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Panel on Manpower

**Background brief prepared by the Legislative Council Secretariat
for the meeting on 16 July 2009**

Occupational Safety Performance in Hong Kong

Purpose

This paper summarizes past discussions by the Panel on Manpower (the Panel) on occupational safety in Hong Kong.

Deliberations of the Panel on Manpower

2. The Panel discussed Hong Kong's occupational safety performance at its meetings on 20 May 2004, 16 June 2005, 15 June 2006, 21 December 2006, 21 June 2007, 20 December 2007 and 21 January 2009. The discussions are summarized in the following paragraphs.

3. According to the Administration, the Labour Department (LD) attached great importance to enhancing occupational safety, and was committed to ensuring that risks to the safety of people at work were properly managed and addressed through legislation, law enforcement, promotion, education and training. Through the concerted efforts of all parties concerned, including employers, employees, contractors, safety professionals and the Government, there had been steady improvement in Hong Kong's occupational safety performance in recent years.

Requirement to report occupational injuries

4. Some members 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. They asked whether the Administration would consider adopting measures, such as making it mandatory for medical doctors to report occupational injuries, to address the problem.

5. The Administration responded that there were statutory requirements on the notification of occupational diseases and most occupational injuries had been reported. It was tackling the problem through law enforcement, publicity and education.

Causes for industrial accidents

6. Some members asked whether the Administration had carried out case studies to identify the causes for industrial accidents. They considered that such information could help the Administration plan and enhance the publicity and education programmes on industrial safety for targeted groups and industries.

7. The Administration responded that it had conducted in-depth analyses on fatal industrial accidents. Case analyses had been provided to trade unions, training institutes, the media and occupational safety officers for dissemination to relevant sectors.

Work-related injuries of self-employed persons

8. Some members suggested that consideration should be given to making it mandatory for all work-related injuries to be reported to LD, including those of self-employed persons.

9. The Administration stressed that careful consideration should be given to the idea of requiring self-employed persons to report work injuries since it would require introduction of new legislation to give effect to the requirement. The likely impact of this policy should be fully assessed, and the agreement of all stakeholders had to be sought before implementation. The Administration added that in deciding whether a person was self-employed, the court would take into account all relevant facts of a case, including the circumstances, the evidence and precedent cases, if any, before concluding its judgment.

10. Some members considered that the Administration should compile work injury statistics from a wider perspective, and provide members with figures which covered all accidents occurring on construction sites, regardless of whether the injuries were related to employees or employers. With such information, members could have a more comprehensive picture of the safety performance of the construction industry.

Occupational safety of persons working at height

11. Some members noted with concern the number of fatalities caused by falling of workers from height. They asked whether the increase was related to improper working procedures on scaffolds.

12. The Administration responded that it had conducted an in-depth analysis into the causes for occupational injuries and industrial accidents in the construction industry and found that about 48% of the cases involved workers in minor renovation,

repair and maintenance works, including those working on truss-out scaffolds. The Administration stressed that it was very concerned about industrial accidents caused by fall from height, and had taken the following measures to improve the situation -

- (a) launching publicity campaigns directed at workers engaged in scaffolding works to enhance their safety awareness; and
- (b) stepping up inspections at construction sites to ascertain employers' and employees' compliance with the safety legislation.

13. The Administration advised that in order to improve the safety of workers working at height, LD had organized several large-scale seminars aimed at enhancing the safety awareness of employees, and had provided contractors with case analyses for sharing with their workers.

Industrial accidents related to the operation of tower cranes

14. Some members asked about the measures taken by the Administration to minimize industrial accidents related to the operation of tower cranes after a fatal accident in July 2007.

15. The Administration responded that it had taken stringent enforcement measures pursuant to the fatal accident, such as launching territory-wide inspections at construction sites, initiating prosecutions and issuance of suspension/improvement notices, organizing training courses for construction site workers and safety seminars for members of the trade. The Administration stressed that the fundamental issue involved in occupational health and safety was the need to promote a safety culture among the trades.

16. The Administration informed the Panel that the Committee on Construction Site Safety (CCSS) under the Construction Industry Council (CIC) had set up an Informal Task Force (ITF) to carry out a study with a view to improving the safe operation of tower cranes. Members of ITF comprised representatives from trade associations, professional bodies, trade unions, academia and government departments. ITF would recommend the following improvement measures to CIC -

- (a) all critical components and key members of a crane should be thoroughly examined and certified to be safe before delivery to sites for erection;
- (b) checklists on key components, certificates of examination and testing and maintenance should be kept available for on-site inspection;
- (c) a supervising engineer should be employed to directly supervise the erection, telescoping, lowering and dismantling of cranes;

- (d) the structural integrity of the foundation set-up, wall ties and its sitting structure should be assessed by a structural engineer; and
- (e) all workers engaged in securing loads should receive a two-day training on rigging activities involving tower cranes.

17. The Administration advised that LD would consider issuing suspension notices to suspend operations of the tower crane concerned, if the above measures were not being followed.

Repair, maintenance, alteration and addition (RMAA) works safety

18. According to information provided by the Administration for the Panel meeting on 21 January 2009, most RMAA works were of a small-scale and scattered in nature, and undertaken by small contractors within a relatively short time span. The contractors 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.

19. Some members expressed concern that owners and occupiers of premises undergoing RMAA works would be liable for workers' occupational safety, if accidents occurred at their home. They 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. They also expressed concern about occupational injuries in the catering industry and pointed out that many of these injuries resulted from overwork due to manpower shortage.

20. The Administration advised 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. 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.

21. Some members were concerned that the number of fatalities arising from RMAA works had accounted for a considerable proportion of all construction fatalities. They enquired about the conviction rate for prosecutions instituted against non-compliance of safety standards.

22. The Administration advised that for cases where legal proceedings had been concluded, the conviction rate was 85%. 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.

23. Some members expressed concern that the number of fatalities arising from RMAA works was on the rise. They hoped that the collaboration between LD and DCs on promoting awareness of RMAA work safety could be further enhanced. Although LD had, in collaboration with the Occupational Safety and Health Council, launched a sponsorship scheme in 2005 to help small and medium-sized enterprises (SMEs) purchase safety equipment for RMAA works, there were only 359 applications with over \$1.15 million of subsidy granted within three years.

24. The Administration responded that the 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. The number of applications for safety equipment sponsorship had been low because SMEs might not be aware of the availability of such a scheme.

25. Members noted 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. Some members asked whether the Administration would consider conducting site inspections on a monthly basis instead of a half-yearly basis.

26. The Administration responded that this area was among the foci of LD's work. 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

27. Some members enquired whether there were guidelines to regulate working under very hot weather. They pointed out that working under high temperature was not limited to construction sites but occurred also in confined spaces such as the cockpit of an aeroplane. They asked whether workers could suspend work under very hot weather.

28. The Administration 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. 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.

29. Some members were concerned that heat stroke arising from working under hot weather was not regarded as an occupational disease. They enquired whether there was an increasing number of heat strokes at work and the possibility of including that as an occupational disease.

30. The Administration advised 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. 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. There were very few reported heat stroke cases.

Recent measures to enhance occupational safety

31. According to the Administration, it had recently implemented the following to enhance occupational safety -

- (a) LD had implemented a series of measures, including enforcement campaigns as well as publicity and promotional drives, to enhance occupational safety and health awareness of employers and employees;
- (b) on the enforcement front, apart from regular inspections to workplaces to ensure compliance with relevant occupational safety and health legislation,

LD had launched a number of enforcement campaigns in the first half of 2008, focusing on construction safety, RMAA works safety, cargo and container handling safety and catering safety. During these special enforcement exercises, LD inspected 13 059 workplaces and issued 4 042 warnings. During these special enforcement exercises, LD initiated a total of 199 prosecutions against 111 of the workplaces inspected, mostly for unsafe working at heights, unsafe lifting operations, non-compliance with fire safety measures and non-provision/wearing of personal protective equipment. LD also issued 172 improvement notices to secure compliance with the provisions of relevant legislation as well as 29 suspension notices to require action to rectify imminent risks of death or serious bodily injury;

- (c) as regards publicity and promotion, LD had organized a series of campaigns, some in collaboration with relevant stakeholders, aiming at heightening safety awareness among employers and employees and cultivating a positive safety culture in workplaces;
- (d) LD would continue to target the catering industry and construction industry in its enforcement work. In view of the impending commencement of major infrastructure projects and acceleration of minor works for creation of jobs, LD would also focus more enforcement efforts on construction hazards such as work-at-height, RMAA works, use of electricity, tower crane operations, construction vehicles and mobile plants to deter unsafe practices; and
- (e) LD would also sustain promotional efforts to enhance the safety and health at work in the construction and catering industries through annual safety awards for these two industries.

Relevant papers

32. A list of relevant papers which are available on the Legislative Council website is in the **Appendix**.

Appendix

List of relevant papers on occupational safety in Hong Kong

Minutes

- (a) minutes of meeting of the Panel on Manpower on 20 May 2004 [LC Paper No. CB(2)3202/03-04];
- (b) minutes of meeting of the Panel on Manpower on 16 June 2005 [LC Paper No. CB(2)2468/04-05];
- (c) minutes of meeting of the Panel on Manpower on 15 June 2006 [LC Paper No. CB(2)2741/05-06];
- (d) minutes of meeting of the Panel on Manpower on 21 December 2006 [LC Paper No. CB(2)838/06-07];
- (e) minutes of meeting of the Panel on Manpower on 21 June 2007 [LC Paper No. CB(2)2688/06-07];
- (f) minutes of meeting of the Panel on Manpower on 20 December 2007 [LC Paper No. CB(2)1073/07-08];
- (g) minutes of meeting of the Panel on Manpower on 21 January 2009 [LC Paper No. CB(2)1079/08-09];

Papers

- (h) Administration's paper entitled "Hong Kong's Occupational Safety Performance in 2003" for the meeting of the Panel on Manpower on 20 May 2004 [LC Paper No. CB(2)2371/03-04(03)];
- (i) Administration's paper entitled "Occupational Safety Performance of Hong Kong in 2004" for the meeting of the Panel on Manpower on 16 June 2005 [LC Paper No. CB(2)1889/04-05(05)];
- (j) Administration's paper entitled "Occupational Safety Performance of Hong Kong in 2005" for the meeting of the Panel on Manpower on 15 June 2006 [LC Paper No. CB(2)2324/05-06(07)];
- (k) Administration's paper entitled "Hong Kong's Occupational Safety Performance in the First Half of 2006" for the meeting of the Panel on Manpower on 21 December 2006 [LC Paper No. CB(2)672/06-07(04)];

- (l) Administration's paper entitled "Hong Kong's Occupational Safety Performance in 2006" for the meeting of the Panel on Manpower on 21 June 2007 [LC Paper No. CB(2)2173/06-07(05)];
- (m) Administration's paper entitled "Policy Initiatives of the Labour and Welfare Bureau for 2007-08" for the meeting of the Panel on Manpower on 18 October 2007 [LC Paper No. CB(2)40/07-08(02)];
- (n) Administration's paper entitled "Hong Kong's Occupational Safety Performance in the First Half of 2007" for the meeting of the Panel on Manpower on 20 December 2007 [LC Paper No. CB(2)628/07-08(03)];
- (o) Administration's paper entitled "Hong Kong's Occupational Safety Performance in 2007" [LC Paper No. CB(2)2647/07-08(01)]; and
- (p) Administration's paper entitled "Hong Kong's Occupational Safety Performance in the First Half of 2008 and Renovation Works Safety" [LC Paper No. CB(2)680/08-09(03)].

The above minutes and papers are also available on the website of the Legislative Council (<http://www.legco.gov.hk>).