

Working with Employers



Occupational Safety and Health Branch
Labour Department



Occupational Safety and Health Branch
Labour Department

Occupational Safety and Health Branch Labour Department

Working with Employers

1. What we do

2. How we go about our work

3. Standards you can expect

4. How to complain

5. How to contact us

This booklet explains how we, the Occupational Safety and Health Branch of the Labour Department, work and how we aim to give you the best service and advice under the Occupational Safety Charter and the Government's Serving the Community initiatives.

What we do

We are concerned with the safety and health of people at work. The Occupational Safety and Health Branch (OSHB) staff you are most likely to see in your workplace are our Occupational Safety Officers. But enforcement by inspection is only one facet of their work.

Our primary objective is to help you, as a proprietor of a workplace, protect the safety and health of your employees. It is also your obligation under the law to do whatever is reasonably practicable to achieve this. To this end, we develop safety and health laws, publish codes, standards and advice on safety and health at work, and assist employers to establish a safety management system. We maintain that the costs of implementing safety and health standards should be proportionate to the risks and shall give our advice and set the standards against this consideration.





You may probably approach us when you:

- want to ask for advice or information about what the law requires, what guidance we have published, or something we are doing that affects you
- need an approval to operate a training scheme to issue certificates for certain kinds of operators of machinery
- want us to issue to you a Certificate of Competency to operate a boiler or a steam receiver
- want to give us some information or comment on our policies

We work closely with employers, trade unions and experts in many fields, and you can help and advise us in any one of these capacities.

If you want to get in touch with us, please see pages 14 and 15.

Which laws do we enforce?

We enforce:

- (a) the Factories and Industrial Undertakings Ordinance (F & IUO) and the 30 sets of subsidiary regulations;
- (b) the Boilers and Pressure Vessels Ordinance (BPVO) and its subsidiary regulations; and
- (c) the Occupational Safety and Health Ordinance (OSHO) and its subsidiary regulations.

We deal with factories, construction sites, power stations, hotels, catering and other industrial undertakings. We also inspect, whenever necessary, non-industrial workplaces like shopping arcades, offices, schools, hospitals, clinics and so on.

What powers do we have under the law?

The law gives officers in the OSHB a wide range of powers. We can:

- enter, at all reasonable times, any premises or place in which we know, or have reasonable cause to believe, that the premises are being used as a workplace
- carry out examinations and inquiries as may be necessary to ascertain whether the requirements of the F & IUO, BPVO and OSHO are being complied with
- take measurements, photographs and samples
- take possession of an article, and arrange for it to be dismantled or tested



HONG KONG LAWS
BOILERS AND
PRESSURE VESSELS
ORDINANCE

CHAPTER 56

CONSTRUCTION
SITES (SAFETY)
REGULATIONS

CHAPTER 59
SUBSIDIARY LEGISLATION

HONG KONG LAWS
OCCUPATIONAL
SAFETY AND
HEALTH
ORDINANCE

CHAPTER 509

HONG KONG LAWS
FACTORIES AND
INDUSTRIAL
UNDERTAKINGS
ORDINANCE

CHAPTER 59



- require information and take statements from people we think can help in an investigation
- require the production of any register or other documents required to be kept under the law, and inspect, examine and copy the same
- issue closure orders, improvement notices and suspension notices, and prosecute people and companies (pages 6 and 7 tell you more about this)

In exercising the powers above, we will identify ourselves and show you our identification. You should check with the Occupational Safety and Health Branch at 2559 2297 if you suspect that you are dealing with an impostor posing as staff of the Labour Department.

Why do we visit?

We visit to:

- make sure that risks from work are being properly managed
- help people who have responsibilities under the law or talk over a particular problem at an employer's request
- investigate work accidents and incidents resulting in ill health
- investigate and help settle complaints of working conditions that could affect safety, health or welfare
- gather information, for example about technical developments or work-related ill health
- follow up on earlier enforcement actions

Our officers' job is to make sure that your business has acceptable standards of safety, health and welfare. We will tell you what you are required to do by law. We will be fair and courteous to you at all times and tell you what we are doing and why. Where necessary, we will use our powers under the law to enforce compliance. Our main aim is simply to help you do what is reasonable and practicable to control risks.

How do we go about a visit

This depends on the purpose of the visit and the type of workplace we visit. As a general rule, places with more serious hazards or risks, or where the hazards have been poorly controlled in the past, are visited more frequently.

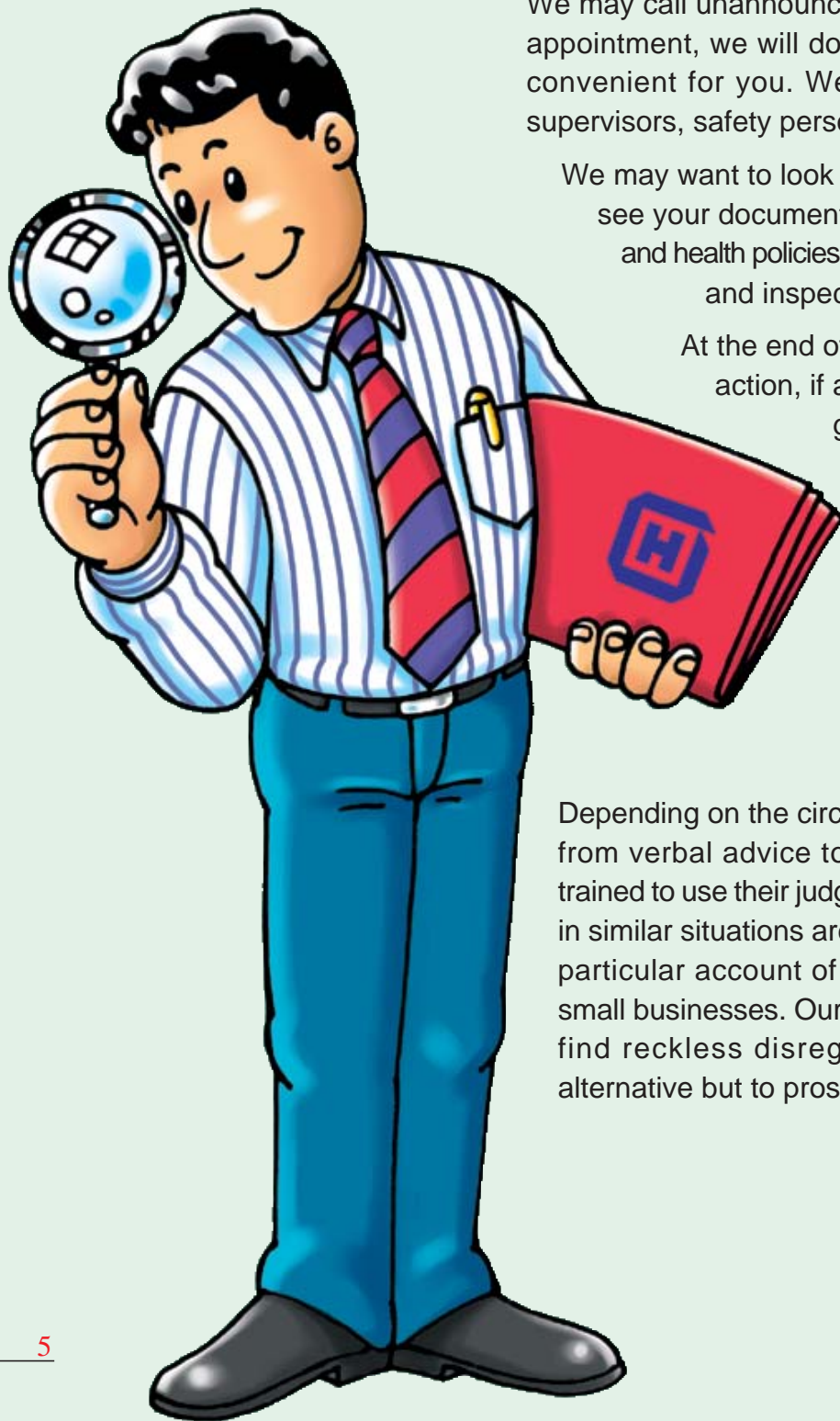
We may call unannounced or by appointment. If we call by appointment, we will do our best to arrange a time that is convenient for you. We will probably talk to managers, supervisors, safety personnel and other employees.

We may want to look around parts of your premises and see your documents relating to safety, such as safety and health policies, risk assessments, plant maintenance and inspection records and accident records.

At the end of a visit we will tell you what further action, if any, we are going to take. If we are going to write, we will tell you when you can expect to hear from us. We may ask you to acknowledge in writing our notification of action you are required to take.

What happens if we find something unsafe or against the law?

Depending on the circumstances, our actions may range from verbal advice to prosecutions. Our field staff are trained to use their judgement to make sure that employers in similar situations are treated in a similar way. We take particular account of the limitations and constraints of small businesses. Our aim is to help and advise, but if we find reckless disregard of the law, we will have no alternative but to prosecute.





The requirements of the laws that we enforce already take account of the costs of what you are required to do. This means our field staff require action in proportion to the risks concerned. Most of the time we enforce the requirements by persuasion. We will explain what the law requires and what good practices are. There are, though, circumstances where we may have to enforce the redress by one of the following actions as required :

- (a) We may advise you, either orally or in writing, on the steps needed to put things right and may also warn you of the consequences of failing to do so;
- (b) We may issue either an improvement or a suspension notice; or
- (c) We may issue a closure order in respect of a boiler or a pressure vessel.

Improvement Notice and Suspension Notice

Improvement Notice requires you to put things right within a certain time. We will usually discuss the time limit with you.

Occupational Safety and Health Ordinance
Section 9

IMPROVEMENT NOTICE

Name: _____
Address: _____
Trading as* _____

I HEREBY GIVE NOTICE that I am of the opinion that in _____
you, as an (employer/ occupier of premises where a workplace is located),
have contravened/ have contravened in circumstances that make it likely that the
contravention will be continued or repeated) the (Occupational Safety and Health Ordinance/
Factories and Industrial Undertakings Ordinance), namely _____
that _____

By virtue of the power vested in me under section 9 of the Occupational Safety and
Health Ordinance, I HEREBY REQUIRE you to (remedy the said contravention/ within four
(days/ months)* i.e. on or before _____
continuing or repeating the said contravention).

Signature: _____ Date: _____
For Commissioner for Labour

1. I select an improvement notice.
2. I select an improvement notice if appropriate.

Notes:

1. Failure, without reasonable excuse, to comply with an improvement notice is a criminal offence and makes the offender liable to a fine of \$20,000 and to imprisonment for 12 months under section 9(5) of the Occupational Safety and Health Ordinance.
2. The service of this notice does not relieve you of any legal liability for failing to comply with any statutory provisions referred to in the notice, or to put things right unless already in compliance with this notice.
3. Compliance with this notice would not be taken as an admission of the illegal nature or extent of the contravention referred to in it.

OS/16/01

Occupational Safety and Health Ordinance
Section 10

SUSPENSION NOTICE

Name: _____
Address: _____
Trading as* _____

I HEREBY GIVE you, as the (employer responsible for / occupier of premises
where a workplace is located, namely _____
at _____
the opinion that because of (an activity undertaken on the said premises/ the condition or use
of the said premises/ the condition or use of a plant located on the said premises/ the
condition or use of a substance located on the said premises), namely _____
likely injury, and that the matters which create, or are likely to create the said risks) are _____
there is an imminent risk of death or serious
bodily injury.

By virtue of the power vested in me under section 10 of the Occupational Safety and
Health Ordinance, I HEREBY DIRECT the said (activity not to be undertaken/ plant not
to be used/ plant not to be used/ substance not to be used) while this notice remains in force.

This notice takes effect on (the date on which it is served) _____

Signature: _____ Date: _____
For Commissioner for Labour

1. I select an improvement notice.
2. I select an improvement notice if appropriate.

(see Notes overleaf)

Suspension Notice requires you to stop doing something until things are put right. We only issue this if we consider there is an imminent risk of death or serious bodily injury.

You can apply to the Commissioner for Labour for a review of the issue of a suspension notice. If you are aggrieved by the decision of the Commissioner for Labour in respect of the review, you can appeal to the Administrative Appeals Board. We will give you information on how to seek a review or an appeal when we issue a notice.

Closure Order

Closure Order requires you to stop using a boiler or a pressure vessel with safety problems until things are put right and the equipment has been examined and certified by an appointed examiner to be fit for operation. You can apply to the Commissioner for Labour against the refusal of an Appointed Examiner to issue a certificate of fitness in respect of your boiler or pressure vessel.

We will follow up notices or closure orders to check what you have done. Failure to comply is a very serious offence and is likely to lead to prosecution.

We may prosecute your company and/or any individual breaking the law. We are unlikely to prosecute for minor breaches of the law, and we are likely to take into account your attitude towards safety and the safety record of the business in deciding what to do if something is wrong.

Whether or not a prosecution should go ahead depends very much on the circumstances of a particular case. Prosecution is likely if:

- there is a significant risk to safety and health, either because several people are at risk, or because the risk is considerable
- you have ignored safe practices
- you have ignored previous advice, notices or closure orders from us
- you have committed the same offences before



Will we pass on information about your business to others?

The OSHO controls the extent to which we can pass on information acquired through our work. It restricts the disclosure of any manufacturing or commercial secret or any working process that comes to our knowledge. The handling of personal data is governed by the Personal Data (Privacy) Ordinance. We also give due consideration to medical confidentiality and public security.

In general, we will disclose information only when this would help to protect the safety and health of people at work and the public. We will always make information available to relevant parties and authorities (e.g. Government Policy Bureaux and Departments, Law firms, etc.) if someone's safety depends on it.

We disclose case-related information only with the consent of the client himself or it is legally proper to do so. We will make the information we hold available on public registers that can be seen free of charge at our headquarters.

The standards you can expect from us

We will :

- (a) be courteous;
- (b) be fair and consistent;
- (c) tell you our name, show you a warrant or give you a name card when we visit;
- (d) wear a name badge at seminars, exhibitions etc.; and
- (e) tell you our names when speaking on the phone.

We also aim to:

- Reply to complaints about unsafe work environment or violation of safety regulations within 2 weeks, or if this is not possible, we will give an interim reply to keep you informed of the progress
 - Respond to calls from emergency units regarding fatal and serious accidents within 2 hours
 - Notify you of the result of your applications for safety training courses within 1 week after receipt of the application
 - Serve a Suspension Notice within 24 hours after issuing you a Notice of Intention to prohibit hazardous work or process in your workplace
 - Lift the Suspension Notice within 24 hours after verifying the compliance
 - Complete the process of an application for registration of pressure equipment within 3 weeks upon your submission of adequate details or documents





- Serve your employees within 20 minutes when they come to apply for a Certificate of Competency or endorsement relating to boilers and steam receivers
- Arrange examination for applicants of Certificate of Competency relating to operation of boilers and steam receivers to take place within 14 working days from the date of payment of examination fees
- Issue or endorse a Certificate of Competency within 4 weeks from the date of examination

Some of our work, such as the assessment of major hazard plants, may take more time depending on the actual circumstances. In these cases, we will try to reach an agreement with you about the time frame so that we both have a clear understanding of what to expect.

We shall reply to all written enquiries or complaints, or let you know what we are doing about them, within 10 days. If this is not possible, we will give you an interim reply. We will also keep you informed of the progress.

Our Performance

We measure performance against our pledges. In general, we attain a high standard of achievements, mostly 100%.

Details of our performance against these pledges will also be published each year in the Performance Pledge of the Labour Department.

Who does what - and how to find out more

Occupational Safety Officers and specialists based in our offices are responsible for carrying out inspections, giving advice on safety and health at work and providing other services for the following work activities:

- manufacturing industry
- construction industry
- hotels and catering establishments
- hospitals and clinics
- import/export trade
- wholesale and retail
- banking, financing, investment and insurance services
- transport, utility and communications
- power and gas generation





Doctors, occupational hygienists and nurses in our **Occupational Health Services** can advise you about:

- any work-related illnesses
- information for determination of hazardous substances in the workplace and medical surveillance of persons who are exposed to them
- technical information for solutions and means of reducing occupational hazards
- organising health education activities

If you want to talk to us about one of these services, contact your local OSHB regional office (see pages 14 to 15).

If you have a work-related illness, you can make an appointment with the Government's Occupational Health Clinics (see page 15). The Clinics are manned by doctors and nurses of the Labour Department. They are ready to give workers individual counselling in the prevention and control of occupational health hazards.

How to complain

- (a) If you are unhappy with the way we have dealt with you, we want to know.
- (b) We want to put things right, and we always welcome suggestions to help us improve our service.
- (c) Ask the person you have been dealing with for the name of their Office Manager .
- (d) You can then ask to speak, or if you prefer, write to the manager. He will deal with your suggestions or investigate your complaint. He will also give you a reply afterwards.
- (e) If you are still not satisfied, you can lodge a complaint with our Commissioner for Labour at 16/F, Harbour Building, 38 Pier Road, Central, Hong Kong.

We will see that your complaint is followed up promptly and fairly.

You can also approach and request the Office of the Ombudsman to look at your complaint.





How to contact us

If you require further information or assistance, please contact us at:

Website address of Labour Department —

<http://www.info.gov.hk/labour>

Occupational Safety and Health Branch

Enquiry Services

25/F, Western Harbour Centre,
181 Connaught Road West, Hong Kong.
Telephone : 2559 2297 (auto-recording after office hours)
Fax : 2915 1410

Occupational Safety and Health Centre

4/F, Celebrity Commercial Centre,
64 Castle Peak Road, Sham Shui Po, Kowloon.
Telephone : 2361 8240
Fax : 2307 9867
(Opens 9:00a.m. to 5:00p.m., Monday to Friday
and 9:00a.m. to 1:00p.m. on Saturday)

Reporting work accidents and dangerous occurrences : 2815 0678 (24 hours)

Occupational Safety - Operations Divisions

Hong Kong & Island Region

16/F, Southorn Centre, 130 Hennessy Road, Wanchai, Hong Kong.
Telephone : 2835 2034 Fax : 2833 0156

Kowloon Region

6/F, Mongkok Government Offices, 30 Luen Wan Road, Mongkok, Kowloon.
Telephone : 2399 2244 Fax : 2787 5984

New Territories East & Kwun Tong Region

Room 215, 2/F, Kwun Tong District Branch Office Building, 6 Tung Yan Street, Kwun Tong, Kowloon.
Telephone : 2157 8055 Fax : 2157 0070

New Territories West Region

8/F, Chinachem Tsuen Wan Plaza, 457 Castle Peak Road, Tsuen Wan, New Territories.
Telephone : 2437 1541 Fax : 2415 4425

Integrated Services

6/F, Tsuen Wan Government Offices, 38 Sai Lau Kok Road, Tsuen Wan, New Territories.
Telephone : 2417 6557 Fax : 2498 1074

Occupational Safety and Health Training Centre

13/F, City Landmark I, 68 Chung On Street, Tsuen Wan, New Territories.
Telephone : 2940 7064 Fax : 2940 6251

Occupational Health

Occupational Health Service

15/F, Harbour Building, 38 Pier Road, Central, Hong Kong.
Telephone : 2852 4041 Fax : 2581 2049

Kwun Tong Occupational Health Clinic

2/F, Kwun Tong Jockey Club Health Centre, 457 Kwun Tong Road, Kwun Tong, Kowloon.
Telephone : 2343 7133 Fax : 2142 6905

Sham Shui Po Occupational Health Clinic

4/F, Celebrity Commercial Centre, 64 Castle Peak Road, Sham Shui Po, Kowloon.
Telephone : 2729 6500 Fax : 2958 1952

Boilers & Pressure Vessels Division

24/F, Western Harbour Centre, 181 Connaught Road West, Hong Kong.
Telephone : 2975 6428 Fax : 2517 6853

OSHB offices

Open 9:00 a.m. to 1:00 p.m. and 2:00 p.m. to 5:30 p.m., Monday to Friday &
9:00 a.m. to 12:00 noon on Saturday.

Outside office hours, please use our auto-recording telephone service at 2559 2297.

This publication is prepared by the
Occupational Safety and Health Branch
Labour Department

This edition March 2003

This publication is issued free of charge and can be obtained from offices of the Occupational Safety and Health Branch. Addresses and telephone numbers of the offices can be found in website of the Department at <http://www.info.gov.hk/labour/eng/tele/index.htm>.

This publication may be freely reproduced except for advertising, endorsement or commercial purposes. Please acknowledge the source as "Working with Employers", published by the Labour Department.

