

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

**Responding to the Trade's Concern about
the Statutory Requirement of 'Notification of Workplaces'
and Enhancing Promotion**

Purpose

This paper briefs members on the responses of the Labour Department (LD) to the trade's concern about the statutory requirement of 'Notification of Workplaces' and matters related to enhancement of promotion.

**Statutory Requirement of 'Notification of Workplaces' under the
Factories and Industrial Undertakings Ordinance (Cap. 59)
Applicable to Food Business and Related Services**

2. Pursuant to section 9 of the Factories and Industrial Undertakings Ordinance (Cap. 59), the proprietor of a notifiable workplace¹ shall submit the following notifications to the Commissioner for Labour:

- a notification of workplace in the prescribed form ([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 ([LD394\(S\)](#))

¹ Under section 2 of the Factories and Industrial Undertakings Ordinance (Cap. 59), a notifiable workplace includes (i) any factory, and a factory means any premises or place, in which articles are manufactured, altered, cleansed, repaired, ornamented, finished, adapted for sale, broken up or demolished or in which materials are transformed, and within the close or curtilage or precincts of which any machinery other than machinery worked entirely by hand is used, or 20 or more persons are employed in manual labour; and (ii) any industrial undertaking involving the use of coal gas or the use of electricity as motive power or for heating, and an industrial undertaking includes the preparation of food for consumption and sale on the premises where it is prepared.

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, a notification of the fact of such change within 21 days after it takes effect.

For more details, please refer to LD's website at
<https://www.labour.gov.hk/eng/osh/nywcw.htm>.

3. In general, the statutory requirement of 'notification of workplaces' applies to 'notifiable workplaces' such as restaurants, food factories, bakeries and factory canteens, etc. of food business and related services.

Responding to the Trade's Concern about the Statutory Requirement of 'Notification of Workplaces' and Enhancing Promotion

4. The 28th meeting of the Food Business and Related Services Task Force was held on 25 August 2021. In the meeting, members expressed grave concerns about the statutory requirement of 'Notification of Workplaces'. Upon discussion, the Convenor summed up members' suggestions, including (i) handling notification of workplace (restaurant) by LD in tandem with application for restaurant licence through the Food and Environmental Hygiene Department ("FEHD")'s one-stop service; (ii) digitising the records of notification of workplaces; (iii) enhancing the promotion of the statutory requirement of notification of workplaces; and (iv) allowing the trade for late submission of notification of workplace within a deadline.

5. In respect of the above suggestions given by the trade, LD's responses are set out below.

Suggestion (i)

6. According to the current legal provision of 'notification of workplaces', the duty holders (including a proprietor of restaurant / factory) shall notify the Commissioner for Labour in the prescribed form of the relevant particulars of workplaces, and hence notification of workplaces should only be handled by LD. Notwithstanding that,

FEHD's various application guides (including restaurant, food factory, bakery and factory canteen, etc.) have been comprehended with a brief introduction of the statutory requirement of 'notifiable workplace' with a view to reminding the trade to compile with the relevant legislation.

Suggestion (ii)

7. Upon receipt of the prescribed form of 'notifiable workplace' (i.e. Notification of Establishment of a Notifiable Workplace), LD will put it on file and send an acknowledgement of receipt. The proprietor of a notifiable workplace can apply for viewing the 'Notification of Establishment of a Notifiable Workplace' that was submitted by him and put on file or acquiring a copy of it. However, in view of members' concern, LD will explore the feasibility of setting up a digital record of notification of workplaces.

Suggestion (iii)

8. LD has revamped its website by establishing a hyperlink regarding 'Notifying Your Workplace and Construction Work' under the webpage of Occupational Safety and Health to give a brief account on the related statutory requirement and to facilitate downloading of the prescribed forms. Relevant LD's website is shown in paragraph 2 above.

9. Besides, LD's representative will give briefing at FEHD's "Application for Restaurant Licences" seminars, propagating occupational safety and health matters related to the food industry, including the statutory requirement of 'notification of workplaces'.

10. LD has sent an advisory letter to four major trade associations of food business, reminding them the statutory requirement of 'notification of workplaces' and also soliciting assistance to disseminate the related message to their members.

11. LD will also disseminate the messages in relation to the statutory requirement of "notification of workplaces" to food business operators through newspapers' columns and radio programmes.

Suggestion (iv)

12. The Commissioner for Labour is not empowered by law to set a deadline for late submission of notification of workplace by the trade and

to defer enforcement.

Way Forward

13. The enactment of the ‘notifiable workplace’ provision aims at allowing proprietors to get advice from Occupational Safety Officers of LD on the improvement of safety and health at the workplace as soon as possible at an early stage of work commencement, to ensure employees’ safety and health at work. LD will continue promoting the relevant legislation to the trade (including food business and related services). We hope employers, employees and the Government would work together to enhance the occupational safety and health in Hong Kong. Members are invited to note the contents of this paper and offer comments, if any.

Labour Department
November 2021

Annex 1

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

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.
「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。
2. 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。
3. 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。
4. 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。

Annex 2

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.