

立法會

Legislative Council

LC Paper No. CB(2)1305/09-10
(These minutes have been seen by
the Administration)

Ref : CB2/PL/MP

Panel on Manpower

Minutes of meeting
held on Tuesday, 23 February 2010, at 4:30 pm
in the Chamber of the Legislative Council Building

- Members present** : Hon LI Fung-ying, BBS, JP (Chairman)
Hon IP Wai-ming, MH (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
Dr Hon LAM Tai-fai, BBS, JP
Hon CHAN Kin-por, JP
Hon WONG Kwok-kin, BBS
Hon IP Kwok-him, GBS, JP
Dr Hon PAN Pey-chyou
- Member absent** : Hon WONG Sing-chi
- Public Officers attending** : Item III
Mrs Cherry TSE LING Kit-ching, JP
Commissioner for Labour

Mrs Tonia LEUNG SO Suk-ching
Assistant Commissioner for Labour (Employees' Rights &
Benefits)

Miss Teresa FONG Yuk-sim
Senior Labour Officer (Employees' Compensation)(Central
Services)
Labour Department

Item IV

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)

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

Dr Mandy HO Mang-yee
Occupational Health Consultant (2)
Labour Department

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

Mr Ian CHOW
Council Secretary (2) 1

Ms Kiwi NG
Legislative Assistant (2) 1

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I. Confirmation of minutes of previous meeting
(LC Paper No. CB(2)917/09-10)

The minutes of the meeting held on 14 December 2009 were confirmed.

II. Date of next meeting and items for discussion
(LC Paper Nos. CB(2)958/09-10(01) and (02))

2. Members noted that the Administration proposed to discuss the item "Special employment programmes of the Labour Department to assist the vulnerable youth and the unemployed" at the next regular meeting to be held on 18 March 2010 at 2:30 pm. Mr LEUNG Yiu-chung suggested and members

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agreed that the item should be expanded to include measures of the Labour Department ("LD") to assist people with a disability in the discussion.

3. The Chairman said that in response to the request made by the Deputy Chairman at the last meeting, she had discussed with the Chairman of the Panel on Security about the issues arising from the case of 140 trainees from Fujian who were allegedly hired as workers in the name of trainees by the Hong Kong Aircraft Engineering Company. After further consideration, she considered it more appropriate for the Panel on Manpower to hold a meeting to discuss the issue of "Policy and arrangements relating to admission of trainees to Hong Kong" and invite members of the Panel on Security to join the discussion. Members agreed to include the item in the agenda for the next meeting.

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4. Mr LEE Cheuk-yan noted that the Administration would consider ways to make the "additional holiday" arrangement for public holidays more flexible. He also requested to discuss the alignment of statutory holidays and general holidays. In response to Mr LEE's suggestion to discuss the subject in April 2010, Commissioner for Labour ("C for L") said that the Administration needed time to consider the matter and would revert to the Panel when ready.

5. Mr WONG Kwok-hing enquired about the progress of the introduction of legislative amendments to the Employment Ordinance (Cap. 57) ("EO") to remove the requirement for an employer's consent to the making of an order for reinstatement or re-engagement of an employee who had been dismissed unreasonably and unlawfully, and to require the employer who failed to comply with such an order to pay a further sum to the employee.

6. C for L responded that as explained at the last meeting, the Employment (Amendment) Bill 2009, which sought to create an offence relating to an employer's failure to pay any sum payable under an award of the Labour Tribunal, was currently being scrutinized by a Bills Committee. In response to the views of some members of the Bills Committee to extend the new offence under the Bill to cover non-payment of the compensation under section 32P of EO (maximum at \$150,000) which, notwithstanding its civil nature, arose out of the criminal offence of unreasonable and unlawful dismissal, the Administration would propose Committee Stage amendments ("CSAs") to the Bill which would have implications for the legislative proposal on compulsory reinstatement or re-engagement. Noting the implications of CSAs for section 32P of EO and which could make the provision rather different from that prevailing when the Labour Advisory Board ("LAB") last considered the reinstatement proposal (before 2008), LAB asked the Administration to brief it on the full implications for the reinstatement proposal arising from the Employment (Amendment) Bill 2009, as enacted, before taking forward the legislative changes to effect the reinstatement proposal. C for L hoped to revert to the Panel within 2010.

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7. The Chairman reminded members that the Panel would visit the Kowloon West Job Centre and the Mong Kok Centre of Youth Employment Start on 1 March 2010.

III. Review on the levels of compensation under the Employees' Compensation Ordinance and the Pneumoconiosis and Mesothelioma (Compensation) Ordinance
(LC Paper No. CB(2)958/09-10(03))

8. C for L briefed members on a proposal to increase the amounts of five compensation items under the Employees' Compensation Ordinance (Cap. 282) ("ECO") in line with the findings of a biennial review on the levels of compensation under ECO and the Pneumoconiosis and Mesothelioma (Compensation) Ordinance (Cap. 360) ("PMCO") and other related matters as detailed in the Administration's paper. She said that the levels of compensation were adjusted with reference to the Nominal Wage Index ("NWI"), the Consumer Price Index ("CPI")(A) and other relevant factors. The current review was the first time when NWI and (CPI(A)) had moved in different directions, with the former having gone up and the latter having gone down. Nevertheless, in order to avoid causing hardship to employees, the Committee on Employees' Compensation of the Labour Advisory Board ("LABCEC") had, in a spirit of collaboration and mutual understanding, recommended that the levels of compensation for the five relevant items under ECO be adjusted upwards by 2.34% and the amounts of compensation under ECO and PMCO should be kept unchanged at their existing levels in respect of those items which, according to the review findings, would have to be adjusted downwards. It was also agreed that the levels of compensation for the relevant items under the two ordinances would not be revised upward until the cumulative rate of decrease in the price index had been offset by future increase. She hoped that members would support the proposal.

9. Mr LEE Cheuk-yan said that ceiling of monthly earnings for calculating compensation for death and permanent total incapacity, which was proposed to be increased from \$21,000 to \$21,500, was far from adequate for meeting household expenses. Mr WONG Kwok-hing welcomed the proposal recommended by employer and employee representatives of LAB after careful deliberations, but pointed out that the small increase of 2.34% in NWI could reflect that the wages of elementary workers had decreased in real terms. According to the Census and Statistics Department, the number of persons living in poverty had increased in the past ten years. Further, given that the employees had already suffered injuries or even total incapacity, the proposed increase might only slightly alleviate their situation.

10. C for L responded that the actual increase was not small. An employee who died or suffered from permanent incapacity as a result of a work injury or an occupational disease was entitled to a lump sum compensation calculated

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with reference to the employee's age, monthly earnings and permanent loss of earning capacity. The proposed ceiling of monthly earnings for calculating compensation for death and permanent total incapacity at \$21,500 was a base figure to be multiplied by a factor which could be up to 84 or 96 months. Moreover, under the proposal, the minimum compensation for death would be increased from \$303,000 to \$310,000, and the minimum compensation for permanent total incapacity would be increased from \$344,000 to \$352,000.

11. Mr LEE Cheuk-yan said that he had previously proposed increasing the maximum amount of funeral expenses under ECO from the current level of \$35,000 to \$50,000. The shortage in the supply of niches in columbarium had aggravated the problem and he considered the amount for funeral expenses far from adequate. C for L responded that the maximum amount of funeral expenses had already been increased from \$16,000 to \$35,000 only a few years ago.

12. Mr CHAN Kin-por commended the work of LAB for having come up with a reasonable proposal. He expressed support for the existing review mechanism for the level of compensation under ECO and PMCO and the proposed adjustments as set out in the Administration's paper. He considered that the review mechanism should allow both upward and downward adjustments of the compensation levels. He added that a harmonious relationship between employers and employees would help build up mutual trust which was conducive to reaching proposals which would benefit both parties.

13. The Deputy Chairman, Mr WONG Kwok-hing and Mr LEUNG Yiu-chung held the view that there should not be any downward adjustments for compensation items under ECO and PMCO. C for L explained that the review mechanism would allow upward and downward adjustments. The review would take into account the nature of various compensation items. For example, some items involved the purchase of medical equipment or appliances which would be adjusted according to price changes as reflected by CPI(A).

14. Mr LEUNG Yiu-chung said that there was a case where the cause of death of a worker suffering from pneumoconiosis was diagnosed by a medical practitioner to be pneumonia. Mr LEUNG considered that the pneumonia should have arisen from pneumoconiosis, but as the worker did not die of pneumoconiosis, the worker's family was not eligible for death compensation under PMCO. C for L responded that once a worker was diagnosed as suffering from pneumoconiosis, that worker would be eligible for compensation on a monthly basis under PMCO. Assistant Commissioner for Labour (Employees' Rights & Benefits) explained that whether or not a worker died of pneumoconiosis was a medical opinion to be determined by the Pneumoconiosis Medical Board which took into account medical reports and other relevant evidence. C for L suggested that Mr LEUNG should provide

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details of the specific case to the Administration for follow up.

15. Mr LEE Cheuk-yan said that the employee compensation system had remained unchanged for many years. It was time to conduct a full review of the employees compensation system and introduce improvements to keep pace with the development of the society.

16. The Deputy Chairman said that he welcomed the proposal recommended by LAB. Nonetheless, he shared the view that the Administration should conduct a comprehensive review of ECO. He said that the Administration should explore measures to help workers suffering from occupational diseases rehabilitate and rejoin the labour market.

17. C for L responded that -

- (a) the employee compensation system hinged on both the rights and benefits of the employees and the affordability of the employers. As it had been based on a no-fault system whereby compensation was payable irrespective of the degree of fault of the parties concerned, in determining the scope and levels of compensation, it was necessary to strike a reasonable balance between the interests of the employers and the employees. Any amendments to the existing system would require consultation with relevant stakeholders with consensus reached between employers and employees;
- (b) the Administration did not see the need to make drastic changes to the existing compensation system. It would be desirable to adopt a more prudent and pragmatic approach whereby individual items or specific areas would be reviewed if necessary. In fact, various legislative amendments had been made to relevant ordinances to progressively improve the rights and benefits of the employees in the past. For instance, the minimum compensation for permanent total incapacity had been raised from \$9,600 in 1970 to \$344,000 in 1998. Moreover, the scope of employee compensation had been expanded to cover more occupational diseases. For example, the Severe Acute Respiratory Syndrome ("SARS") had been prescribed as an occupational disease in 2005 while mesothelioma had been made a compensable disease under PMCO in 2008. The coverage of the Occupational Deafness (Compensation) Ordinance had also been extended to cover noise-induced monaural hearing loss in February 2010; and
- (c) the Administration would continue to adopt an open attitude towards specific proposals to improve ECO.

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IV. A review of occupational diseases in Hong Kong in 2009

(LC Paper Nos. CB(2)958/09-10(04) and (05))

18. C for L briefed members on the Administration's paper which set out the situation of occupational diseases in Hong Kong in 2009 and recent initiatives of the Occupational Health Service of LD in promoting occupational health and enforcing relevant occupational safety and health laws.

Criteria for prescribing occupational diseases

19. Mr WONG Kwok-hing said that according to recent report issued by the World Health Organisation ("WHO"), overnight work was linked to cancer risks. He also noted that it was common for cashiers, computer operators and employees working in the airport to develop musculoskeletal disorders, such as back pain, tennis elbow and osteoarthritis of knee. He enquired whether the Administration would collect statistics in these areas with a view to analyzing the causal relationship between the diseases and the occupations. He expressed dissatisfaction that LD did not agree with the diagnosis made by chiropractors on the relationship between the diseases of individual patients and their respective occupations.

20. C for L responded that LD had studied the reports issued by WHO, including the one related to overnight work. As overnight work had been considered a probable cause of cancer by WHO, LD would continue to monitor the situation. She further said that most musculoskeletal disorders resulted from the interaction of multiple risk factors, such as obesity, lack of exercise, excessive force, and awkward posture. These disorders were commonly found in the general population, including housewives, and not limited to workers engaged in a certain occupation. In this connection, these disorders were classified as work-related diseases instead of occupational diseases.

21. Mr LEE Cheuk-yan said that the Administration was reluctant to prescribe any new occupational diseases. According to past statistics, about 85% of the patients seeking consultations in the two Occupational Health Clinics ("OHCs") were diagnosed with work-related diseases. He enquired about the measures to be taken by LD to help these patients, including the kind of medical advice to be given to them, whether LD would inspect the working environment of these patients, and whether rest breaks for certain work types would be made compulsory.

22. C for L explained that LD had followed international practices and would make reference to criteria adopted internationally in determining whether a disease should be prescribed as an occupational disease. At present, prescription of a disease as an occupational disease was based on -

- (a) whether the disease posed a significant and recognized risk to workers engaged in a certain occupation in Hong Kong; and

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- (b) whether the causal relationship between the disease and the occupation could be reasonably presumed or established in individual cases.

The second criterion was especially important in distinguishing occupational diseases from work-related diseases which were multifactorial in origin and in respect of which their causal relationship with occupations had to be considered on a case-by-case basis.

23. C for L added that once a disease was prescribed as an occupational disease, workers suffering from the disease could claim compensation if they were engaged in the designated occupations. It was therefore important to establish the causal relationship between a disease and the occupation. The 52 occupational diseases specified in ECO, Occupational Deafness (Compensation) Ordinance (Cap. 469) ("ODCO"), and PMCO were diseases having specific or strong relationship with occupations, generally with only one causal agent, and recognized as such. Musculoskeletal disorders, on the other hand, were diseases with multiple causal agents. At present, six musculoskeletal diseases had already been prescribed as occupational diseases. Since 1991, there had been four amendments to the list of prescribed occupational diseases in the Second Schedule to ECO, which resulted in the addition of a total of 13 new occupational diseases and expansion of the coverage of three occupational diseases. In addition, mesothelioma was prescribed as a new occupational disease under PMCO in 2008. As prevention was better than cure, LD had proactively promoted awareness of the prevention of occupational and work-related diseases among employers and employees. If adequate measures had been taken to prevent occupational and work-related disease, the diseases would not continue to prevail.

24. As for employees suffering from work-related diseases, C for L said that section 36(1) of ECO provided for the claim of compensation for a disease that was not prescribed in ECO but could be proved in individual cases to be a personal injury by accident arising out of and in the course of employment. On the arrangement of rest breaks, LD had issued a "Guide on Rest Breaks" to encourage employers and employees to work out suitable rest break arrangements between themselves. If a LD inspector found that a worker's health was at risk because of continuous work, he would request the employer to provide appropriate rest breaks to his employees. If the rest break arrangement was unreasonable, workers could lodge a complaint against the employer and LD would follow up on the case. LD had proactively educated employers and employees about occupational safety and health. For instance, in response to members' concern about domestic helpers developing musculoskeletal disorders, LD had taken immediate action to follow up with the Occupational Safety and Health Council ("OSHC"), the Vocational Training Council ("VTC") and the Employees' Retraining Board ("ERB"). OSHC had subsequently designed a new training course for lecturers of the

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domestic helper course to enhance their occupational safety and health knowledge.

25. Occupational Health Consultant (2) of LD ("OHC(2)") supplemented that the two OHCs had provided 13 200 consultations in 2009 for patients, among whom about 2 500 were new patients. About 85% of the patients seeking consultations from OHCs were diagnosed with diseases or injuries caused by, related to or aggravated by work, and the remaining suffered from diseases or injuries unrelated to work. Among the new patients, 24 were diagnosed as suffering from occupational diseases prescribed in ECO.

26. Dr PAN Pey-chyou said that the 52 occupational diseases prescribed in the Second Schedule to ECO were not necessarily 100% caused by work. For instance, a health care worker could have contracted tuberculosis in the community rather than in his workplace. Dr PAN said that he did not understand why tenosynovitis of the hand or forearm was prescribed as an occupational disease while other musculoskeletal disorders were not. He enquired about the criteria for determining whether a musculoskeletal disorder was an occupational disease. Referring to the Annex to the Administration's paper which showed that the number of confirmed cases of occupational diseases had dropped substantially from 504 in 2000 to 268 in 2009, Dr PAN considered that the drop was due to employers' enhanced measures to safeguard the occupational health of employees to avoid compensation once a disease was prescribed as an occupational disease. In this connection, the Administration should consider prescribing musculoskeletal disorders as occupational diseases so as to induce employers to improve the working environment.

27. C for L said that it was difficult to prove a definite causal relationship between a disease and an occupation. Taking SARS as an example, the disease was not regarded as an occupational disease during its outbreak. After collecting statistics on a large number of cases, analyzing the correlation between the disease and specific occupations, and concluding the existence of a causal relationship, SARS was then prescribed as an occupational disease. Although there might not be a definite causal relationship between a disease and an occupation, the process in determining whether a disease should be prescribed as an occupational disease was scientific. In order to relieve an incapacitated employee of the need to prove that a certain disease was due to the nature of his employment, thereby expediting the process of employees' compensation, the occupational origin of the disease was presumed if the employee was diagnosed as suffering from a prescribed occupational disease and had been employed in the specified occupation within the specified period immediately preceding the occurrence of that disease.

28. C for L held the view that prescription of an occupational disease would only indirectly induce an employer to step up safety and health measures because an employee's compensation, which was covered by group insurance,

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was not too costly to an employer. On the other hand, risk assessment on occupational safety and health hazards made during site inspections conducted by LD, the issuance of suspension notices and improvement notices, and prosecutions instituted against employers' malpractices were direct, specific and effective measures to induce employers to improve the working environment. In addition, policies to ban work processes or the use of materials which jeopardised the health of workers, causing diseases such as silicosis, mesothelioma and asbestosis, were effective measures to ensure the health of the working population.

29. Dr PAN Pey-chyou said that some part-time domestic helpers working for several employers had developed musculoskeletal disorders. As they were low-income workers, they would like to claim compensation for occupational injuries or occupational diseases. However, they were uncertain which employer and which insurance company they should approach.

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30. C for L responded that employers were required by law to take out insurance for their employees, irrespective of whether they were employed on a part-time or full-time basis. A domestic helper who was injured while carrying out an activity in the employer's residence could claim compensation from the employer concerned. However, if the injury was caused by an occupational disease, it might be difficult to ascertain which employer should be held responsible. She would provide more information to the Panel on the procedure for claiming compensation for an occupational disease by a part-time domestic helper working for several employers.

Occupational and work-related diseases among workers in the airport

31. Mr WONG Kwok-hing said that many workers in the airport who were engaged in aircraft cleansing work or cargo handling had developed musculoskeletal disorders, such as back pain, shoulder-neck pain and osteoarthritis of knee, because of prolonged kneeling and repetitive movements of arms and knees. He asked whether the Administration would conduct more inspections and collect statistics with a view to studying the causal relationship between the disease and the occupation. He questioned the effectiveness of inspections conducted in the airport, given that employers would make preparatory work once it was notified that the inspection team had entered the restricted area of the airport. He requested the Administration to provide a paper explaining the actions taken by LD to ensure that employers took improvement measures to prevent occupational and work-related diseases among aircraft cleaning workers and cargo handling workers.

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32. C for L and Occupational Health Consultant (1) of LD ("OHC(1)") said that work-related musculoskeletal disorders could be prevented. Workers in the airport might suffer from musculoskeletal disorders which were mainly caused by prolonged and repetitive movements or excessive exertion of the hands and forearms, and prolonged and repetitive kneeling. LD attached great

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importance to these problems and in the past year, senior officers of LD paying overseas duty visits had visited the airports of other places with a view to understanding the measures taken in respect of the prevention of occupational and work-related diseases. Locally, LD had held meetings with the three companies engaged in ramp operations, urging them to implement preventive measures to safeguard occupational health of their employees. It had also reviewed the risk assessments conducted by the companies on cargo handling operations, with a view to ensuring that improvement measures, such as the provision of mechanical devices and uniform with knee pads, had been taken to reduce the health risk caused by excessive exertion of the hands and forearms and prolonged kneeling. In addition, LD had organized health talks for the companies and their workers to enhance their awareness of the prevention of occupational and work-related diseases. As far as protection to cargo handling workers was concerned, the preventive measures implemented by the companies in Hong Kong were comparable to international practices. Notwithstanding this, LD had conducted over 10 surprise inspections of the airport ramp operations in 2008-2009, which were conducted without prior notice and sometimes at night or by means of remote surveillance so that the employers concerned had no knowledge of the inspections and, therefore, could not make any preparation on the working environment prior to the inspections. During the inspections, LD inspectors observed whether mechanical devices were provided to help workers lift heavy loads and whether the workers had adopted a proper posture in handling cargoes.

33. The Deputy Chairman said that to his understanding, LD inspectors could not enter a cabin without the permission of an airline operator. In addition, the working area in some cabins was so small that it would be difficult for a LD inspector to observe whether the working posture of a worker was proper. He questioned the effectiveness of site inspections conducted by LD in the airport.

34. C for L responded that LD inspectors had indeed entered the cabins to inspect the provision of occupational safety and health measures and had made reports with photographs taken. In one case, an improvement notice was issued to a ramp operator which had failed to provide plastic rollers to help workers handle cargoes in the aircraft cabin. LD had subsequently followed up on the case to ensure that the company had rectified the problem.

35. The Deputy Chairman said that many workers had developed musculoskeletal disorders after working in the airport for two to three years. Heavy workload was one of the factors leading to these disorders. For instance, a luggage labourer had to work 9.5 hours a day to handle luggage from 18 air flights. He could not understand why LD considered that there was no causal relationship between the disorder and the luggage handling work. He queried whether the criteria for prescribing an occupational disease were too stringent. He further said that he had referred some airport workers suffering from musculoskeletal disorders to OHCs and noted that some were referred to

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public hospitals for medical treatment. He requested the Administration to provide a paper explaining the operation of OHCs in determining whether a worker was suffering from an occupational disease or work-related disease.

36. C for L responded that the Administration was mindful of studies conducted in relation to the prescription of occupational diseases. However, in determining whether a causal relationship could be established between a disease and an occupation and, therefore, the disease could be prescribed as an occupational disease, LD would not make a decision on its own but would consult relevant stakeholders.

37. OHC(1) explained that the prescription of occupational diseases was a scientific process based on high-quality corroborative studies on large numbers of cases in different populations, which concluded the existence of a causal link between a particular occupation and a disease. As far as musculoskeletal disorders were concerned, six diseases had been prescribed as occupational diseases, among which was tenosynovitis of the hand or forearm which was common among general labourers. In determining whether a patient was suffering from an occupational disease, a doctor from OHC would examine each case on its own merit, including the occupational and medical history of the patient, the work nature of his occupation, and the potential health hazards involved, and would conduct an inspection to the patient's workplace, when needed. Relevant medical tests would also be conducted on the patient, and referral might also be made to a public hospital for further medical investigations and diagnosis, or for him to receive proper medical treatment, as appropriate.

38. Mr LEUNG Yiu-chung said that occupational diseases were mainly caused by work. However, the process to determine whether musculoskeletal disorders should be prescribed as occupational diseases, which involved consideration of factors not related to work, was unscientific. In his view, the scientific process posed hurdle to workers rather than helping them. He suggested that the Administration should consider lowering the threshold for prescribing musculoskeletal disorders as occupational diseases so as to provide protection to more workers.

39. OHC(1) said that as explained in paragraph 2 of the Administration's paper, LD followed the classification adopted by the International Labour Organization ("ILO") regarding occupational diseases, work-related diseases and diseases affecting the working population. In this regard, occupational diseases were diseases having specific or strong relationship with occupations, generally with one causal agent, and recognized as such. If ILO would change its criteria in classifying occupational diseases in the future, LD would consider whether it would be necessary to revise the list of occupational diseases prescribed in the Second Schedule to ECO.

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40. Mr CHAN Kin-por expressed concern that the insurance compensation for occupational injuries of luggage/cargo labourers in the airport had recently increased every year. Although improvement measures were implemented to protect the occupational health of labourers, they did not appear to have achieved the desired effect. As a result, employers had to pay higher premiums, insurance companies had to pay more compensation, and workers continued to face health risks while working in the airport. Mr CHAN suggested that the Administration should organize a brain-storming session with insurance companies, airline operators, ramp operators and airport workers to identify measures to prevent occupational injuries. He said that the use of mechanical devices and hiring more labourers were possible measures to alleviate the workload of airport workers. The Deputy Chairman added that the Airport Authority should also be invited to join the brain-storming session.

41. C for L responded that given the inherent limitations of airport operations, including busy flight schedules, need to follow international designs of hardwares and certain workflows, there might be a limit to which one could alter the working conditions of airport cargo handling workers. Nevertheless, the Administration considered it feasible to expect Hong Kong to follow good practices in other international airports and this was the reason for LD's visits to airports of other places (re. paragraph 32 above). LD would welcome specific and practical suggestions to safeguard occupational health and safety of workers in the airport, including intelligence from employees and trade unions about employers' malpractices so that LD could take enforcement actions. She assured members that such intelligence would be kept in the strictest confidence. As regards the suggestion to hold a brain-storming session to discuss measures to improve occupational health of workers in the airport, C for L said that LD had held meetings with the Airport Authority and the three aircraft ramp operators to discuss measures to prevent occupational injuries and diseases, and organized health talks for cargo handling workers with the assistance of the Airport Authority.

Publicity and enforcement

42. Mr LEUNG Yiu-chung said that the publicity on safeguarding occupational health was educational in nature and workers might not follow the health advice, even after receiving training from VTC or ERB. He also questioned about the effectiveness of the distribution of a Guide on Rest Breaks to prevent musculoskeletal disorders as a worker might choose not to take breaks even though he was entitled to. In this connection, LD should consider regulating rest breaks for certain types of work.

43. C for L said that the awareness of employers and employees of occupational safety and health was the key to more effective and early prevention of occupational diseases. In this connection, LD attached great importance to educating employers and employees about prevention of occupational and work-related diseases. It must be noted that any

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compensation received by an employee would mean that he had already suffered bodily harm which would affect his quality of life from then on. Likewise, it was in the interest of employers to provide sufficient protection to workers which would obviate the need to grant sick leave and compensation. Apart from education and publicity, law enforcement was an important strategy for protecting the health of workers. As set out in paragraph 19 of the Administration's paper, LD had extended its preventive work to common work-related diseases. Surprise inspections were conducted to different workplaces. Warnings and improvements notices were issued in relation to irregularities in musculoskeletal disorder prevention.

44. C for L stressed that enforcement work was not always easy. Taking the prevention of heat stroke at work as an example, LD had in April to September 2009 stepped up inspections of workplaces with a higher risk, and found that different preventive measures were needed for different industries with different working environment and worksite arrangements. This year, LD would consider adopting stringent enforcement actions in the coming summer, such as taking out prosecutions against contractors who failed to provide drinking water in construction sites. As regards rest break, it would be difficult to make it a statutory requirement because different industries had different work practices peculiar to their own operational needs. The Guide on Rest Breaks sought to provide general guidance for all industries.

45. The Chairman said that while the Hong Kong Observatory would issue a very hot weather warning and LD had published a checklist on "Risk Assessment for the Prevention of Heat Stroke at Work" to provide guidance to employers and employees for assessing the risk of heat stroke at workplaces, there was no requirement for employers to take action to deal with the situation. She considered that LD should provide further instructions in the checklist, such as requiring employers to arrange a 10-minute rest break for employees when the very hot weather warning was issued.

46. C for L responded that the checklist sought to give a general guideline for reference of employers and employees in different trades. In 2010, LD would conduct a special enforcement campaign between April and September, focusing on the adequacy and effectiveness of preventive measures taken at outdoor workplaces with a higher risk of heat stroke, in particular construction sites, outdoor cleansing workplaces, and container yards. LD would ensure that employers took appropriate preventive measures against heat stroke, such as provision of ventilation facilities in a kitchen and in a small and enclosed area in a construction site, and suitable work arrangements in an outdoor construction site. Appropriate enforcement actions would be taken against any violation of the safety and health laws.

Confirmed occupational diseases in 2009

47. Referring to the Annex to the Administration's paper, Dr LAM Tai-fai

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expressed concern that the number of confirmed occupational disease cases had increased from 204 in 2008 to 268 in 2009. Mr LEUNG Yiu-chung enquired about the reason for the increase in the number of confirmed cases of silicosis and occupational deafness.

48. C for L explained that the increase of confirmed occupational disease cases in 2009 was mainly attributed to the increase in number of cases of silicosis, occupational deafness and mesothelioma. It should be noted that mesothelioma was prescribed as a new occupational disease in 2008. As for silicosis, its latent period could be as long as 10 to 20 years. The figures for silicosis and occupational deafness as indicated in the Annex indicated the year in which the case was confirmed and reported to the Commissioner for Labour. It was expected that the number of diagnosed cases for occupational deafness would increase in the next few years following the prescription of noise-induced monaural hearing loss as a new occupational disease in February 2010.

49. The Chairman enquired about the substantial increase in the number of confirmed gas poisoning cases. C for L explained that the increase was caused by one accident in which the malfunctioned ventilation system of the kitchen of a restaurant caused gas poisoning to eight workers.

50. The meeting ended at 6:27 pm.

Council Business Division 2
Legislative Council Secretariat
14 April 2010