecutions against food business establishments involved notification of workplaces, drainage and maintenance of floors and guarding of machinery, etc., and the provisions are under the Factories and Industrial Undertakings Ordinance (Cap. 59), the Factories and Industrial Undertakings Regulations (Cap. 59A) and the Factories and Industrial Undertakings (Guarding and Operation of Machinery) Regulations (Cap. 59Q) respectively.
4. From time to time, Occupational Safety Officers of LD conduct surprise inspections of workplaces, including food business establishments (e.g. restaurants, factory canteens and food factories), to enforce the said OSH legislation.

Relevant Statutory Requirements

5. In general, relevant statutory requirements are set out below:-

Notification of Workplaces

6. Under section 9 of the Factories and Industrial Undertakings Ordinance (Cap. 59), the proprietor of a notifiable workplace shall submit to the Commissioner for Labour:-

- a notification of workplace in the prescribed form (i.e. [FIUO-NOT](#) with a copy at **Annex 1**) before the first occasion on which any industrial process is commenced or any industrial operation is carried on in the workplace;
- a notification of change in the location or name of the workplace or in the nature of the industrial process or industrial operation carried on there in the prescribed form (i.e. [LD394\(S\)](#) with a copy at **Annex 2**) before the proposed change takes effect; and
- where there has been a change in identity of the proprietor of the workplace, an notification of the fact of such change within 21 days after it takes effect.

7. Please make reference to the Guide to Form Users at **Annex 3** for details.

Drainage and Maintenance of Floors

8. Pursuant to regulations 35 and 39 of the Factories and Industrial Undertakings Regulations (Cap. 59A), the floors or the surface of all the floors shall be:-

- provided and maintained with effective means for draining off the moisture;
- maintained in a good state of repair and free from spalls;
- rendered and maintained in an even and non-slippery condition; and
- kept free from any obstruction or hazard which might cause a person to fall down or stumble by tripping or otherwise.

Guarding of Machinery

9. Under regulation 4(1) of the Factories and Industrial Undertakings (Guarding and Operation of Machinery) Regulations, a dangerous part shall be effectively guarded in accordance with and in the manner provided by regulation 5.

10. Regulation 5(1) of the Factories and Industrial Undertakings (Guarding and Operation of Machinery) Regulations stipulates that effective guarding of a dangerous part shall be achieved either by any one of the following methods or by a combination of any of them-

- (a) by a fixed guard;
- (b) by an interlocking guard;
- (c) by an automatic guard;
- (d) by a trip guard;
- (e) by a two-hand control device.

11. Furthermore, unless specified in the legislation, the above guard or device used shall be-

- (a) of substantial construction;
- (b) maintained in an efficient condition; and
- (c) kept in its proper position while the machinery or plant is in motion.

Way Forward

12. LD will continue to assist the food business establishments in complying with the OSH law in Hong Kong. Members are invited to note the contents of this paper and offer comments, if any.

Labour Department
August 2021

FACTORIES AND INDUSTRIAL UNDERTAKINGS ORDINANCE (Chapter 59)
工廠及工業經營條例 (第 59 章)

Notification of Establishment of a Notifiable Workplace (Note 1)
開設應呈報工場(註 1)呈報書

In accordance with section 9(1) of the Factories and Industrial Undertakings Ordinance, notice is hereby given of the establishment of a notifiable workplace, the particulars of which are as follows:—
本人擬開設下開應呈報工場，並將有關該工場的資料細則開列如下，茲根據工廠及工業經營條例第 9(1)條的規定，特此呈報：—

Name of workplace
工場名稱
Address of workplace
工場地址
Date of commencement of operation
開始營業日期
Name of person having the management or control of the workplace
有權管理或控制該工場的人士的姓名
Nature of industrial process/operation to be carried on there 在該工場內採用的工序/操作性質
.....
Brief description of machinery to be installed 簡述所裝置的機器.....
.....
Approximate number of persons to be employed: men women
僱用人數約有 男工 女工
young persons (Note 2)
青年 (註 2)

Date
日期

.....
Signed by/on behalf of the person having the management or control of the workplace (Note 3)
由有權管理或控制該工場的人士或其代表簽署(註 3)

Full name 姓名

Capacity 職位

Address 地址

.....

.....

Notes :

附註

- 'Notifiable workplace' means (a) any factory, mine or quarry; and (b) any premises or place in which a dangerous trade or scheduled trade is carried on or is proposed to be carried on, but does not include a construction site within the meaning of the Construction Sites (Safety) Regulations.
「應呈報工場」指(a)任何工廠、礦場或石礦場；及(b)任何處所或地方，而在其內是進行或擬進行危險行業或附表所列行業者，但不包括建築地盤(安全)規例所指的地盤。
- A young person is one who has attained the age of 15 years but not the age of 18 years.
青年乃指年滿十五歲而未滿十八歲的人士。
- Where the person having the management or control of the workplace is a firm, the notification must be signed by one of the partners. Where it is a body corporate, the notification must be attested in the manner required by the document of the incorporation.
任何管理或控制該工場的人士，如屬一間公司者，則呈報書須由其中一位合夥人簽署。如屬一個法人團體者，則呈報書須根據公司立案文件所規定的方法予以核簽。
- The person having the management or control of a notifiable workplace is required to notify the Commissioner for Labour of any proposed change in the location or name of the workplace or in the nature of the industrial process or operation carried on there.
任何管理或控制該工場的人士，如擬轉換工場的地點或名稱或所進行的工業工序或工業操作的性質，須向勞工處處長呈報。

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FACTORIES AND INDUSTRIAL UNDERTAKINGS ORDINANCE

(Chapter 59)

Notification of Proposed Change in Particulars of a Notifiable Workplace (Note 1)

In accordance with section 9(2) of the Factories and Industrial Undertakings Ordinance, notice is hereby given of a proposed change in the particulars of a notifiable workplace known as as follows:

*(a) Name of workplace

To be changed from to

Proposed date of change

*(b) Location of workplace

To be changed from to

Proposed date of change

*(c) Brief description of change in the nature of industrial process/operation to be introduced

.....

Proposed date of change

Date

Signed by/on behalf of the person having the management or control of the workplace (Note 2)

Full name

Capacity

Address.....

.....

* Complete where applicable.

Notes:

- 1. 'Notifiable workplace' means (a) any factory, mine or quarry; and (b) any premises or place in which a dangerous trade or scheduled trade is carried on or is proposed to be carried on, but does not include a construction site within the meaning of the Construction Sites (Safety) Regulations.
2. Where the person having the management or control of the workplace is a firm, the notification must be signed by one of the partners. Where it is a body corporate, the notification must be attested in the manner required by the document of incorporation.

Guide to Form Users

Notification of notifiable workplaces

A person having the management or control of a notifiable workplace shall, in accordance with Section 9 of the Factories and Industrial Undertakings Ordinance, notify the Commissioner for Labour:

- (a) the particulars relating to the workplace (in a prescribed form) before any industrial process/operation is commenced;
- (b) any subsequent change in the particulars of the notifiable workplace (in a prescribed form) before it takes effect; and
- (c) the change in the identify of the person having management or control of the notifiable workplace within 21 days of the change.

What is a notifiable workplace?

A *notifiable workplace* is defined as any one of the following:

- (a) any factory, mine or quarry; and
- (b) any premises or place in which a dangerous trade or scheduled trade, as specified in the Schedules 1 and 2 of the Factories and Industrial Undertakings Ordinance, is carried on, but does not include a construction site within the meaning of the Construction Sites (Safety) Regulations.

Place of Submission

You can submit the notification form either:

- (a) by post or in person to Occupational Safety and Health Branch of Labour Department at 13/F., Harbour Building, 38 Pier Road, Central, Hong Kong or any branch offices;
- (b) by e-mail in the format of LD E-form to ldgradmn@eths.labour.gov.hk ; or
- (c) by e-mail in other formats to DAD-SS@labour.gov.hk

Useful Information

If you require advice on occupational safety and health matters, please contact the Occupational Safety and Health Branch of the Labour Department through:

Telephone : 2559 2297 (auto-recording after office hours)
Fax : 2915 1410
E-mail : enquiry@labour.gov.hk

Information on the services offered by the Labour Department is also available in our Home Page in the internet at www.labour.gov.hk.