

立法會

Legislative Council

LC Paper No. CB(2)2553/08-09
(These minutes have been seen
by the Administration)

Ref : CB2/PL/MP

Panel on Manpower

**Minutes of meeting
held on Thursday, 16 July 2009, at 2:30 pm
in Conference Room A of the Legislative Council Building**

- Members present** : Hon LI Fung-ying, BBS, JP (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
Hon CHAN Kin-por, JP
Hon WONG Sing-chi
Hon IP Wai-ming, MH
Hon IP Kwok-him, GBS, JP
- Members absent** : Hon WONG Kwok-kin, BBS (Deputy Chairman)
Dr Hon LAM Tai-fai, BBS, JP
Dr Hon LEUNG Ka-lau
Dr Hon PAN Pey-chyou
- Public Officers attending** : Item II
Mr CHEUNG Kin-chung, Matthew, GBS, JP
Secretary for Labour and Welfare
Mrs HUI LAM Yin-ming, Erika, JP
Deputy Commissioner for Labour (Occupational Safety
and Health)
Mr TSO Sing-hin, JP
Assistant Commissioner (Occupational Safety)
Labour Department

Dr LEUNG Lai-man, Raymond, JP
Occupational Health Consultant (1)
Labour Department

Item III

Mr Michael WONG, JP
Deputy Secretary for Education

Mr Daniel CHENG
Principal Assistant Secretary for Education (Further Education)

Mr Patrick PANG
Chief Manager (QF)/Qualifications Framework Secretariat

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

Staff in attendance : Ms Clara TAM
Assistant Legal Adviser 9

Mrs Eleanor CHOW
Senior Council Secretary (2) 4

Miss Kiwi NG
Legislative Assistant (2) 1

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I. Confirmation of minutes of previous meeting
(LC Paper No. CB(2)2177/08-09)

The minutes of the meeting held on 21 May 2009 were confirmed.

II. Hong Kong's occupational safety performance in 2008
(LC Paper Nos. CB(2)2176/08-09(01) and (02))

2. Secretary for Labour and Welfare (SLW) briefed members on Hong Kong's occupational safety performance in 2008 as set out in the Administration's paper.

Occupational injuries

3. Mr WONG Kwok-hing said that he had received complaints from the relevant trade union about telephone operators, who worked for paging companies and the telebet services of the Hong Kong Jockey Club, had developed tennis elbow and hearing impairment because of the frequent use of

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keyboards and earpieces. He enquired whether these were prescribed as occupational diseases.

4. Occupational Health Consultant (1) (OHC) of the Labour Department (LD) responded that the Occupational Safety and Health (Display Screen Equipment) Regulation was enacted in 2003 regulating the use of workstations. Under the Regulation, an employer was responsible for performing a risk assessment of a workstation to ensure that the workstation did not pose significant health risks to employees. The employer was required to introduce risk reduction measures to prevent health hazards to employees and to provide necessary safety and health training in the use of workstations. Tennis elbow, being regarded as tenosynovitis of the hand or forearm, was prescribed as an occupational disease for the purpose of employees' compensation. OHC further said that the volume of earpieces could be adjusted and some advanced earpieces provided the pre-setting of volume to ensure that it would not be excessively high. According to the measurements taken in workplaces during site inspections by LD, the problem of noise pollution was not serious and the risk of hearing impairment was low.

5. Mr LEE Cheuk-yan said that based on the fatality figures provided in the Administration's paper, there was no significant improvement in occupational safety, especially in the construction industry. He enquired about the statistics for 2009.

6. SLW responded that the number of fatal accidents had reduced in the last 10 years but the Administration was not complacent about it. He provided the following figures for members' information -

- (a) the number of injuries out of one thousand workers was 198.4 persons in 1999 and dropped to 61.4 persons in 2008;
- (b) the number of total fatal accidents in the construction industry increased by one case from 19 in 2007 to 20 in 2008; and
- (c) the number of fatal accidents between 1 January 2008 and 11 July 2008 was 14 cases as compared to only seven cases in the corresponding period in 2009, of which the construction industry accounted for 11 cases in 2008 and six cases in 2009 respectively.

7. Referring to Annex 1 to the Administration's paper which provided an analysis of all occupational injury cases by major economic activity, Mr IP Kwok-him enquired about the cause of the drastic increase of injury cases in 2008 by 45.5% in carrying out electricity and gas activities. Assistant Commissioner for Labour (Occupational Safety) (AC) explained that the percentage increase appeared high because the base figure for 2007 was low. In real terms, the number of injury for carrying out electricity and gas activities increased by 15 cases in 2008. In further response to Mr IP's question on

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Annex II to the Administration's paper, AC explained that the last column of the table referred to the change in the number of cases and not percentage change.

Heat stroke at work

8. Mr WONG Kwok-hing expressed concern about the safety of employees working under very hot weather, especially at construction sites. He enquired whether heat stroke at work was classified as an occupational injury. He said that the Administration should consider making it a statutory requirement for employers to provide rest breaks and drinking water when the Hong Kong Observatory issued a very hot weather warning.

9. SLW said that the Administration had implemented various measures to promote heat stroke prevention. In 2008, the Construction Industry Council (CIC) released the "Guidelines on Site Safety Measures for Working in Hot Weather" (the Guidelines) to promote the awareness of contractors and construction workers of the risk associated with working in hot weather, and recommend specific practices and measures for reference by the industry. In view of the recent hot weather, an educational video was broadcast reminding employers to provide a safe and healthy workplace for employees. The provision of drinking water, sunshade and rest breaks would be effective measures to prevent heat stroke at work. Employees were also reminded to take effective measures to protect themselves while working in very hot weather. If they felt sick, they should report to their on-site supervisors immediately. Promotional leaflets were also distributed at construction sites to educate workers about the need to take preventive measures, particularly bringing drinking water along to work.

10. SLW further said that the task force formed under CIC was working to improve the Guidelines. The task force consisted of representatives from the Housing Department, Buildings Department, LD, employers, employees and trade unions. SLW explained that the risk of heat stroke was not confined to construction workers only. Many other workers worked in hot workplaces such as restaurant kitchens and laundries with a higher risk of heat stroke in the hot, humid summer. In addition, the risk of heat stroke was subject to a multitude of factors, including temperature, humidity, heat radiation, air movement, workload, clothing and acclimatization to hot work environment. In view of the difficulty to regulate working in very hot weather by legislative means, LD had developed a checklist to provide guidance for employers to assess the risk of heat stroke at workplaces to facilitate the taking of appropriate preventive measures. Under the Occupational Safety and Health Ordinance (OSHO), employers were responsible for providing safe and healthy workplaces for employees. Legal proceedings would be instituted against an employer if there was proof of non-compliance. LD had also stepped up inspections at construction sites to ensure that contractors had provided the necessary facilities to protect the safety and health of workers. Between April

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and September 2009, inspections would be conducted at workplaces with a higher risk of heat stroke, including construction sites. A worker who suffered from heat stroke during work was generally regarded as sustaining an occupational injury.

11. Mr IP Wai-ming said that when it came to legislating against non-compliance with relevant safety measures, the Administration would drag its feet by raising a lot of technical problems. He expressed concern about the occupational safety of cleaning workers working in an enclosed area such as the cabin of an aeroplane under very hot weather. These workers sometimes could not quench their thirst because of the following reasons: cleaning workers were not allowed to bring drinking water to the restricted areas of the airport; the drinking water in the restricted areas of the airport was not easily accessible; there was inadequate ventilation in the cabin after passengers got off the plane; and cleaning workers had to work continuously for four to five flights before they could take a rest break because of the busy flight schedule. Mr IP said that the temperature inside a cabin could be over 40°C in the summer. He enquired about the number of improvement and warning notices served to employers who failed to provide drinking water at workplaces and the number of such legal proceedings instituted.

12. SLW responded that the Administration was not using technical problems as an excuse for not introducing legislation on heat stroke prevention, but the difficulties to enforce such a law in different industries with different working environment and worksite arrangements were practical and real. He said that some of the problems could be tackled at source. For example, LD had conveyed to cleaning contractors about the ventilation problem in aircraft cabins raised by Mr IP at a previous meeting. Remedial measures, such as opening the cabin doors and using blowers to enhance the ventilation, had subsequently been taken to improve the working environment.

13. AC supplemented that while LD had served improvement and suspension notices to employers who did not comply with safety and health measures at workplaces, it did not have a breakdown on notices served due to failure to provide drinking water. He pointed out that most employers were able to comply with this requirement, although LD had instituted legal proceedings against one employer on such ground a few days ago.

14. Mr LEUNG Kwok-hung said that cleaning workers had to work long hours in the cabins and take short breaks because they were exploited by sub-contractors under the outsourcing system. As regards the safety of construction workers, Mr LEUNG suggested that on-site safety officers should be provided with the discretionary power to order the taking of rest breaks under very hot weather. An on-site safety officer should take reasonable steps to protect the safety of workers. In addition, the hours lost as a result of taking breaks could be made up by working extra hours on a fair day. Mr LEUNG further said that employers could improve the working environment by deploying more

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resources, such as purchasing electronic appliances to improve ventilation. He enquired whether it was lawful for an employer to dismiss a worker on the ground of the worker's refusal to work in very hot weather.

15. SLW responded that the safety officer employed by a contractor or developer had a duty to provide advice on reasonable measures to be implemented on construction sites to protect the safety and health of workers. AC supplemented that the booklet published by LD had listed the factors causing heat stroke. On a very hot summer day, employers could assess the risk of heat stroke based on these factors in determining the need for and duration of rest breaks to protect the safety and health of workers.

16. Mr LEE Cheuk-yan said that the Administration should step up site inspection to prevent non-compliance with the Guidelines. Although he did not insist on regulating working in very hot weather by legislative means, he considered the Guidelines requiring employers to provide rest breaks and drinking water inadequate to ensure the safety and health of construction workers. As OSHO provided that employers had the general duty to provide a safe and healthy workplace for employees, Mr LEE asked about the application of general duty, the party which had the authority to determine the scope of the general duty, and whether the power to order suspension of work under very hot weather, such as by a foreman, could be regarded as a general duty exercised on behalf of the employer. In his view, the general duty should include suspension of work under extremely hot weather in order to ensure the safety of workers.

17. SLW responded that LD had undertaken to step up site inspection in very hot weather. He explained that the concept of general duty followed a common sense approach under which a reasonable person was expected to deal with a matter in a reasonable manner having regard to the circumstances surrounding the case. As to whether suspension of work was necessary under very hot weather, it would depend on the circumstances. The employers' association of the construction industry had earlier taken action to inform the media about the provision of rest breaks to construction workers working in hot weather as appropriate. SLW informed members that the construction process involved a number of inter-related steps and the delay of one step might affect the entire process. Suspension of work on a continuous basis, say two to three consecutive days due to very hot weather warning announced by the Hong Kong Observatory, would affect not only the construction schedule but also the livelihood of construction workers who were paid on a daily basis.

18. AC supplemented that the checklist developed by LD provided guidance for employers to assess the risk of heat stroke at workplaces. If there were discrepancies in the assessments, it could be resolved through discussion by the parties and agreement on the appropriate preventive measures to be taken. The checklist had also provided examples of preventive measures, such as a rest break after 20 to 40 minutes of work to construction workers under extremely

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hot weather.

19. The Chairman expressed concern that the Guidelines were only applicable to the construction industry, but not other industries such as laundries and restaurants whose workers were exposed to a higher risk of heat stroke in summer. In addition, the Guidelines were not legally binding. As regards the checklist for assessing the risk of heat stroke, the Chairman pointed out that an employer might not take any action even if the assessment indicated that there was a risk of heat stroke. Similarly, a worker might not be granted rest breaks even if the assessment indicated that he was subject to a risk of heat stroke. She questioned whether the checklist would serve any meaningful purpose. She urged the Administration to introduce more safeguards to protect the safety and health of workers working in very hot weather.

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20. SLW noted the Chairman's views and said that he would relay members' views to CIC.

III. Qualifications Framework: Implementation progress
(LC Paper Nos. CB(2)2176/08-09(03) and (04))

21. Members noted that the Qualifications Framework (QF), established to provide a platform to promote lifelong learning, was a seven level hierarchy covering qualifications in the academic, vocational and continuing education sectors. Upon the implementation of QF in May 2008, all learning programmes were required to undergo formal accreditation by the Hong Kong Council for Accreditation of Academic and Vocational Qualifications (HKCAAVQ) before the programmes could be uploaded onto the Qualifications Register (QR). To help ensuring that the learning programmes would meet the manpower needs of industries, individual Industry Training Advisory Committees (ITACs) were set up to develop Specifications of Competency Standards (SCS) for the respective industries. Among the 12 industries which had set up ITACs, three industries (i.e. the Printing & Publishing, Watch & Clock, and Hairdressing industries) had implemented on a pilot basis a Recognition of Prior Learning (RPL) mechanism which gave formal recognition to the knowledge, skills and experience acquired by workers.

22. Deputy Secretary for Education (DSED) briefed members on the latest progress of the development and implementation of QF as set out in the Administration's paper.

23. Noting that the success rate of workers seeking recognition of RPL was over 90%, Mr IP Wai-ming enquired about the reason for the failure of the remaining 10%. He also expressed concern that RPL assessment would place more emphasis on academic qualification rather than working experience of a worker and he noted that many of the courses provided under QF was academic rather than vocational in nature. He enquired about the progress of

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implementation of the pilot scheme of RPL and the timetable to introduce it to other industries.

24. DSED assured members that the RPL mechanism placed emphasis on knowledge, skills and experience of workers acquired in workplaces rather than their academic achievement. RPL was implemented in the three industries on a pilot basis for a period of two years with effect from June 2008. There would be a five-year transitional period for each industry during which employees could seek to obtain formal qualifications on the basis of past relevant working experience for Level 1 to 3 qualifications under QF. The Vocational Training Council (VTC) was appointed as the agency for conducting assessments for RPL. The success rate for those applying for Level 1 to Level 3 of RPL was over 98%, while the remaining applicants might have failed in the interview when being assessed for Level 4 qualifications.

25. Principal Assistant Secretary for Education (Further Education) (PASED) supplemented that an interim review was conducted on the implementation of the RPL mechanism. Feedback from applicants indicated that the RPL mechanism was on the whole operating effectively and the assessment processes were generally fair and efficient. To address the concerns raised by some applicants, employers had been encouraged to release their staff during office hours for attending the relevant assessments. VTC had also extended the working hours of the RPL assessment office to cater for the needs of RPL applicants. The Administration and VTC would continue to monitor and review the effectiveness of the pilot mechanism. In the meantime, the Administration was consulting parties concerned about extending the RPL mechanism to other industries which had completed their SCSs. Consideration had also been given to developing SCS-based courses and RPL mechanism for an industry at the same time. DSED undertook to include in future reports the progress of implementing the RPL mechanism in other industries.

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26. Mr WONG Sing-chi enquired about the short-term plan of QF and whether the Administration would assess the benefits brought about by QF in terms of personal development, career advancement and social contribution.

27. DSED responded that the Administration was consulting other relevant stakeholders on the development of QF. In the short-term, ITAC for the import and export industry was expected to commence work in the third quarter of 2009, to be followed by the retail industry. The two industries covered about 300 000 employees each (together with the employees covered by the 12 industries with ITACs, represented approximately 40% of the total labour force). Up to the end of June 2009, there were about 5 600 academic and vocational qualifications registered in QR. There was no empirical data to assess the impact of QF on personal development and social contribution. DSED stressed that QF sought to provide a platform to promote life-long learning, with a view to enhancing the overall competitiveness of the workforce. While promoting QF, the Administration was mindful that the attainment of QF

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qualification would not become a prerequisite for a person to secure employment.

28. The Chairman enquired whether the Administration would appoint agencies other than VTC to conduct RPL assessments for other industries. She pointed out that at present, many providers offered skills-upgrading programmes which were not designed in accordance with the standards set out in SCSs. In order not to waste the time and effort of providers, she enquired about the possibility of recognizing qualifications attained through these programmes on par with those developed under SCSs. Noting that the transitional period for attaining qualifications under the RPL mechanism was five years, the Chairman expressed concern that many workers might choose to apply for RPL qualifications just prior to the deadline. She enquired whether the Administration would launch publicity or offer incentive to encourage workers to apply for RPL early so as to avoid straining resources at the end of the transitional period.

29. DSFD responded that the Administration would consider the need to appoint other assessment agencies when conducting review on the RPL mechanism. If more than one assessment agency was appointed, it was necessary to ensure that the agencies would adopt the same standards in the assessments. As regards skills-upgrading programmes, they would eventually be subsumed under the programme plan of the Employees Retraining Board, and designed in accordance with the SCSs of the relevant industries. He was confident that it would become a standard practice for vocational training courses, designed on the basis of SCSs of respective industries, to undergo formal accreditation by HKCAAVQ. The Administration would consider stepping up publicity to encourage workers to attain qualifications under RPL. As an incentive, workers could apply for full reimbursement of the RPL-related fees upon completion of the assessment and a QF recognized course, subject to a ceiling of \$1,000.

30. The meeting ended at 4:08 pm.