

# **A Guide to the Factories and Industrial Undertakings (Safety Management) Regulation**



**Labour Department**



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**A Guide to the  
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Regulation**

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# 1. INTRODUCTION

In 1995, the Government published a Consultation Paper on the Review of the Industrial Safety in Hong Kong which among other things, recommended the Government to change its strategy on industrial safety from focusing on enforcement to promoting safety management. The Review reaffirmed that "the primary responsibility of safety at work rests with those who create the risks and those who work with such risks, i.e. the proprietors and the workers". The ultimate goal, which is also the key to attaining long-term improvements in safety standards, is self-regulation by the proprietors and their workforce. In this respect, the Government should provide a legislative framework within which self-regulation is to be achieved through a company system of safety management.

The Factories and Industrial Undertakings (Safety Management) Regulation\* (the Regulation) is to implement the above recommendation in the Consultation Paper. It requires proprietors and contractors covered by the Regulation to implement a safety management system applicable to Hong Kong, which consists of 14 elements. Besides the adoption of the safety management system, the proprietors and contractors are also required to carry out safety audits or safety reviews of their safety management systems.

This guide outlines the major provisions of the Regulation. It enables proprietors and contractors to have a better understanding of their responsibilities under the Regulation. While this guide explains provisions of the Regulation in simple terms, the Regulation itself remains to be the sole authority of the legal requirements.

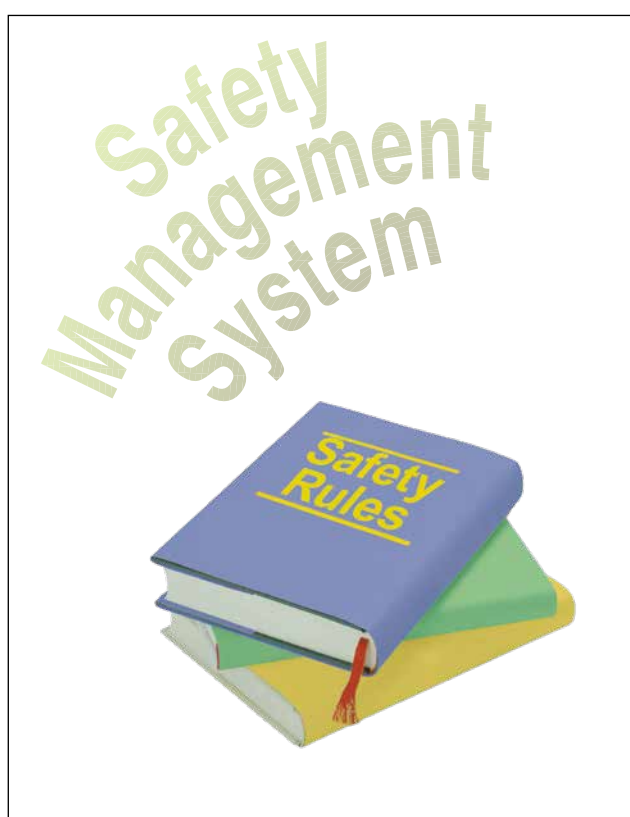
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*\* The first 10 elements of Safety Management System specified in the Parts 1 and 2 of Schedule 4 of the Regulation have been put into operation since 1 April 2002. The remaining four elements of Safety Management System specified in the Part 3 of Schedule 4 of the Regulation has come into effect from 29 April 2024. There is a six-month grace period following the commencement date.*

## 2. DUTY OF PROPRIETOR AND CONTRACTOR

### 2.1 Develop safety management system

- A proprietor of a factory, a shipyard business, a designated undertaking or a contractor in relation to construction work, has to develop, implement and maintain in respect of his industrial undertaking a safety management system. The duties of a proprietor and a contractor are given in Appendix I. 8



*“Safety management system” means a system which provides safety management in an industrial undertaking. In this connection, “safety management” means the management functions connected with the carrying on of an industrial undertaking that relate to the safety of personnel in the undertaking, including the planning, developing, organizing and implementing of a safety policy and the measuring, auditing or reviewing of the performance of those functions.*

## 2.2 Prepare, revise, etc. safety policy

A proprietor or contractor specified in Appendix I should -

- prepare and revise when necessary a written policy statement in relation to the safety policy of his industrial undertaking; 9(1)

*There is no rule about the appropriate length of a written policy statement. One possible approach is to set out the safety policy in the written policy statement in a fairly general terms, and to refer the readers to other documents for full details, such as in-house safety rules, safety checklist, safety training programmes and emergency instructions. The written policy statement (including its revisions), should be signed by top management (e.g. the managing director) and dated.*

- bring such statement and its revision to the notice of all workers;

*The policy statement and its revisions can be posted on notice boards or by internal circulation down to all workers.*

- keep a copy of the statement;
- make a copy of the statement available for inspection upon request by an occupational safety officer;

- review the safety policy - 9(3)

- at least once in every two years;
- as soon as is practicable after the policy statement is altered.

*To maintain an effective safety management system which has the mechanism of self-regulating and self-improving, the safety policy should be reviewed from time to time with performance measurement and safety audits. When there is a change of particulars in the policy statement, including its core elements such as change in organisational structure, the safety policy has also to be reviewed accordingly. A review may also be prompted by changes of particulars due to internal or external factors such as changes in technology, legislation or standards.*



**A written policy statement** should have “the core elements” of - 9(2)

- a statement of the proprietor’s or contractor’s general policy setting down in clear and unambiguous terms the management’s approach and commitment to safety and health at work;

*The safety policy should be specific and relevant to the nature of the work undertaken at the undertaking. It should be able to convey the general intentions, approach and objectives of the undertaking as well as the criteria and principles on which its actions and responses are based.*



- the system of allocation of responsibilities for the carrying out of the policy; and

*Whilst the overall responsibility for safety and health rests at the highest management level, that is, the proprietor or the contractor of the undertaking, many of the duties arising from that responsibility may be delegated to managers and supervisors. In fact, all individuals at every level will have to accept certain degrees of responsibility for carrying out the policy. Whenever possible, key individuals should be named and their responsibilities defined.*

- the arrangements as to how the responsibilities are to be executed.

*It is important that employees of all levels in the undertaking should be able to see from the statement how they fit into the system, and, for example, what their own duties are and whom they should go, to report an accident or a hazard, or to obtain first aid or other help.*

## 2.3 Establish safety committee

A proprietor or contractor specified in Category 1 or 3 of Appendix I should -

- establish at least one safety committee having the function of identifying, recommending and keeping under review measures to improve the safety and health of the workers in his industrial undertaking;

10(a)

*In general, it should not be necessary for an industrial undertaking to have two or more safety committees for the same workplace. However, if the proprietor or contractor has two or more workplaces in different locations, he should have a safety committee at each locality (i.e. the workplace level) as well as at the enterprise level.*

- implement any measures recommended by the safety committee.

*A mechanism should be established to effectively communicate the decisions and actions recommended by the safety committee to persons responsible for their implementation. The decisions and recommendations of a safety committee should be brought to the notice of workers by displaying the relevant documents in conspicuous places or making them available by other convenient means.*



The **safety committee** so established should -

- have at least half of its members (irrespective of whether they are nominated or elected) represent workers in the industrial undertaking; 11(1)(a)

*The size of a safety committee should not be too large. A balance should be struck between a wide representation and a reasonable size.*

- be provided with a written statement setting out rules governing its membership, terms of reference and meeting procedures; 11(1)(b)

*The length of service of a member on the committee will have to be considered in relation to effective operation of the committee. It would serve the safety committee better if replacement of current members by new hands is staggered. It may be necessary to draw up additional rules for the conduct of meetings, which could include procedures by which the committee reaches decisions.*

- meet at least once every 3 months; 11(1)(c)

*In general, the frequency of meetings of a safety committee depends upon the volume of work to be handled, the complexity of the plant and the nature of hazards of the workplace.*

- keep records of its meetings for at least 5 years and make the records available for inspection upon request by an occupational safety officer; and 11(1)(d)

*The proprietor or contractor should ensure that proper records of meetings on safety committee are kept to provide a progress report on decisions made, recommendations put forward and actions taken.*

- discuss at its meeting only matters relating to the safety and health at work of the workers in the industrial undertaking.

*To ensure smooth operation of the safety committee, meetings must be planned beforehand, with the matters to be discussed listed on an agenda which is sent to all committee members so that they come to the meeting prepared to make their contribution.*

**A proprietor or contractor should not terminate, or threaten to terminate, the employment of, or discriminate against a worker by reason of the fact that the worker has performed his function as a member of a safety committee.**

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## **2.4 Appoint registered safety auditor to conduct safety audit**

A proprietor or contractor specified in Category 1 or 3 of Appendix I should -

- appoint a registered safety auditor to conduct a safety audit in relation to his industrial undertaking;

13(1)



*“Registered safety auditor” means a person registered as a safety auditor to conduct or propose to conduct safety audits. A person is eligible for registration as a safety auditor if he complies with the requirements of Appendix III.*

*“Safety audit” means an arrangement for collecting, assessing and verifying information on the efficiency, effectiveness and reliability of a safety management system (including the elements specified in Appendix II contained in the system) and considering improvements to the system.*

*The following basic criteria should be considered when appointing a registered safety auditor:*

- ★ *The auditor should understand his task and be competent to carry it out;*
- ★ *The auditor should be familiar with the industry and the processes;*
- ★ *The auditor should have a good knowledge of safety management practices; and*
- ★ *The auditor needs to have the status, experience and knowledge of the relevant standards/systems he is auditing against to enable him to evaluate performance and to identify deficiencies.*

- ensure that safety audits are conducted - 13(2)
  - at least once in each 6 months for construction work;
  - in any other case, at least once in each 12 months; or
  - at a shorter interval when so required in writing by the Commissioner. 13(3)

## 2.5 Provide facilities for safety audit

The proprietor or contractor should -

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- provide all necessary assistance, facilities and information for the audit;

*“assistance” includes full co-operation with the safety auditor, determination of scope of audit and the establishment of audit criteria, etc.*

*“facilities” includes provision of interview room, suitable personal protective equipment and testing equipment for the use of safety auditor during the audit process, etc.*

*“information” includes organisation chart, safety committee meeting minutes and investigation reports of accidents, etc.*

- ensure that the auditor is not required to carry out other work that would affect the conduct of the audit, if the auditor is his employee.

## 2.6 Take action on safety audit report

The proprietor or contractor after receiving the safety audit report should - 16(1)

- read and countersign the report, and record the date of his countersignature;
- draw up a plan for the improvements within 14 days if the report contains recommendations for improvements to the safety management system, and implement the plan as soon as practicable;
- submit a copy of the report together with a copy of the plan for the improvements to the Commissioner within 21 days after receiving the report;
- keep a copy of the report and the plan for at least 5 years.

## 2.7 Produce safety audit report, etc. for inspection

A proprietor or contractor should -

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- produce a safety audit report or plan for the improvements for inspection upon request by any occupational safety officer;
- permit an occupational safety officer to make a copy of the report or plan;
- provide a copy of the report or plan to the Commissioner not later than 14 days after being requested;
- provide a copy of supporting document to the Commissioner not later than 14 days after being requested.

## 2.8 Appoint safety review officer to conduct safety review

A proprietor or contractor specified in Category 2 or 4 of Appendix I should - 19(1)

- appoint, in the approved form, a safety review officer who may be an employee of the proprietor or contractor to conduct a safety review in respect of his industrial undertaking;

*“Safety review officer” means a person who is appointed to conduct a safety review as required by the Regulation.*

*“Safety review” means an arrangement for reviewing the effectiveness of a safety management system (including the elements specified in Appendix II contained in the system) and considering improvements to the effectiveness of the system.*

*The following basic criteria should be considered when appointing a safety review officer:*

- ★ *The review officer should have a good understanding of the operation of the undertaking and a good understanding of the legal requirements relating to industrial safety and health; and*
- ★ *The review officer should have received appropriate training in how to evaluate or assess the overall performance of safety management system, e.g. a safety auditor training scheme conducted by a registered scheme operator.*



- display a copy of the appointment in a conspicuous place of the undertaking;
- ensure that safety reviews are conducted - 19(2)
  - at least once in each 6 months for construction work;
  - in any other case, at least once in each 12 months; or
  - at a shorter interval when required in writing by the Commissioner. 19(3)



## **2.9 Provide facilities for safety review**

The proprietor or contractor should -

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- provide all necessary assistance, facilities and information for the review;
- ensure that the officer is not required to carry out other work that would affect the conduct of the review, if the officer is his employee.

## **2.10 Take action on safety review report**

The proprietor or contractor after receiving a safety review report should - 22(1)

- read and countersign the report, and record the date of his countersignature;
- draw up a plan for the improvements within 14 days if the report contains recommendations for improvements to the safety management system and implement the plan as soon as practicable;
- submit a copy of the report together with a copy of the plan for the improvements to the Commissioner within 21 days after receiving the report;
- keep a copy of the report and the plan for at least 5 years.

## **2.11 Produce safety review report, etc. for inspection**

A proprietor or contractor should -

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- produce a safety review report or plan for the improvements for inspection upon request by any occupational safety officer;
- permit an occupational safety officer to make a copy of the report or plan;
- provide a copy of the report or plan to the Commissioner not later than 14 days after being requested;
- provide a copy of supporting documents to the Commissioner not later than 14 days after being requested.

## **2.12 Replace safety review officer**

On being notified by the Commissioner in writing, the proprietor or contractor should replace a safety review officer within the specified time if the Commissioner has reason to believe that the safety review officer -

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- is not competent to carry out a safety review; or
- has, without reasonable excuse, contravened any of the provisions of the Ordinance (including any regulations made under the Ordinance) applicable to a safety review officer.

## **2.13 Assist the Commissioner to inspect safety audit**

Where the Commissioner exercises his power to -

**33(5)**

- inspect the conduct of any safety audit or safety review; or
- conduct a safety audit or safety review for the purposes of assessing the performance of a registered safety auditor or safety review officer,

the proprietor or contractor should, without charge, provide the Commissioner with necessary assistance, facilities and information.

*Responsible and competent staff are to be appointed to accompany the Commissioner and act as a guide to the work site and the processes.*

### 3. DUTY OF REGISTERED SAFETY AUDITOR, SAFETY REVIEW OFFICER AND SCHEME OPERATOR

#### 3.1 Registered safety auditor

A registered safety auditor should-

- submit a safety audit report not later than 28 days after completing the audit to the proprietor or contractor; 15(1)
- keep a copy of the report for at least 5 years; 15(2)
- submit a copy of the report to the Commissioner within 21 days when being requested; 16(3)
- give notice in the approved form to the Commissioner of the date, time and place of a safety audit not less than 14 days before the date as the safety audit commences. 18



## 3.2 Safety review officer

A safety review officer should -

- submit a safety review report not later than 28 days after completing the review to the proprietor or contractor; 21(1)
- keep a copy of the report for at least 3 years; 21(2)
- submit a copy of the report to the Commissioner within 21 days when being requested. 22(3)

## 3.3 Scheme operator

Where the Commissioner exercises his power to inspect the conduct of any scheme, the scheme operator concerned should, without charge, provide the Commissioner with necessary assistance, facilities and information. 33(5)

*“Scheme operator” means a person who operates or proposes to operate a scheme.*

*“Scheme” means a scheme to train persons to be safety auditors.*

## 3.4 Duty not to disclose information

A person who is or was a registered safety auditor or a safety review officer should not disclose or give to another person any information that has come to his knowledge or into his possession in the course of the performance of his functions under the Regulation except - 32

- for the purpose of performing his functions under the Regulation; or
- being ordered by a magistrate or court in any court proceedings.

## 4. PENALTIES

- A **proprietor or contractor** who fails in his duties under the Regulation commits an offence and is liable on conviction to a fine of **\$400,000** and to imprisonment for **6 months**.
- A **registered safety auditor** who fails in his duties under the Regulation commits an offence and is liable on conviction to a fine of **\$150,000** and to imprisonment for **3 months**.
- A **safety review officer** who fails in his duties under the Regulation commits an offence and is liable on conviction to a fine of **\$150,000** and to imprisonment for **3 months**.
- A **scheme operator** who fails in his duties under the Regulation commits an offence and is liable on conviction to a fine at **level 6** (currently **\$100,000**).
- **Any person** who obstructs the Commissioner in exercise of his power to inspect the conduct of any safety audit, safety review or scheme; or for the purposes of assessing the performance of a registered safety auditor or safety review officer to conduct a safety audit or safety review, commits an offence and is liable on conviction to a fine at **level 6** (currently **\$100,000**).



## 5. RELATED OCCUPATIONAL SAFETY AND HEALTH PUBLICATIONS PUBLISHED BY THE LABOUR DEPARTMENT

- Code of Practice on Safety Management
- Safe Systems of Work
- Working with Employers
- Five Steps to Risk Assessment
- A Guide on Employer's Safety Policy
- Safety Committees - A Guide to Their Establishment & Operation

## 6. ENQUIRIES AND COMPLAINTS

### Enquiries

If you wish to enquire about this Guide or require advice on occupational safety and health (OSH) matters, please contact the Occupational Safety and Health Branch of the Labour Department (LD) through:

Telephone : 2559 2297 (auto-recording service available outside office hours)

Fax : 2915 1410

E-mail : [enquiry@labour.gov.hk](mailto:enquiry@labour.gov.hk)

Information on the services offered by LD and on major labour legislation is also available on our website at <https://www.labour.gov.hk>. The latest OSH information can be obtained through the “OSH 2.0” Mobile Application of LD. For details on the services offered by the Occupational Safety and Health Council, please call 2739 9000.



Labour Department's Website



"OSH 2.0" Mobile Application

### Complaints

If you have any complaints about unsafe operations and environments at workplaces, please call the LD's OSH complaint hotline at 2542 2172 or fill out and submit an online OSH complaint form on our website. All complaints will be treated in the strictest confidence.



Online OSH Complaint Form



**A PPENDIX I****Proprietors and contractors who are required to have safety management systems**

Schedule 3

Duty holder	Aggregate number of workers working			
	Category 1	Category 2	Category 3	Category 4
<b>Contractor of construction work<sup>2</sup></b>	<ul style="list-style-type: none"> <li>• <math>\geq 100</math> in a day in a single construction site<sup>1</sup>; or</li> <li>• contract value <math>\geq \\$100</math> million</li> </ul>	• $\geq 50$ but $< 100$ in a day in a single construction site	• $\geq 100$ in a day in 2 or more construction sites	• $\geq 50$ but $< 100$ in a day in 2 or more construction sites
<b>Proprietor of a shipyard business</b>	• $\geq 100$ in a day in a single shipyard <sup>3</sup>	• $\geq 50$ but $< 100$ in a day in a single shipyard	• $\geq 100$ in a day in 2 or more shipyards	• $\geq 50$ but $< 100$ in a day in 2 or more shipyards
<b>Proprietor of a factory</b>	• $\geq 100$ in a day in a single factory <sup>4</sup>	• $\geq 50$ but $< 100$ in a day in a single factory	• $\geq 100$ in a day in 2 or more factories	• $\geq 50$ but $< 100$ in a day in 2 or more factories
<b>Proprietor of a designated undertaking<sup>5</sup></b>	• $\geq 100$ in a day in a single workplace	• $\geq 50$ but $< 100$ in a day in a single workplace	• $\geq 100$ in a day in 2 or more workplaces	• $\geq 50$ but $< 100$ in a day in 2 or more workplaces
<b>Duties in respect of safety management system</b>	Implement 14 elements in the safety management system (Part 1, 2 and 3 of Appendix II)	Implement 8 elements in the safety management system (Part 1 of Appendix II)	Implement 14 elements in the safety management system (Part 1, 2 and 3 of Appendix II)	Implement 8 elements in the safety management system (Part 1 of Appendix II)
	Conduct safety audit	Conduct safety review	Conduct safety audit	Conduct safety review

Key: " $\geq$ " means equal to or more than;  
" $<$ " means less than

<sup>1</sup> “construction site” means a place where construction work is undertaken and also any area in the immediate vicinity of any such place which is used for the storage of materials or plant used or intended to be used for the purpose of the construction work.

<sup>2</sup> “construction work” means -

- (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 below -
  - 1. Any building, edifice, wall, fence, or chimney, whether constructed wholly or partly above or below ground level.
  - 2. Any road, motorway, railway, tramway, cableway, aerial ropeway or canal.
  - 3. Any harbour works, dock, pier, sea defence work, or lighthouse.
  - 4. Any aqueduct, viaduct, bridge, or tunnel.
  - 5. Any sewer, sewage disposal works, or filter bed.
  - 6. Any airport or works connected with air navigation.
  - 7. Any dam, reservoir, well, pipeline, culvert, shaft, or reclamation.
  - 8. Any drainage, irrigation, or river control work.
  - 9. Any water, electrical, gas, telephonic, telegraphic, radio, or television installation or works, or any other works designed for the manufacturing or transmission of power or the transmission or reception of radio or sound waves.
  - 10. Any structure designed for the support of machinery, plant, or power transmission lines.
- (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 connection with any operation referred to in paragraph (a) or (b).

<sup>3</sup> “shipyard” means any yard or dry dock (including the precincts thereof) in which ships or vessels, except ships or vessels afloat, are constructed, reconstructed, maintained, repaired, refitted, finished or broken up.

<sup>4</sup> “factory” means any premises or place, (other than a mine or quarry), 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 -

- (a) any machinery other than machinery worked entirely by hand is used; or
- (b) 20 or more persons are employed in manual labour.

<sup>5</sup> “designated undertaking” means an industrial undertaking involving any of the following activities -

- (a) the generation, transformation and transmission of electricity;
- (b) the generation and transmission of town gas, or liquefied petroleum gas, within the meaning of section 2 of the Gas Safety Ordinance (Cap. 51); or
- (c) container handling.

## **A** PPENDIX II

### **Elements of Safety Management System**

*Schedule 4*

#### **Part 1**

1. A safety policy which states the commitment of the proprietor or contractor to safety and health at work.
2. A structure to assure implementation of the commitment to safety and health at work.
3. Training to equip personnel with knowledge to work safely and without risk to health.
4. In-house safety rules to provide instruction for achieving safety management objectives.
5. A programme of inspection to identify hazardous conditions and for the rectification of any such conditions at regular intervals or as appropriate.
6. A programme to identify hazardous exposure or the risk of such exposure to the workers and to provide suitable personal protective equipment as a last resort where engineering control methods are not feasible.
7. Investigation of accidents or incidents to find out the cause of any accident or incident and to develop prompt arrangements to prevent recurrence.
8. Emergency preparedness to develop, communicate and execute plans prescribing the effective management of emergency situations.

#### **Part 2**

1. Evaluation, selection and control of sub-contractors to ensure that sub-contractors are fully aware of their safety obligations and are in fact meeting them.
2. Safety committees.

#### **Part 3**

1. Evaluation of job related hazards or potential hazards and development of safety procedures.
2. Promotion, development and maintenance of safety and health awareness in a workplace.
3. A programme for accident control and elimination of hazards before exposing workers to any adverse work environment.
4. A programme to protect workers from occupational health hazard.

## A PPENDIX III

### Eligibility to be registered as Safety Auditor

Schedule 1

1. Subject to paragraph 3, the person should -
  - (a) be a registered safety officer under the Factories and Industrial Undertakings (Safety Officers and Safety Supervisors) Regulations;
  - (b) have not less than 3 years' full-time experience, in the 5 years period immediately preceding the application for registration, in a managerial post responsible for industrial safety and health matters in respect of an industrial undertaking;
  - (c) subject to paragraph 2, occupy, at the time of the application for registration, the managerial post referred to in sub-paragraph (b), or a like post;
  - (d) have successfully completed -
    - (i) a scheme conducted by a registered scheme operator<sup>6</sup>; or
    - (ii) before the commencement of this part on registration of safety auditor, a scheme recognized by the Commissioner; and
  - (e) understand the requirements under legislation in Hong Kong relating to industrial safety and health matters.
2. The Commissioner may, by written notice, exempt a person from the requirement of paragraph 1(c).
3. In the case, but only in the case, of an application for registration made before the expiration of 6 months immediately following the commencement of this part on registration of safety auditor, the person should -
  - (a) have not less than 18 months' full-time experience, in the 3 years immediately preceding that commencement, in a managerial post responsible for industrial safety and health matters in respect of an industrial undertaking; and
  - (b) have successfully completed a scheme recognized by the Commissioner.

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<sup>6</sup> "Registered scheme operator" means a person registered as a scheme operator. A person is eligible for registration as a scheme operator if the person and his scheme comply with the requirements of Appendix IV.

## **A** PPENDIX IV

### **Eligibility to be registered as Scheme Operator** *Schedule 2*

1. The scheme provides such theoretical and practical training as is necessary to ensure that a person successfully completing the scheme will thereby acquire the competence and skills required for conducting safety audits efficiently and effectively.
2. The scheme operator has, or has access to, the qualifications and experience which enable the operator to provide that training.

