CHAPTER 4 RESPONSIBILITIES

4.1 INTRODUCTION

Safety is a duty of all. All parties involved in public works contracts have their own responsibilities for ensuring and promoting safety and health in public works contracts and they are set out in this chapter for reference.

4.2 RESPONSIBILITIES

4.2.1 WORKS DEPARTMENTS/CONSULTANTS

(a) To secure the commitment of their staff in ensuring safety and health on site.

(b) To give proper consideration during the planning and design stages of the projects to avoid undue safety problems during construction and subsequent operation, inspection and maintenance activities.

(c) To incorporate adequate provisions on construction site safety in their contracts, requiring contractors to prepare, implement and monitor safety plans where applicable.

(d) To select contractors who give proper consideration to construction safety to carry out the works.

(e) To assign and train site staff to administer safety provisions in their contracts, including monitoring of the implementation of the measures stipulated in safety plans.

(f) To monitor the contractors' safety performance; high level management to take urgent actions to rectify the situation should there be major construction safety problems.

(g) To compile site accident statistics and report the contractors' construction site safety performance.

(h) To organise Site Safety Management Committee meetings where applicable.

(i) To organise and participate in safety promotional activities.
To carry out site safety inspections and joint site safety inspections with contractors.

To ensure that contractors take prompt remedial actions to rectify any defects identified during site inspections or in Inspection Reports, Improvement Notices or Suspension Notices issued by Labour Department or Marine Department.

To prepare accident reports for serious and fatal accidents, and to consider and implement measures to prevent recurrence.

To assist Works Bureau on the formulation of policy on construction safety.

4.2.2 CONTRACTORS/SUB-CONTRACTORS

To comply with all statutory and contractual requirements on construction safety, including the general duties imposed on them under the Factories and Industrial Undertakings Ordinance and the Occupational Safety and Health Ordinance as explained in Section 4.3 below.

To prepare and submit written statements on their policies relating to construction safety.

To prepare comprehensive and detailed safety procedures and method statements or safety plans where applicable and monitor their implementation.

To provide adequate safety staff to carry out regular safety inspections, safety promotion and safety audits.

To provide appropriate safety training to all persons working on site including workers, supervisors and site management staff.

To organise Site Safety Committee and attend Site Safety Management Committee where applicable.

To report and investigate dangerous occurrences and accidents.
To take prompt remedial actions to rectify any defects identified in site inspections, Inspection Reports, Improvement Notices and Suspension Notices issued by Labour Department or Marine Department.

4.2.3 WORKS BUREAU

(a) To formulate policy on construction safety of Government contracts.

(b) To formulate guidance to works departments on construction safety.

(c) To prepare and update the Construction Site Safety Manual.

(d) To maintain a database for site accident statistics and issue reports, and monitor site safety performance of contractors.

(e) To organise and co-organise safety promotional activities.

(f) To initiate regulating actions against contractors with poor site safety performance.

(g) To co-ordinate and liaise with the Labour Dept., the Occupational Safety and Health Council, the Marine Dept., the Construction Industry Training Authority or other safety related organisations on safety matters that are of common concern of works departments.

4.2.4 LABOUR DEPARTMENT

(a) To enforce safety legislation on construction sites.

(b) To initiate additions/revisions to safety legislation with a view to improving construction safety.

(c) To provide safety training on statutory requirements and compliance standards.

(d) To help establish safety management systems.

(e) To promote construction safety and health.

(f) To investigate serious or fatal accidents and make recommendations on the prevention of similar accidents.
(g) To provide advice on the establishment and operation of safety committees.

(h) To provide advice on construction safety and health (including legislation and training) to works departments.

4.2.5 WORKERS

Persons employed by contractors and sub-contractors in construction sites have to comply with the general duties imposed on them under the Factories and Industrial Undertakings Ordinance and the Occupational Safety and Health Ordinance, as explained in Section 4.3 below.

4.2.6 FIRE SERVICES DEPARTMENT

(a) To extinguish fire.

(b) To protect life and property in case of fire or other calamity.

(c) To give advice on fire protection measures and fire hazards as occasion requires.

(d) To assist any person who appears to need prompt or immediate medical attention and convey the person to a hospital or other place where medical attention is available.

(e) To give advice on fire protection measures pertaining to the manufacture, conveyance, storage and use of Dangerous Goods.

(f) To formulate fire services installation requirements with regard to premises/stores for the manufacture, storage, use of Dangerous Goods and conveyance of Dangerous Goods on land.

(g) To take legal action against any person who contravenes provisions of the Fire Services Ordinance and the Dangerous Goods Ordinance.

(h) to provide training courses on fire fighting and fire prevention.

4.2.7 MARINE DEPARTMENT

(a) To monitor the safe navigation of vessels at or near marine sites and to enforce safety legislation on vessels.
To update and initiate new safety guides, codes of practice and Marine Department Notices to improve navigation and afloat works safety.

To promote navigation and afloat works safety and health.

To investigate serious or fatal accidents on or involving vessels afloat relating to navigation, crew, passengers, ship repairing and cargo handling, and make recommendations on the prevention of similar accidents.

To provide assistance and technical support on navigation and afloat works safety and health to government departments.

To provide advice on afloat safety to Site Safety Management Committees, persons in charge of works, and owners, masters and operators of vessels.

4.2.8 OCCUPATIONAL SAFETY AND HEALTH COUNCIL

To promote higher safety and health standards for people at work through:

(a) fostering greater awareness among the community.

(b) promoting the application of modern technology.

(c) promoting education and training.

(d) disseminating technical knowledge.

(e) developing strategies and formulating programmes.

(f) providing consultancy services.

(g) encouraging and facilitating co-operation and communication between the Government, employers, employees, and relevant professional and academic institutions.

4.3 GENERAL DUTIES IN LAW

4.3.1 INTRODUCTION

(a) Securing safety and health at work requires the full co-operation of contractors and sub-contractors and persons employed by them. It
requires them to understand and assume individual responsibilities and take a wider view of their roles with respect to health and safety at work.

(b) Sections 6A and 6B of the Factories and Industrial Undertakings Ordinance (FIUO) impose general duties on proprietors (i.e. contractors and/or sub-contractors) and persons employed (i.e. workers and their supervisors) with regard to the safety and health at work in industrial undertakings (including construction sites). The duties are applicable to all types of work activities and situations, some of which may not be covered by other specific safety and health legislation.

(c) Proprietors and persons employed must ensure that they fulfil their general duties as well as the specific responsibilities laid down in other provisions of the Factories and Industrial Undertakings Ordinance and its subsidiary regulations. Failure to do so is an offence under the law.

(d) The FIUO does not apply to Government workshops and plants but such workshops and plants should, nevertheless, conform in all respects to the standards of safe working as prescribed by the Ordinance and related subsidiary legislation, and they are subject to the same measure of inspection and control by the Labour Department.

(e) However, the Occupational Safety and Health Ordinance (OSHO) binds the Government and prescribes measures to ensure the safety and health of employees while they are at work. Civil servants, either in the capacity of (i) persons responsible for a workplace, (ii) the occupiers of a premises where employed persons are working, or (iii) employees, have to comply with the requirements of OSHO in all Government workplaces. A 'workplace' means any place where employees work, except:

(a) an aircraft or vessel;
(b) the driver seat of a land transport vehicle; and
(c) any other place prescribed in Occupational Safety and Health Ordinance and its subsidiary Regulations.
The respective responsibilities are outlined in Sections 4.3.4 to 4.3.6 below. Under Sections 9 and 10 of the OSHO, the Commissioner for Labour may serve Improvement Notice and Suspension Notice on employer and occupier.

4.3.2 GENERAL DUTIES OF PROPRIETORS UNDER FIUO

(a) The general duties imposed on the proprietor of an industrial undertaking are to ensure, so far as is reasonably practicable, the safety and health at work of all persons employed by him.

(b) The general duties extend to include five specific areas. These five areas are the most important though by no means the only areas with which the proprietor must be concerned. These areas are:

(i) the provision and maintenance of plant and systems of work that are, so far as is reasonably practicable, safe and without risks to health;

(ii) arrangements for ensuring, so far as is reasonably practicable, safety and absence of risks to health in connection with the use, handling, storage and transport of articles and substances;

(iii) the provision of such information, instruction, training and supervision as is necessary to ensure, so far as is reasonably practicable, the safety and health at work of all persons employed by him at the industrial undertaking;

(iv) so far as is reasonably practicable as regards any part of the industrial undertaking including construction sites under the proprietor's control, the maintenance of it in a condition that is safe and without risks to health and the provision and maintenance of means of access to and egress from it that are safe and without such risks; and

(v) the provision and maintenance of a working environment for all persons employed by him at the industrial undertaking that is, so far as is reasonably practicable, safe, and without risks to health.
4.3.3 GENERAL DUTIES OF PERSONS EMPLOYED UNDER FIUO

(a) Every person employed at an industrial undertaking must use common sense and take reasonable care for the safety and health of himself and of others who may be affected by his acts or omissions at work. He should not only avoid obviously silly or reckless behaviour but should also take positive steps to understand the hazards in his workplace, to follow necessary safety rules and procedures, and to ensure that his acts or omissions at work will not put the safety and health of himself or others at risk.

(b) Where duties or requirements are imposed on his proprietor or any other person under the Factories and Industrial Undertakings Ordinance or its subsidiary regulations for securing the safety and health at work at the industrial undertaking, the person employed must co-operate with the proprietor or other person so far as is necessary to enable them to perform or comply with those duties or requirements. For example, there is a duty on the proprietor to ensure that articles and substances are used and handled safely. To discharge this duty, the proprietor might introduce safety procedures for using and handling certain hazardous substances. Providing those procedures are indeed appropriate, the person employed must co-operate by following them.

4.3.4 Responsibility of Employers under OSHO

Under Section 6, every employer must, so far as reasonably practicable, ensure the safety and health at work of all the employer's employees. His duty includes, but not limited to, the following -

- provision and maintenance of plant and systems of work;
- arrangements in the use, handling, storage and transport of plant and substances;
- provision of information, instruction, training and supervision;
- provision and maintenance of the workplace and means of access to and egress from; and
- provision and maintenance of the working environment.
4.3.5 Responsibility of Occupier of Premises under OSHO

Under Section 7, the occupier of the premises must, if an employee's workplace is located on premises that are not under the control of the employee's employer, ensure that:

- the premises;
- the means of access to and from the premises;
- any plant or substances kept at the premises;

are, so far as reasonably practicable, safe and without risks to health.

4.3.6 Responsibility of Employees at Work under OSHO

Under Section 8, an employee while at work must:

- take care for the safety and health of persons (including himself) at the workplace and who may be affected by his acts or omissions at work; and
- co-operate with the employer or other person to enable requirements imposed by law on the employer or other person in the interest of safety or health to be complied with.