

立法會
Legislative Council

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LC Paper No. CB(2)3202/03-04

(These minutes have been seen by the
Administration)

Panel on Manpower

**Minutes of meeting
held on Thursday, 20 May 2004 at 2:30 pm
in Conference Room A of the Legislative Council Building**

Members present : Hon LAU Chin-shek, JP (Chairman)
Hon CHAN Kwok-keung, JP (Deputy Chairman)
Hon Kenneth TING Woo-shou, JP
Hon LEE Cheuk-yan
Dr Hon LUI Ming-wah, JP
Hon LEUNG Yiu-chung
Hon Ambrose LAU Hon-chuen, GBS, JP
Hon Andrew CHENG Kar-foo
Hon SZETO Wah
Hon LI Fung-ying, JP
Hon Tommy CHEUNG Yu-yan, JP
Hon Michael MAK Kwok-fung
Hon LEUNG Fu-wah, MH, JP

Members absent : Hon Cyd HO Sau-lan
Hon CHAN Yuen-han, JP
Hon Frederick FUNG Kin-kee

Public Officers attending : Item II

Mr Stephen IP
Secretary for Economic Development and Labour

Mr Matthew CHEUNG Kin-chung, JP
Permanent Secretary for Economic Development and Labour
(Labour)

Mr Fred TING
Deputy Commissioner for Labour (Occupational Safety and Health)

Mr TSO Sing-hin
Assistant Commissioner for Labour (Occupational Safety)

Item III

Mr Stephen IP
Secretary for Economic Development and Labour

Mr Matthew CHEUNG Kin-chung, JP
Permanent Secretary for Economic Development and Labour (Labour)

Mr Alan WONG
Assistant Commissioner for Labour (Labour Relations)

Miss Mabel LI
Senior Labour Officer
Labour Department

Item IV

Mr Edward YAU
Deputy Secretary for Education and Manpower

Mr Byron LAM
Principal Assistant Secretary for Education and Manpower

Clerk in attendance : Mrs Sharon TONG
Chief Council Secretary (2) 1

Staff in attendance : Mr Raymond LAM
: Senior Council Secretary (2) 5

I. Date of next meeting and items for discussion

Action

(LC Paper Nos. CB(2)2371/03-04(01) and (02))

Members agreed that the following items be discussed at the next meeting to be held on 17 June 2004 at 2:30 pm -

- (a) Draft report of the Panel on Manpower for submission to the Legislative Council;
- (b) Implementation of the new guidelines on employment terms for non-skilled workers engaged in projects on services contracted out by the Government;
- (c) Voluntary Rehabilitation Programme in the Construction Industry; and
- (d) Enhancements to the telephone enquiry service on labour matters.

2. Mr LEE Cheuk-yan requested the Administration to brief the Panel on the results of its study on the establishment of a central compensation fund. Secretary for Economic Development and Labour (SEDL) said that the study would not be ready for discussion until after September 2004 as the insurance industry was undertaking a parallel study on the issue and would make a submission to the Administration by September this year.

II. Review of Hong Kong's occupational safety performance in 2003
(LC Paper No. CB(2)2371/03-04(03))

3. At the invitation of the Chairman, SEDL briefed members on Hong Kong's occupational safety performance in 2003.

4. Mr LEUNG Fu-wah asked whether the decrease in the number of occupational injuries and industrial accidents was mainly due to the economic downturn during the outbreak of the Severe Acute Respiratory Syndrome (SARS).

5. SEDL responded that although there was an economic downturn during the outbreak of SARS, there had been rapid recovery after July 2003. The decline in injury rate per 1 000 employees reflected that there was a general improvement in occupational safety. Permanent Secretary for Economic Development and Labour (PSL) added that there had been a steady decline in the injury rate per 1 000 employees, especially in the construction and catering industries.

6. Mr LEUNG Fu-wah said that many contractors in the construction industry had deliberately not reported occupational injuries in order to maintain a good safety record and a better chance of winning contracts. He asked whether the Administration would consider adopting measures, such as making it mandatory for medical doctors to report occupational injuries, to address the problem.

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- Adm 7. PSL responded that most occupational injuries were reported. He said that the Administration was tackling the situation through law enforcement, publicity and education. Employees should also be made aware of their rights. He added that there were statutory requirements on the notification of occupational diseases. He undertook to consider how best to further improve the situation.
8. Ms LI Fung-ying asked whether there was background information about victims of industrial accidents, such as whether most of them were new arrivals or illegal workers, so that publicity campaigns could be directed at these persons.
- Adm 9. PSL undertook to provide the requested information. He said that most of the victims were aged between 40 and 49. Certain sectors, such as the construction and catering sectors, had a higher rate of industrial accidents. The Administration would focus publicity and education on these sectors and age group. Deputy Commissioner for Labour (Occupational Safety and Health) (DC for L(OS&H)) added that the Administration had conducted in-depth analysis into the causes for occupational injuries and industrial accidents. The Administration had launched publicity campaigns directed at lift and escalator repair workers and scaffolding workers. It had also taken steps to enhance the awareness of occupational safety in the catering industry.
10. Mr MAK Kwok-fung asked how the statistics on occupational injuries in Hong Kong compared with those of other countries. He also asked about the measures adopted by the Administration to address the problem of occupational fatalities arising from negligence, such as accidents caused by moving vehicles.
11. PSL responded that the occupational safety performance of Hong Kong and those of other countries were not comparable because there were differences in the definition of an occupational injury and reporting mechanism. He said that the occupational safety situation in Hong Kong, which had improved in the past few years, compared favourably with those in Singapore and Australia. To address the problem of occupational injuries where workers were struck by moving vehicles, the Administration had strengthened inspections at construction sites.
12. Referring to paragraph 10(c) of the Administration's paper, Mr MAK Kwok-fung asked how the inspections of hospitals, clinics and elderly homes were conducted. He said that besides the use of personal protective equipment, disease prevention measures should also be monitored.
13. PSL responded that a multi-disciplinary team had visited high-risk hospitals, clinics and elderly homes after the outbreak of SARS to carry out inspections, especially on the ventilation systems and personal protective equipment, and educate employees on the precautionary measures.

Action

14. DC for L(OS&H) said that training on the use of protective equipment was particularly provided for employees of hospitals involved in the treatment of SARS patients. Training on the precautionary measures had been conducted for employees of a number of clinics and elderly homes.

15. Mr MAK Kwok-fung asked whether the Administration had established any target in respect of occupational fatalities.

16. PSL responded that out of 171 occupational fatalities in 2003, 71 were cases of natural death. The Administration was taking steps to address the problem in collaboration with the Occupational Safety and Health Council.

17. SEDL said that a lot had been done in the promotion of occupational safety and health and the Administration would continue with such efforts. The Administration hoped that the situation regarding occupational fatalities would continue to improve.

18. Mr Kenneth TING said that the statistics provided by the Administration indicated that occupational safety performance had improved in 2003. He asked whether the decrease in the number of occupational injuries in the construction industry in 2003 was mainly due to the slow down in construction works. He also asked whether there were statistics about the occupational safety performance of "private kitchens". The Chairman asked whether the Administration had examined whether the slow down in construction works had also resulted in a lower accident rate per 1 000 workers.

19. SEDL responded that the slow down in construction works not only occurred last year, but also in the past few years. The Administration would pay attention to the matter and, where necessary, conduct the relevant analysis.

20. PSL said that it could be noted from the accident rate per 1 000 workers in the construction industry that the occupational safety performance had improved in 2003. There was no indication that "private kitchens" had a higher accident rate.

21. Dr LUI Ming-wah said that the occupational safety performance in Hong Kong had improved over the past few years. He asked whether the Administration had carried out case studies to identify the causes for industrial accidents.

22. PSL responded that the Administration had conducted in-depth analyses on fatal industrial accidents. He undertook to provide members with case analyses of fatal industrial accidents in 2003. DC for L(OS&H) added that the case analyses had been provided to trade unions, training institutes, the media and occupational safety officers for dissemination to the relevant sectors.

23. Dr LUI Ming-wah asked about the measures adopted by the Administration to prevent accidents involving reversing vehicles.

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24. PSL responded that many accidents involving reversing vehicles arose from the fault of the driver. The Administration had urged safety officers of construction sites to pay particular attention to such kind of accidents. He said that in some cases involving the use of forklifts, the employees concerned had been prosecuted besides the employers.

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25. Dr LUI Ming-wah suggested that all vehicles deployed in construction sites should be required to install reversing alarm. PSL undertook to consider the suggestion.

26. Mr Tommy CHEUNG asked whether the decrease in occupational injuries in the catering industry was due to a general decrease in different types of accidents or only decreases in certain types of accidents.

27. PSL responded that there had been a general decrease in different types of accidents in the catering industry. The number of injuries caused by cutting devices had dropped from about 2 800 in 2002 to about 2 300 in 2003. The number of scalds and burns had decreased from about 2 400 in 2002 to about 2 000 in 2003. The number of slipping or falling had decreased from about 1 400 in 2002 to about 1 200 in 2003.

28. Mr Tommy CHEUNG expressed concern that although the number of occupational injuries in the catering industry had decreased from about 13 000 in 1998 to about 8 000 in 2003, the premium for employees' compensation insurance for the industry had continuously increased during the same period. He considered this very unfair to the catering industry. He urged the Administration to address the problem and establish a central compensation fund. The Chairman and Mr LEUNG Fu-wah shared the view that a central compensation fund should be established.

29. SEDL responded that the Administration was aware that the number of occupational injuries in the catering industry had decreased over the past few years. However, the catering industry still topped the league table in terms of number of accidents. He agreed with the view that insurance premium should be based on the probability of occurrence of accidents. He said that the Administration was studying the subject of establishment of a central compensation fund and would discuss the matter with the insurance sector.

30. Mr LEUNG Fu-wah said that natural deaths at work were not compensated in Hong Kong. However, a Mainland speaker had said in a seminar held in the previous week that natural deaths at work were regarded as occupational fatalities in the Mainland, and therefore would be compensated under the relevant law. He asked whether the Administration would consider expanding the scope for compensation under the Employees' Compensation Ordinance to cover cases of natural deaths at work. He also asked whether there were statistics on occupational injuries of drivers.

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The Chairman asked whether the Administration had studied the impact of long working hours on occupational injuries.

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31. PSL said that whether cases of natural death at work would be compensated would depend on the facts and circumstances of each case. He undertook to examine the practice in the Mainland regarding natural death at work. Regarding long working hours, he said that the Administration had been urging employers to provide sufficient rest time for employees. Mr LEUNG Fu-wah requested the Administration to provide information on the causes for 71 cases of natural deaths in workplaces in 2003.

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III. Labour Department's strategy in promoting good employer-employee relations

(LC Paper No. CB(2)2371/03-04(04))

32. At the invitation of the Chairman, SEDL briefed members on the strategies adopted by the Labour Department (LD) in the promotion of good employer-employee relations.

33. Mr LEE Cheuk-yan said that although the economy had gradually recovered, there had not been any improvement in the wages and benefits of employees. He said that there was an increasing number of employers who forced employees to become self-employed, in which case the protection provided under the Employment Ordinance would no longer be applicable. He expressed concern that a local retailer of electrical appliances had introduced measures that might affect the future employment prospects of its employees. He asked how the Administration would address such problems.

34. SEDL responded that if one looked at the number of labour disputes and claims handled by LD, one could note that the situation had improved. The Administration hoped that the situation would continue to improve.

35. PSL said that there was a trend of increasing self-employment and the subject was recently discussed by the Tripartite Committee on Logistics Industry. Regarding the difference in the protection for employees and self-employed persons under labour legislation, LD had produced a leaflet for workers' reference. He stressed that a self-employment which was not genuine might be challenged in court.

36. Mr LEE Cheuk-yan said that many employers had asked their employees to apply for business registration. He considered that the problem should be addressed through amendment of legislation. He said that in determining whether a self-employment was genuine, one might examine the ownership of the materials for conducting business, such as the ownership of the truck in the logistics industry.

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37. SEDL undertook to refer the matter to the Tripartite Committee on Logistics

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Industry for discussion.

38. Mr LEUNG Fu-wah said that a strong labour union was fundamental to good employer-employee relations. Regarding settlement of labour disputes and claims, he asked whether cases where the compensation amount was less than the statutory requirement were regarded as successful cases of settlement. He also asked whether the statistics provided by the Administration covered labour disputes or claims involving self-employed persons.

39. PSL responded that successful cases of settlement were those where the employer and employee voluntarily came to mutually acceptable agreement on the compensation amount and method of settlement. Where the employer failed to honour the agreement, the employee concerned could seek adjudication for his claim. He said that the Administration had also stepped up prosecution against employers breaching the Employment Ordinance.

40. Ms LI Fung-ying expressed doubt whether employer-employee relations had actually improved. She said that the thirteenth month payment of many employees had not resumed even though the economic situation had improved. The wages of many employees in the catering industry were still linked to the sales turnover of the restaurant for which they worked in that they would not receive full wages in a month unless the sales turnover of the restaurant had reached a certain level in that month.

41. SEDL responded that the Administration noticed that there were still problems with employer-employee relations and that there was room for improvement. The Administration would seek to address the problems through promoting tripartite dialogue and cooperation. He said that some employers had actually resumed giving thirteenth month payment after the economy had gradually recovered.

42. PSL said that besides stepping up enforcement and prosecution, the Administration was focussing its work in the current year on the promotion of good people management practices, especially among small and medium enterprises.

43. Ms LI Fung-ying questioned the reliability of the settlement rates referred to in paragraph 6 of the Administration's paper. She said that there were many cases where the employer made no payment or failed to pay all instalments despite that the court had delivered its judgment.

44. PSL responded that the Administration was addressing the problem through stepping up prosecution and enhancing employees' awareness of their rights.

45. Referring to paragraph 14 of the Administration's paper, Mr Ambrose LAU asked about the timetable for the development of industry-specific good people management practices, and preparation of special guidebooks highlighting the major provisions in the Employment Ordinance of special interest to the respective industry.

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46. PSL responded that the development of good people management practices and guidebooks for the catering industry had been completed, while those for other industries were in progress. He undertook to provide a paper on the development of good people management practices and guidebooks for specific industries in collaboration with different tripartite committees.

47. Mr MAK kwok-fung asked about the reasons for the historic high number of labour disputes and claims in 2002. He also asked about the Administration's work in enhancing the knowledge of employees about their rights and facilitating the work of trade union officers in the promotion of employees' rights. The Chairman cautioned that although the Administration could provide information to trade unions, it should not provide trade unions with advice on how labour disputes should be handled.

48. PSL responded that the historic high figures in 2002 were mainly due to the depressed state of the economy and the winding up of more establishments. He said that the Administration had been promoting the understanding of labour laws by launching a series of publicity programmes through the media. It was also promoting knowledge about labour laws and employees' rights through the homepage of LD, trade unions and industry-based tripartite committees.

49. Mr LEUNG Yiu-chung said that under existing legislation, persons employed for a period of less than 60 days were not covered by the Mandatory Provident Fund (MPF) Schemes Ordinance. In view of this, some employers deliberately terminated employment contracts prior to any employment period of 60 days. He considered that legislative amendments should be introduced to plug the loophole.

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50. SEDL responded that the situation referred to by Mr LEUNG Yiu-chung would occur regardless of whether the specified period was 60 days or shortened to, say, 30 days. He undertook to refer the issue to MPF Authority for follow-up.

IV. Youth Sustainable Development and Engagement Fund
(LC Paper No. CB(2)2371/03-04(05))

51. Members did not raise any queries on the additional information provided by the Administration in response to members' concern on the scope of the projects to be funded by the Youth Sustainable Development and Engagement Fund.

52. There being no other business, the meeting ended at 4:05 pm.

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Council Business Division 2
Legislative Council Secretariat
3 August 2004