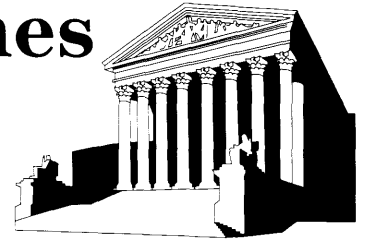




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The Electricity Supply Lines (Protection) Regulation



In May, the Legislative Council passed the Electricity Supply Lines (Protection) Regulation (the "Regulation"). It will have a significant effect upon contractors carrying out work in the vicinity of underground electricity cables or overhead electricity supply lines. Our regular contributor Professor Arthur McInnis looks at the Regulation.

Background

Hong Kong is home to an extensive network for the distribution of electricity. When live electricity supply lines are damaged during construction or maintenance works, there may be both interruption of the power supply as well as the creation of dangers for the workers involved. The purpose behind the legislation is to address these two risks concurrently. At present, there are no provisions in the Electricity Ordinance (Cap. 406) to safeguard the supply lines. The prevention of damage to them thus depends upon the degree of care that is exercised by contractors on a voluntary basis. While many best practice contractors do take steps to address the risks involved in working around supply lines, a considerable number of incidents are still reported each year. Between January 1994 and November 1998, there were 3,141 incidents of damage to underground electricity cables and 299 incidents involving damage to overhead electricity lines. The incidents included four fatalities and another 81 instances of personal injury. Apart from the damage and personal injury, there were also some 1,884 interruptions to the electricity supply. For this reason, it was decided that legislation was called for to standardise and improve current practices.

Contents of the Regulation

The main purpose of the Regulation will be fulfilled through requirements set out in section 10. Thus section 10 *prohibits* the carrying out of certain types of work in the *vicinity* of an underground electricity cable or overhead electricity supply line *unless* all reasonable steps have first been taken to *ascertain* the existence of the cable or line as well as certain information pertaining to it. The relevant information would include the alignment and depth of underground cables and alignment, distance from the ground and voltage of overhead lines. In the case of an underground cable, that information must be ascertained by a *competent person*. The Regulation sets out in detail the eligibility, process for approval, and on-going requirements to maintain the status of a competent person. Section 10 also stipulates that in carrying out works, reasonable measures must be taken to ensure that there are no interruptions in power supply nor electrical accidents.

The Regulation extends the powers of the Director of Electrical and Mechanical Services to enter, search and seize

documents in relation to monitoring and enforcing the new obligations. The Director may serve remedial notices upon anyone he believes to be contravening the Regulation to force his or her compliance. If there is still a failure to comply, then the Director may prohibit further works on the site or remedy the contravention himself under section 12. Any costs he incurs in this regard would be treated as debts owing to and recoverable by him. Separate sections deal with appeals to an appeal board that is being set up under the Regulation concerning directions or remedial notices by the Director. The Director is also given power to approve and issue Codes of Practice, which will provide practical guidance on the steps and other measures to be taken to ensure the main purpose behind the Regulation. At present a draft Code has been prepared and will be released to the public shortly. It is understood that the Code is intended to be used by all individuals who have responsibilities for complying with requirements under the Regulation, including employers, employees, contractors and electricity suppliers.

A number of new offences and penalties for non-compliance with the Regulation have been set out, with fines ranging between HK\$10,000 (US\$1,282) and HK\$200,000 and periods of imprisonment of up to 12 months. Additional fines of HK\$10,000 per day may be imposed for continuing offences. Two important offences that may be noted include that of failing to take reasonable measures to prevent the occurrence of an electrical accident or interruption to the electricity supply; and failing to take reasonable steps to ascertain the alignment or other relevant particulars of an electricity supply line. The offences are supported by provisions that permit the approved Codes of Practice to be introduced into evidence in prosecutions. In keeping with other regulatory offences, a defence to the charges is also set out that would enable a person charged to escape conviction if he can show that he has complied with the Codes. The sections dealing with competent persons only will be the first to be brought into force — in June this year — with other provisions to come into force later, in December.

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