

立法會
Legislative Council

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(These minutes have been
seen by the Administration)

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Subcommittee on Factories and Industrial Undertakings Ordinance (Cap. 59)
(Appointed Day under Section 6BA(17)) Notice

Minutes of meeting
held on Wednesday, 21 March 2001 at 5:30 pm
in Conference Room A of the Legislative Council Building

- Members Present** : Hon Cyd HO Sau-lan (Chairman)
Hon LEE Cheuk-yan
Hon HUI Cheung-ching
Hon Mrs Miriam LAU Kin-ye, JP
Hon Andrew CHENG Kar-foo
Hon LI Fung-ying, JP
Hon LEUNG Fu-wah, MH, JP
- Member Absent** : Dr Hon LUI Ming-wah, JP
- Public Officers Attending** : Mr K K LAM
Principal Assistant Secretary for Education and Manpower

Mr TSANG Kin-woo, JP
Assistant Commissioner for Labour
- Clerk in Attendance** : Ms Doris CHAN
Chief Assistant Secretary (2) 4
- Staff in Attendance** : Miss Anita HO
Assistant Legal Adviser 2

Miss Mary SO
Senior Assistant Secretary (2) 8

I. Election of Chairman

Ms Cyd HO was elected chairman of the Subcommittee.

II. Meeting with the Administration
(LC Paper No. CB(2) 1133/00-01(01))

2. At the invitation of the Chairman, Assistant Commissioner for Labour (ACL) took members through the Administration's paper which set out the background on the Factories and Industrial Undertakings (Amendment) Ordinance 1999 (Cap. 59) (Appointed Day under Section 6BA(17)) Notice whereby the Secretary for Education and Manpower appointed 1 May 2001 for the purposes of section 6BA(5), (7) and (8) of the Factories and Industrial Undertakings Ordinance (Cap. 59) (the Ordinance), as well as an update on the training of construction and container handling workers and the publicity work to announce the commencement date. As from 1 May 2001, every proprietor of a construction or container handling undertaking should not employ a person who had not been issued with a certificate, commonly known as the "green card", in respect of his attendance at a recognised safety training course. All workers carrying out construction work and container handling should also carry the green card with them while at work. ACL assured members that there should not be any problem in bringing the legislation into effect on 1 May 2001, as training providers had no difficulty in providing the one-day safety training to those on the waiting list by the end of April 2001. Moreover, the Labour Department (LD) would exercise flexibility during the initial period after the law had been brought into effect and would not take enforcement action against a proprietor/contractor if his workers had already enrolled for the "green card" course and were waiting for their turn to attend it.

3. Mrs Miriam LAU requested the Administration to give an indication of the length of the initial period during which LD would exercise flexibility not to take enforcement action against a proprietor/contractor if his workers had already enrolled for the "green card" course and were waiting for their turn to attend it after the subsidiary legislation had come into effect. Mrs LAU further said that there were complaints that some workers had encountered difficulty in getting enrolled for the safety training course, as the training providers at one time did not have the capacity to train them. In this connection, Mrs LAU requested the Administration to give a guarantee that the training providers would have the capacity to train people applying

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for the safety training course, and that LD would not take enforcement action against those workers who had not obtained the green card after 1 May 2001 but had already enrolled for the safety training course and were waiting for their turn to attend it.

4. Responding to Mrs LAU's first question, ACL said that "initial period" was envisaged to be about three months. He assured members that LD would exercise flexibility in deciding the length of the period in question and in taking enforcement action. Regarding the complaints that some workers had encountered difficulty in getting enrolled for the safety training course, ACL said that to his knowledge only one cargo vessel traders association had requested the Vocational Training Council (VTC) to provide more training places in January 2001. Having learnt of the situation, LD immediately contacted the association to offer assistance. ACL added that arrangements had been made with the Occupational Safety and Health Council (OSHC) to train its workers before 1 May 2001 and that the timing and venue of holding the safety training course could be arranged to suit the needs of their workers. To date, the response from the cargo vessel traders association was still being awaited. ACL further guaranteed that training providers had the capacity to meet the demand for the safety training course, and that no workers would be prosecuted if they had already enrolled for the safety training course before 1 May 2001 and were waiting for their turn to attend it.

5. Mrs Miriam LAU further said that some smaller container handling undertakings might not be aware of the commencement date. In order to ensure that publicity on the subject reached as many people as possible, Mrs LAU suggested that an announcement of public interest should be broadcast on television as well. ACL agreed to the suggestion and would make arrangements in this regard. He further said that following the passage of the Factories and Industrial Undertakings (Amendment) Ordinance 1999 by the Legislative Council on 16 July 1999, the Administration had written to relevant employer organisations and employees unions informing them of the requirement that after the appointed day every proprietor/contractor should not employ a person who had not been issued with a green card and that all workers carrying out construction work and container handling should carry the green card with them while at work. LD's Occupational Safety Officers had also visited all known container handling workplaces across the territory in September and October 2000 informing both employers and employees of the requirement. The information gathered from such visits revealed that at that time an estimated 5 500 container handling workers would need to attend the safety training course, and about 84% of them had already obtained the green card. At present, about 8 000 and 600 construction and container handling workers respectively were waiting to attend the safety training course. As the Construction Industry Training Authority had the capacity to train about 13 000 construction workers each month, it had no problem in training all those on the waiting list within a month. The VTC also had no problem in providing training to those container handling workers on the waiting list (as at 21 March 2001) by end of April 2001.

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6. Mr LEUNG Fu-wah said that labour unions were supportive of the legislation and urged for its early implementation as the requirement was aimed at reducing industrial accidents and was not difficult to meet.

7. Mr LEE Cheuk-yan enquired whether VTC would refer applicants for the safety training course to OSHC if it did not have the capacity to train them. ACL replied in the positive.

8. Mrs Miriam LAU enquired whether only those workers who had already enrolled for the safety training course before 1 May 2001 would not be prosecuted. ACL responded that in principle, only those workers who had already enrolled for the safety training course before 1 May 2001 would not be prosecuted. Nevertheless, LD would exercise flexibility during the initial period after the law had been brought into effect if the worker concerned could provide good reason why he/she had failed to enroll for the safety training course. Principal Assistant Secretary for Education and Manpower (PAS/EM) pointed out that the primary objective of the legislation was not prosecution but to require workers to receive safety training so as to enhance their awareness and knowledge of safety and health at work.

9. Mr LEE Cheuk-yan enquired whether employers of construction and container handling undertaking could hire workers without a green card after 1 May 2001. PAS/EM responded that no enforcement action would be brought against the employers if the workers they hired during the initial period after the law came into effect on 1 May 2001 had already enrolled for the safety training course and were waiting for their turn to attend it.

10. In summing up, the Chairman concluded that members were supportive of the commencement date as proposed in the subsidiary legislation on the understanding that the Administration would strengthen publicity on the subject and exercise flexibility in the initial period after the legislation had taken effect.

11. There being no other business, the meeting ended at 6:30 pm.

Legislative Council Secretariat
25 April 2001