

**Motion on “Protecting the safety and health of employees at work
in inclement weather” at the Legislative Council meeting
on Wednesday, 12 May 2010**

Progress Report

Purpose

At the Legislative Council Meeting held on 12 May 2010, the motion on “Protecting the safety and health of employees at work in inclement weather” moved by Hon LI Fun-ying as amended by Hon CHAN Hak-kan and Hon IP Wai-ming was carried. The wording of the motion carried is at the Annex.

2. This paper briefs Members on the work progress of the main issues addressed in the above motion.

Review of guidelines and legislation for protecting employees at work in inclement weather

3. The Labour Department conducts regular review of guidelines and legislation (including guidelines on working in inclement weather and the related legislation) for protecting the safety of employees at work. We will, in light of social, economic and technical developments as well as the trend of occupational accidents, consider if amendments to the guidelines are required or whether new guidelines or legislation which keep pace with changing needs of time are required for protecting employees’ safety at work .

4. Some essential services like public transport, public utilities, medical services, hotels and security, have to maintain operation under inclement weather conditions. As to other services, suspension of operation when a Typhoon Warning Signal or Rainstorm Warning is in force may create inconvenience to the public and problems for certain trades relying on such services for their operations. For the above reasons, it would not be practicable at this stage to legislate on work arrangements when a Typhoon Warning Signal or a Rainstorm Warning is in force.

5. The Labour Department has published the “*Code of Practice in Times of Typhoons and Rainstorms*” to advise employers to work out, in consultation with employees, prior work arrangements and contingency measures during typhoons and rainstorms. Employers are also reminded to be aware of their obligations under the Occupational Safety and Health Ordinance, the Employees’ Compensation Ordinance and the Employment Ordinance. We will keep the Code under regular review in light of experience.

6. The Labour Department also regularly publicises the importance for employers and employees to make prior work arrangements in times of typhoons and rainstorms. We have, before the onset of the typhoon season this year, started to publicise these messages through various channels, including television and radio announcements of public interest, press releases, leaflets, posters and exhibitions, etc., and will continue to widely publicise these messages.

Stipulating diseases attributable to working in inclement weather as work injuries

7. According to the Employees' Compensation Ordinance ("ECO"), if an employee sustains injury or dies as a result of an accident arising out of and in the course of his employment, his/her employer is liable to pay compensation. ECO also stipulates that an employee may recover compensation for a disease that is not an occupational disease specified in ECO if it can be ascertained that, according to the circumstances, the disease is a personal injury by an accident arising out of and in the course of employment. If an employee sustains an injury or contracts a disease attributable to his working in inclement weather, such as suffering from heat stroke while working in hot weather, or having a cardiac or respiratory disease due to exposure to a seriously air-polluted working environment, resulting in temporary and/or permanent incapacity, the Labour Department will, subject to individual circumstances, provide the employee and his/her employer with its view as to the possibility of the case being related to his/her work. We will also assist the employee in handling the compensation claim. The employee should give the employer notice of the incident as soon as possible to facilitate the employer to notify the Labour Department in accordance with the requirement under ECO. The Labour Department will endeavour to provide the necessary assistance.

Work arrangements in inclement weather, including very hot weather

8. According to the general duties provisions in the existing occupational safety and health legislation, employers have a duty to ensure their employees' safety and health at work. Such provisions are applicable to different working conditions and circumstances, including inclement

weather conditions like hot weather, typhoons, rainstorms and poor air qualities. In accordance with the provisions, if employers require employees to work in inclement weather, they have the duty to adequately assess the associated risks and take corresponding measures to eliminate the hazards.

9. In respect of employees who need to work in hot weather conditions, employers should conduct a comprehensive assessment of the risk of their employees suffering from heat stroke and take appropriate preventive measures. These include the provision of adequate drinking water at readily accessible locations, provision of sheltered work and rest areas, ventilation facilities, making arrangements for employees to work in a hot and cool place alternately, provision of appropriate information, instruction and training for employees, as well as provision of personal protective equipment such as cooling vests, where necessary.

10. The Labour Department has published a health guide, entitled "*Prevention of Heat Stroke at Work in a Hot Environment*", to promote employers' and employees' awareness of the risk factors of heat stroke, and to provide practical guidance on the effective preventive measures. To further assist employers in assessing the risk of heat stroke in their workplaces, we have published a checklist on "*Risk Assessment for the Prevention of Heat Stroke at Work*", and two specific checklists, one for construction sites and the other for outdoor cleansing workplaces, for their reference. All these publications list out control measures which may be used to mitigate the risk of heat stroke at work.

11. Since April 2010, the Labour Department has also launched a focused publicity campaign targeting outdoor workplaces with a higher risk

of heat stroke. These publicity activities include, amongst others, conducting public and outreaching health talks, broadcasting educational video on mobile advertising media, sending some 6,000 letters together with the checklists to target establishments, employers' associations and trade unions, and conducting promotional visits to construction sites in collaboration with a union. We will also continue to partner with relevant stakeholders such as the Occupational Safety and Health Council, and employers' associations and trade unions in the construction industry and cleansing services to encourage employers to take appropriate preventive measures to safeguard the safety and health of employees working in hot weather.

Stepping up inspections and prosecutions

12. On the enforcement front, officers of the Labour Department conduct surprise inspections to various workplaces regularly to ensure compliance with the occupational safety and health legislation. This strategy is also applicable to employers' responsibilities to safeguard the safety and health of employees working in inclement weather.

13. In addition to regular inspections, we also launch special enforcement campaigns targeting higher risk work at outdoor workplaces (such as construction sites, container terminals/yards) under inclement weather conditions to ensure compliance with the law by contractors/employers. Employers found to have breached the law will be prosecuted. Improvement notices/suspension notices will also be issued whenever necessary.

14. We have, since April 2010, launched an enforcement campaign targeting outdoor workplaces with a higher risk of heat stroke, including construction sites, outdoor cleansing workplaces and container yards, and focusing on the adequacy and effectiveness of preventive measures taken to protect employees at work in inclement weather. We will take appropriate enforcement actions against irregularities identified, including taking immediate prosecution action where employers are found not to have provided drinking water for their employees.

15. In respect of poor air quality, the Government, led by the Environment Bureau and Environmental Protection Department, has since April 2010 strengthened the public notification system among bureaux and departments concerned, including the Education Bureau, Civil Service Bureau and Labour and Welfare Bureau, etc, and public organizations such as the Hospital Authority. The Labour Department has taken the initiative to publish a set of guidelines, entitled “*Checklist for Risk Assessment of Outdoor Work under High Air Pollution Levels*”, for employers’ reference. The checklist sets out a multitude of factors that should be considered by employers in conducting risk assessments of outdoor work at times of high air pollution levels. When the air pollution level of a certain district is high, officers of this Department will, during their inspections of outdoor workplaces in the district, remind employers to take necessary preventive measures to protect the health of their employees working there.

Requiring employers to take appropriate preventive measures and install protective equipment

16. Under the general duties provisions of the occupational safety

and health legislation, employers have a duty to ensure the safety and health at work of their employees. Such duty applies to the provision of safe systems of work with appropriate measures to prevent risks to employees, and the provision of appropriate safety equipment, which would include appropriate ventilation system or portable fans to increase air flow and the use of insulating materials to minimize heat dissipation from machineries in hot weather conditions.

17. In addition to the general duties provisions, employers should also comply with the provisions of the Factories and Industrial Undertakings (Lifting Appliances and Lifting Gear) Regulations and the Factories and Industrial Undertakings (Suspended Working Platforms) Regulation. Under these Regulations, lifting appliances and gondolas shall not be used under weather conditions likely to endanger their stability. Moreover, the appliances shall be re-tested by a competent examiner after exposure to weather conditions likely to have affected their stability. In the case of scaffold, contractors shall arrange for re-inspection by a competent person after the exposure of the scaffold to weather conditions likely to have affected its strength or stability or to have displaced its part to ensure that it is in safe working order.

18. Members are invited to note the contents of this report.

Labour and Welfare Bureau

Labour Department

July 2010

**Motion on
“Protecting the safety and health of employees
at work in inclement weather”
moved by Hon LI Fung-ying
at the Legislative Council meeting
of Wednesday, 12 May 2010**

Motion as amended by Hon CHAN Hak-kan and Hon IP Wai-ming

That, in view of the aggravating problems of global climate change and air pollution, this Council urges the Administration to review the relevant guidelines and legislation for employees at work under very hot weather warnings, typhoon or rainstorm warnings and severe air pollution, so as to enhance the protection of employees’ safety and health when working in inclement weather or severe air pollution, especially when working outdoors, and formulate the relevant guidelines and legislation for employees at work under cold weather warnings and early warnings on sandstorms, which include:

- (a) to stipulate that employees who have contracted a disease attributable to working in inclement weather may be regarded as suffering from work injury and are entitled to statutory compensation;
- (b) to provide employees with rest breaks or arrange for them to take turns to work when working in inclement weather, such as making arrangement for employees to take rest during periods of very hot weather, or to take turns to work in very hot and chilly workplaces, so as to shorten their

period of working continuously in a very hot environment;

- (c) the Labour Department should step up inspections and strictly institute prosecutions against employers who have not taken appropriate preventive measures for their employees in accordance with the Occupational Safety and Health Ordinance or the Factories and Industrial Undertakings Ordinance; and
- (d) employers should take appropriate preventive measures and install suitable facilities to protect the occupational safety and health of their employees.