

立法會
Legislative Council

LC Paper No. CB(2)1079/08-09
(These minutes have been seen
by the Administration)

Ref : CB2/PL/MP

Panel on Manpower

Minutes of meeting
held on Wednesday, 21 January 2009, at 4:30 pm
in Conference Room A of the Legislative Council Building

Members present : Hon LI Fung-ying, BBS, JP (Chairman)
Hon WONG Kwok-kin, BBS (Deputy Chairman)
Hon LEE Cheuk-yan
Hon LEUNG Yiu-chung
Hon Andrew CHENG Kar-foo
Hon Frederick FUNG Kin-kee, SBS, JP
Hon WONG Kwok-hing, MH
Hon Alan LEONG Kah-kit, SC
Hon LEUNG Kwok-hung
Dr Hon LAM Tai-fai, BBS, JP
Hon CHAN Kin-por, JP
Dr Hon LEUNG Ka-lau
Hon WONG Sing-chi
Hon IP Wai-ming, MH
Hon IP Kwok-him, GBS, JP
Dr Hon PAN Pey-chyou

Public Officers attending : Item III

Mrs Cherry TSE LING Kit-ching, JP
Commissioner for Labour

Mrs Erika HUI LAM Yin-ming, JP
Deputy Commissioner for Labour
(Occupational Safety and Health)

Mr TSO Sing-hin, JP
Assistant Commissioner (Occupational Safety)
Labour Department

Item IV

Mr Matthew CHEUNG Kin-chung, GBS, JP
Secretary for Labour and Welfare

Ms Zandra MOK Yee-tuen
Political Assistant to Secretary for Labour and Welfare

Mrs Cherry TSE LING Kit-ching, JP
Commissioner for Labour

Mr Stanley NG Ka-kwong, JP
Assistant Commissioner (Employment Services)
Labour Department

Ms Betty NG Shuk-fong
Senior Labour Officer (Transport Support Scheme)
Labour Department

Clerk in attendance : Mr Raymond LAM
Chief Council Secretary (2) 1

Staff in attendance : Mrs Eleanor CHOW
Senior Council Secretary (2) 4

Ms Camy YOONG
Clerical Assistant (2) 1

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I. Confirmation of minutes of previous meeting
(LC Paper No. CB(2)681/08-09)

The minutes of the meeting held on 20 November 2008 were confirmed.

II. Date of next meeting and items for discussion
(LC Paper Nos. CB(2)680/08-09(01) & (02))

2. Members agreed that the following items proposed by the Administration would be discussed at the next regular meeting to be held on 19 February 2009 -

- (a) Overview of Labour Department's efforts in labour administration in 2008; and

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- (b) Statutory minimum wage - views of stakeholders on special arrangement for persons with disabilities.

III. Hong Kong's occupational safety performance in the first half of 2008 and renovation works safety
(LC Paper Nos. CB(2)680/08-09(03) & (04) and CB(2)718/08-09(01))

3. Commissioner for Labour (C for L) introduced the paper which set out Hong Kong's occupational safety performance in the first half of 2008 as well as the measures taken and planned to tackle the increasing trend of repair, maintenance, alteration and addition (RMAA) works accidents.

Occupational safety of workers maintaining lifts

4. Mr WONG Kwok-hing expressed concern about work safety in confined spaces, such as lift shafts. He pointed out that some contractors had won tenders because their bids were the lowest. Given their limited resources, they might neglect the occupational safety and health of workers conducting maintenance works at lifts. Mr WONG requested the Administration to make it a statutory requirement that those working in confined spaces should be required to work in pair, so that workers could look after each other. He also expressed concern that metal gates of buildings had posed hazards to security guards.

5. C for L responded that the Electrical and Mechanical Services Department (EMSD) was responsible for lift safety while the Labour Department (LD) was responsible for occupational safety and its training programmes. LD had liaised closely with EMSD to ensure safety of workers carrying out maintenance works at lifts. As regards metal gate safety, it was regulated by the occupational and safety legislation under which employers who failed to provide safe and healthy workplaces for their staff could be prosecuted.

6. Mr LEUNG Yiu-chung asked whether there was any guideline specifying that maintenance of lift shafts should be carried out by two persons at the same time. He also expressed concern that a guideline, unlike a statutory requirement, could not achieve a deterrent effect.

7. Assistant Commissioner (Occupational Safety) (AC(OS)) said that the Administration had been reviewing safety measures for lift maintenance works with the relevant trade associations and workers' unions regularly. There were different types of works involved in lift maintenance. At present, while LD's Code of Practice stipulated that such work should be carried out by two persons as far as practicable according to the nature and complexity of work, it did not specify in detail which type of maintenance works should involve at

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least two persons. The requirement to pair up workers would depend on the risk level of the works concerned. Although failure to observe the Code was not in itself an offence, it could be taken by a court as evidence to determine whether the relevant safety legislation had been breached. For further improvement of lift safety, at present, EMSD was working with the relevant trade associations and workers' unions to revise its Code of Practice. The Administration would inform the Panel of the outcome in due course.

8. Mr LEE Cheuk-yan expressed concern whether LD had conducted inspections to deter unsafe practices on maintenance of lift shafts.

9. C for L said that LD did not know when lift maintenance would be carried out in buildings unless notified by other departments, the owners' corporations or building management companies concerned. There were around 900 cases of lift works referred to LD from EMSD, property management companies and other sources in 2008. Based on the work schedule provided, LD had conducted surprise inspections at randomly selected workplaces to ensure compliance with the law.

RMAA works safety

10. Members noted that most RMAA works were small-scale and scattered in nature, undertaken by small contractors within a relatively short time span. They were generally less conversant with the occupational safety and health legislation and their workers were less aware of safety precautionary measures. RMAA works had soared in recent years because of the tightening of enforcement against unauthorized building structures and the ageing of buildings. The growing trend was expected to continue in the coming years due to the proposed introduction of the Mandatory Building Inspection and Window Inspection Schemes by the Buildings Department, and the launch of various subsidy schemes to encourage maintenance of old buildings.

11. The Deputy Chairman expressed concern that owners and occupiers of the premises undergoing RMAA works would be liable for workers' occupational safety, if accidents occurred at their home. He pointed out that in a case where a worker was employed by a contractor, the contractor rather than the owner/occupier of the premises should be responsible for the former's occupational safety. He also expressed concern about occupational injuries in the catering industry. In his view, many of these injuries resulted from overwork due to manpower shortage.

12. C for L said that an owner/occupier could be subject to civil liabilities when an accident occurred in the conduct of RMAA works at home. The questions were whether an employer-employee relationship could be established between the worker and the contractor and whether the owner/occupier had any control over the work site. C for L further said that

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LD had established with the Hong Kong Association of Property Management Companies, Housing Department, Hong Kong Housing Society and Urban Renewal Authority a referral mechanism to enable the collection of intelligence on RMAA works, and facilitate prompt and targeted enforcement actions on such high-risk activities. In the past year, over 1 000 cases involving RMAA works had been referred to LD by property management companies, Hong Kong Housing Society, Urban Renewal Authority and other sources. Apart from regular inspections, LD had also conducted inspections in evenings and during holidays. In addition, it had collaborated with District Councils (DCs) to promote RMAA safety.

13. Mr Andrew CHENG expressed concern that the number of fatalities arising from RMAA works had accounted for a considerable proportion of all construction fatalities. He said that Members had in the past put in a lot of effort to improve the legislation on occupational safety and health, with a view to reducing occupational injuries and fatalities. If the increase in RMAA works had resulted in more fatalities, it would appear that the legislative intent had not been achieved. Mr CHENG enquired about the conviction rate for prosecutions instituted against non-compliance of safety standards.

14. C for L said that for cases where legal proceedings had been concluded, the conviction rate was 85%. In the past year, LD had issued about 35 000 warnings, improvement notices and suspension notices, etc. to secure prompt compliance with relevant safety legislation. According to the law, an employer who failed to provide safe workplaces for employees might be subject to legal sanction. Likewise, employees had the responsibility to comply with safety measures when carrying out works. However, legal proceedings were rarely instituted against workers when there was non-compliance. There was hence a need to promote awareness of work safety to both employers and employees in the trade. In this connection, LD had provided some tailor-made programmes for workers. For example, during a gathering for workers, LD would deliver safety talks before dinner started. There was also Announcement in Public Interest appealing to workers' concern about safety at work.

15. In response to Mr LEUNG Kwok-hung's enquiry, C for L said that contractors who were employers and who had breached the occupational safety legislation would be subject to a maximum fine of \$200,000 or imprisonment of six months.

16. Mr IP Kwok-him expressed concern that that the number of fatalities arising from RMAA works was on the rise. He hoped that the collaboration between LD and DCs on promoting awareness of RMAA work safety could be further enhanced. Mr IP noted that LD had, in collaboration with the Occupational Safety and Health Council (OSHC), launched a sponsorship scheme in 2005 to help small and medium-sized enterprises (SMEs) purchase safety equipment for RMAA works. He expressed concern that there were

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only 359 applications with over \$1.15 million of subsidy granted within three years. He enquired whether there was any limit for each subsidy.

17. C for L said that safety of RMAA works was not just a matter for people in the trade, but also for the community at large. To this end, LD had extended its promotional coverage by partnering with different district organizations, including DCs, property management companies and other local organizations, to promote RMAA safety. LD had also launched a series of intensive promotion and publicity campaigns, targeting at RMAA works activities, focusing particularly on RMAA works and safety of work-at-height. If members were aware that property management companies and contractors who were not familiar with safety measures were carrying out RMAA works in their districts, they could notify LD, which would organize safety talks to them when warranted. C for L explained that the number of application for safety equipment sponsorship had been low because SMEs might not be aware of the availability of such a scheme. The ceiling of subsidy for the scheme was \$4,000 and each eligible SME could be subsidized once only. As a prerequisite, beneficiary-SMEs must send their employees to attend the related safety training courses provided free of charge by OSHC.

18. Mr LEE Cheuk-yan expressed concern that the percentage of RMAA works accidents in the construction industry had increased from 37.9% in 2004 to 50.1% in 2007. Based on the statistics provided by the Administration, it would appear that site inspection was an effective means to deter unsafe practices. He asked whether the Administration would consider conducting site inspections on a monthly basis instead of a half-yearly basis. He said that this would also help create job opportunities.

19. C for L shared the concern about RMAA work safety and responded that this area was among the foci of LD's work in the coming year. Special enforcement campaigns had been and would continue to be launched. In 2008, over 3 000 inspections were made at different RMAA workplaces. In addition, LD had set up a Central Inspection Team to deal with investigation of complaints from workers against unsafe work conditions in their workplaces and to conduct surprise inspections at randomly selected workplaces of different geographical areas.

Occupational safety under hot weather

20. Mr IP Wai-ming enquired whether there were guidelines to regulate working under very hot weather. He pointed out that working under high temperature was not limited to construction sites but also occurred in confined spaces such as the cockpit of an aeroplane. He asked whether workers could suspend work under very hot weather.

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21. C for L explained that it was difficult to regulate working under hot weather as the precise temperature would vary according to the specific location of work as well as the worksite arrangements. From a legal point of view, the existing law requiring employers to provide safe and healthy workplaces for employees would suffice. AC(OS) supplemented that LD and the Construction Industry Council had issued guidelines on how to protect workers from suffering heat strokes. At present, the Committee on Construction Safety under CIC was working to further improve the guidelines.

22. Mr WONG Sing-chi noted that heat stroke arising from working under hot weather was not regarded as an occupational disease. He enquired whether there was an increasing number of heat strokes at work and the possibility of including that as an occupational disease.

23. C for L said that an occupational disease was defined according to international standards. If the temperature of a workplace posed health hazards to workers, they could lodge complaints with LD which would carry out inspection and institute prosecution against the employer if necessary. It was not always easy to ascertain whether a heat stroke was caused by working under hot weather or other factors, such as fatigue. AC(OS) supplemented that in the past two years, there was no fatality caused by heat strokes at work. In fact, industrial accidents would be reported to LD only if the injuries resulted in incapacitation of the victim lasting for more than three days. That being the case, there were very few reported heat stroke cases.

Statistics on occupational injuries

24. Referring to Annex 1 to the Administration's paper concerning occupational injuries in all workplaces, Mr Frederick FUNG enquired why the fatality for people engaged in the financial sector and community services sector, which stood at 25 persons and 24 persons respectively in the first half of 2008, was much higher than that of the construction sector which was 18 persons. C for L explained that the number of occupational fatalities included cases involving traffic accidents and natural causes at work.

25. Mr Frederick FUNG asked why the non-fatal figure regarding accidents in the construction industry in Table 3 and Annex 1 to the Administration's paper did not tally. AC(OS) explained that the figure in Table 3 covered industrial accidents which referred to injuries and deaths arising from industrial activities in construction sites in Hong Kong, while the figure in Annex 1 covered all occupational injuries of the industry including those cases occurred overseas or not related to industrial activities such as traffic accidents.

26. The Chairman said that the Hong Kong Workers' Health Centre had sent in a submission expressing concern that accidents arising from RMAA works were increasing and the occupational safety of over 230 000 workers who were

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self-employed was not reflected in the statistics compiled by the Government. The Chairman requested the Administration to provide a response to the submission from the Hong Kong Workers' Health Centre.

IV. Transport Support Scheme

(LC Paper Nos. CB(2)680/08-09(05) & (06))

27. Members noted that the Transport Support Scheme (TSS) was launched on 25 June 2007 on a one-year pilot basis as one of the poverty alleviation measures to provide time-limited transport subsidy to needy job seekers and low-income employees living in four designated remote districts, namely, Yuen Long, Tuen Mun, North and Islands districts, to find jobs and work across districts. Under TSS, two types of allowances were made available to eligible applicants, namely, a Job Search Allowance of up to \$600 and a Cross-district Transport Allowance of \$600 per month for a period of up to six months. TSS was originally scheduled to be reviewed in June 2008.

28. Secretary for Labour and Welfare (SLW) briefed members on the progress of implementation of TSS as set out in the Administration's paper. In gist, in response to requests from the community for relaxation of the eligibility criteria under TSS and to allow more needy people to benefit from TSS, the Administration had advanced and completed the review of TSS in February 2008. Upon a review of the pilot scheme, a number of relaxation measures were introduced on 2 July 2008, including -

- (a) raising the monthly income ceiling for eligible persons from \$5,600 to \$6,500;
- (b) allowing eligible persons living and working in the same designated remote district to apply for allowances, provided that fee-paying home-to-work commuting had been used; and
- (c) extending the duration of the subsidy period from six to 12 months.

29. Mr LEE Cheuk-yan said that in the face of the financial tsunami, it was envisaged that transport fares would be increased and salary of workers would be reduced in the coming year. He asked whether the Administration would introduce new measures to assist all low-income workers. He expressed concern that some applicants admitted under the pilot scheme would have exhausted their 12 months' entitlement of allowances by December 2008. He urged the Administration to further relax TSS to operate on a long-term basis and to cover other districts in order to provide assistance to all low-income workers.

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30. SLW stressed that the objective of TSS was to provide a time-limited transport subsidy as an incentive to encourage needy job seekers and low-income employees in the four designated districts to seek jobs and stay in employment. In response to members' requests, the Administration had advanced and completed the review of TSS in February 2008, following which a number of relaxation measures were introduced in July 2008. He informed members that the majority of TSS applicants were admitted under the relaxed scheme and therefore it would take quite some time for them to receive the subsidy in full. He further said that low-income workers who could not sustain the livelihood of their families could apply for financial subsidy under the Comprehensive Social Security Assistance (CSSA) Scheme.

31. Mr WONG Sing-chi pointed out that the difficulty in securing employment during the economic downturn was not restricted to residents of the four designated districts. In his view, this was the opportune time for the Administration to extend TSS to other districts and preferably to operate it on a long-term basis. He pointed out that if TSS was not offered to low-income workers in other districts, they might lose the incentive to work and might resort to applying for CSSA.

32. SLW responded that to relax TSS to cover all low-income workers in the territory and to operate on a long-term basis would be a departure from the objective of TSS. In addition, the Administration did not consider it appropriate to provide the subsidy on a permanent basis, which was tantamount to providing an income supplement to the employees on a long-term basis. The Administration considered that the objective of TSS should remain unchanged.

33. The Deputy Chairman said that the Administration should offer TSS on a need basis rather than a time-limited basis. In addition, TSS posed unfair treatment to other low-income districts, such as Sham Shui Po and Kwun Tong, and to low-income workers who had to travel to work in the reverse direction, i.e. from urban districts to the four designated remote districts instead of from the four designated remote districts to urban districts. He urged the Administration to consider relaxing TSS to cover all low-income workers who had to travel a long way to work.

34. SLW reminded members that the original intention of TSS was to encourage residents in the four designated remote districts to seek jobs and work across districts in view of the relatively fewer job opportunities in their districts. The situation of low-income workers who had to travel to work from urban districts to the four remote districts were less common. He said that the proposals to extend TSS to the 18 districts and to provide the subsidy on a permanent basis represented a major policy change and would have significant policy and financial implications.

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35. Mr LEUNG Kwok-hung said that the total financial commitment in respect of the payment of allowances under TSS involved a meager sum of \$203 million. In the face of the financial tsunami, he saw no reason why the Government could not provide more subsidies to low-income workers who had financial difficulty.

36. Mr LEUNG Yiu-chung noted that TSS was operated on the principles that it was a time-limited subsidy, was offered to residents in designated remote districts, and encouraged needy job seekers and low-income employees to seek jobs and stay in employment. He pointed out that in the face of the financial tsunami, people were forced to accept job offers that were far away from their home. In this connection, it would be unfair to those who had met the other eligibility criteria but were not eligible for subsidy under TSS because they did not reside in one of the four designated remote districts. He questioned about the purpose for the review of TSS, if the Administration was not prepared to further relax its eligibility criteria.

37. C for L explained that -

- (a) the Subcommittee to Study the Subject of Combating Poverty (the Subcommittee) had recommended that transport subsidy should be provided to low-income earners in remote districts. The paucity of job opportunities vis-à-vis the economically active population (i.e. people aged between 15 and 60) in that district and higher transport costs were the rationales for TSS and the choice of the four designated districts. For instance, Tsuen Wan was not chosen because it had some 120 000 jobs available, which matched the size of its economically active population;
- (b) the welfare assistance for low-income CSSA recipients covered all districts and also included travelling expenses; and
- (c) if transport subsidy under TSS became a permanent arrangement, the amount would have to be counted as income and be taken into account in calculating the welfare assistance for low-income CSSA recipients.

38. Mr Frederick FUNG said that one of the reasons for the Subcommittee to recommend the provision of transport subsidy was that transport cost in remote districts was high. He considered that following the relaxation of TSS to allow eligible persons living and working in the same designated remote districts to apply for subsidy, the scheme had become discriminatory to low-income earners in other districts such as Sham Shui Po.

39. SLW responded that in response to Members' concern that the four districts were large and intra-district travels could also entail a relatively high

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transport cost, the Administration had agreed to allow eligible people working and living in the same district to apply for allowances, provided that fee-paying home-to-work commuting had been used. He disagreed that the measure was discriminatory as it sought to encourage residents in remote areas to seek jobs and stay in employment.

40. Mr WONG Kwok-hing raised the following points -

- (a) Noting that the Administration would conduct a review of the relaxed TSS after its implementation for at least one year, he asked whether the Administration would assure TSS recipients that they would continue to receive the subsidy until the completion of the review. Alternatively, the Administration should advance the review with a view to recommending to the Financial Secretary, who was preparing the budget for the coming year, to continue implementation of the scheme;
- (b) Recently, some public transport companies had cancelled their fare concessions to customers, such as the "same day return" discount and elderly fare concessions. He expressed concern that the increase in transport fares would offset the subsidy received by TSS recipients; and
- (c) The Administration should liaise with bus companies to seek the resumption of inter-company bus-bus interchange schemes.

41. SLW responded that he would relay the last two points to the Transport and Housing Bureau. As regards the first point, SLW said that as the effectiveness of TSS had yet to be reviewed, he was not in a position to give an undertaking that the scheme would continue. He was aware that members were in support of the continuation of the scheme. He informed members that there were 8 817 applicants admitted under the pilot scheme and 17 267 applicants admitted under the relaxed scheme. At present, only 14 452 applicants had submitted claims for allowances. The scheme allowed an admitted applicant to draw down the allowance for a maximum of 12 months within a period of two years upon admission.

42. Dr PAN Pey-chyou said that he supported TSS but could not accept the Administration setting hurdles to prevent low-income workers travelling in the reverse direction and living in areas other than the four designated remote districts from applying TSS. He said that in conducting a review of the relaxed scheme, the Administration should also assess the benefits brought to the society. He suggested that the review should include an assessment on the following -

- (a) how many people had ceased to receive the welfare assistance

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under the CSSA scheme because of TSS;

- (b) how many job vacancies had been filled by TSS recipients;
- (c) the economic benefits brought about by TSS to the society; and
- (d) whether the living quality of TSS recipients and their families had been improved.

43. SLW noted the views of Dr PANG. He said that the Administration would gauge public views and if necessary, conduct a review of the relaxed scheme after its implementation for at least one year, when detailed work statistics should be available for a comprehensive evaluation of the outcome and effectiveness of TSS.

44. Mr IP Wai-ming held the view that the review of the relaxed scheme should be conducted earlier. He said that many people were disappointed that the Administration had ceased the incentive allowance to local domestic helpers (LDH). He asked whether the Administration would consider reinstating the incentive.

45. SLW reiterated that the Administration needed time to gauge the public response and analyze the statistics collected on TSS before a review was to be conducted. He informed members that the incentive to LDHs was offered during the outbreak of the Severe Acute Respiratory Syndrome as a short-term measure to relieve the problem of unemployment. At that time, there was a mismatch in supply and demand of LDHs arising from geographical locations and working hours. While there was a large supply of LDHs in western and northern New Territories, there was a large number of LDH vacancies on Hong Kong Island. It was hoped that the offering of incentive, which amounted to \$7,200 per LDH per year, would help develop the LDH market. The scheme lapsed by the end of October 2008 as planned because the LDH market had been developing well.

46. Mr LEE Cheuk-yan moved the following motion -

"本會強烈要求特區政府在面對金融海嘯的挑戰下，積極支援低收入工人的交通費用，即時推出支援措施，包括：

- (一) 即時取消偏遠地區"交通費支援計劃"的一年領取時限；
- (二) 將"交通費支援計劃"即時擴展至所有地區並放寬至保障兼職工人；及
- (三) 恢復家務通下的家務助理跨區津貼計劃。"

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(Translation)

"That this Council strongly calls on the Hong Kong Special Administrative Region Government to, in the face of the challenges of the financial tsunami, actively support the travelling expenses of low-income workers and implement immediately supportive measures, including:

- (a) cancelling immediately the one-year subsidy duration of TSS for the remote districts;
- (c) extending TSS immediately to all districts and relaxing its coverage to include part-time workers; and
- (c) reinstating the allowance for LDHs working across districts under the Integrated Scheme for Local Domestic Helpers."

47. The Chairman put the motion to vote. Eight members voted in favour of the motion, and no member voted against it. The Chairman declared that the motion was carried.

48. The meeting ended at 6:30 pm.

Council Business Division 2
Legislative Council Secretariat
17 March 2009