

**立法會**  
**Legislative Council**

LC Paper No. CB(2)2538/11-12(02)

Ref : CB2/PL/MP

**Panel on Manpower**

**Background brief prepared by the Legislative Council Secretariat  
for the meeting on 11 July 2012**

**Occupational Safety Performance in Hong Kong**

**Purpose**

This paper highlights the major views and concerns of members of the Panel on Manpower ("the Panel") on occupational safety in Hong Kong in the Fourth Legislative Council ("LegCo").

**Background**

2. According to the Administration, the Labour Department ("LD") attaches great importance to enhancing occupational safety, and is committed to ensuring that risks to the safety of people at work are 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 has been steady improvement in Hong Kong's occupational safety performance in recent years.

**Deliberations of the Panel**

3. The Panel has been very concerned about occupational safety in Hong Kong and has regularly discussed the subject at its meetings in the Fourth LegCo. The major views and concerns of members are summarized below.

## Measures to promote occupational safety and health ("OSH")

4. Members noted that the number and rate of occupational injuries had increased slightly in 2010 compared with those in 2009, and sought information on whether the Administration would put in place concrete measures to promote OSH.

5. According to the Administration, the construction industry was a high-risk sector, accounting for a large proportion of the more serious industrial accidents. There were two major challenges to the occupational safety performance of the industry. The commencement in sequence of major infrastructure projects in the past as well as the coming few years would result in an upsurge in such works, bringing pressure on the resources and manpower in the industry. In addition, Repair, Maintenance, Alteration and Addition ("RMAA") works were expected to grow phenomenally with the implementation of the mandatory building inspection and window inspection schemes and the provision of government subsidies for owners of dilapidated buildings to carry out building repair and maintenance works.

6. In respect of the major infrastructure projects, LD would proactively strengthen cooperation with the Development Bureau and relevant departments to ensure proper attention to safety issues and due consideration of the OSH requirements from the design stage to every subsequent stage of project implementation and delivery. LD would also provide advice to relevant works departments and project clients at the planning stage of major projects. As regards RMAA works, LD would step up inspections in various districts across the territory and would take follow-up actions on cases referred under the established referral mechanism.

7. LD would continue to seek improvements in work-at-height safety in the construction industry in close partnership with relevant stakeholders, including the Occupational Safety and Health Council ("OSHC"), the Construction Industry Council ("CIC"), trade associations, labour unions, professional bodies as well as other government bureaux/departments. In view of the anticipated increase in new works owing to the commencement of major infrastructure projects, the Administration would continue to organize promotional and publicity campaigns targetting work-at-height and RMAA works safety.

8. Query was raised about the effectiveness of the preventive and enforcement measures adopted by the Administration in ensuring OSH of workers in different industry sectors. Members were of view that the Administration should identify and analyze the causes for accidents occurred in different industry sectors, as such information could help the Administration to understand the root causes of the accidents before resorting to the most appropriate course of action.

9. The Administration responded that it had all along implemented a series of measures to promote OSH in the territory. These included enforcement campaigns targetting specific high-risk activities and sectors, such as the construction industry, to ensure employers' and employees' compliance with safety legislation as well as intensive publicity and promotional campaigns launched in collaboration with related organizations to promote key safety and health messages among workers.

#### Safety of RMAA works

10. Concern was raised over the increase in the number of accidents related to RMAA works. To ensure RMAA works contractors' compliance with relevant safety legislation, members considered that the Administration should conduct more regular inspections, apart from surprise inspections, to workplaces. A heavier penalty should be imposed for repeated non-compliance in order to achieve greater deterrent effect.

11. The Administration advised that LD had launched promotion and publicity campaigns vigorously, focusing on construction safety, RMAA works safety, scaffolding safety, catering safety, and cargo and container handling safety. Where circumstances warranted, LD had taken rigorous enforcement actions and issued Improvement Notices ("INs")/Suspension Notices ("SNs") to ensure compliance with relevant safety legislation and to remove imminent risks of death or serious bodily injury.

12. There were also concerns about the number of fatalities arising from RMAA works accounting for a considerable proportion of all construction fatalities, and the conviction rate for prosecution against non-compliance of safety standards.

13. According to the Administration, cases where legal proceedings had been concluded, had a conviction rate of 85%. An employer who failed to provide safe workplaces for employees might be subject to legal sanction. 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 a need to promote awareness of work safety to both employers and employees in the trade. LD had launched some tailor-made programmes for workers and had produced an Announcement in Public Interest appealing to workers' concern about safety at work.

#### Safety of lift and escalator maintenance and repair works

14. Noting the large number of lift incidents in recent years, members considered the level of penalty too low to provide sufficient deterrence. They

suggested that the Administration should introduce legislative amendments to enhance regulatory control over lift and escalator safety and to increase the penalty levels to deter malpractice and substandard works.

15. According to the Administration, the Electrical and Mechanical Services Department ("EMSD") was responsible for lift safety while LD was responsible for occupational safety of workers engaged in lift installation, repair and maintenance works. To ensure the safety of workers carrying out maintenance works at lifts, LD had all along been working closely with EMSD.

#### Safety and health of employees in the catering industry

16. Noting that the catering industry continued to rank top among all industries in terms of the number of accidents, members sought information on the preventive measures adopted by the Administration in promoting the OSH awareness of employers and employees in the industry.

17. According to the Administration, the increase in the number of accidents in the catering industry was mainly due to the relatively large workforce in the sector, and "injury by hand tool", "injury whilst lifting or carrying" and "contact with hot surface or substance" were the major causes of occupational injuries in the industry. LD had joined hands with OSHC to launch publicity campaigns to bring relevant safety messages to employees in the catering industry. In the past few years, LD and OSHC had launched a number of sponsorship schemes to provide financial support to small and medium enterprises ("SMEs") to purchase the necessary safety equipment. Among others, there was a scheme to provide subsidies for the purchase by SME catering establishments of cut-resistant gloves and slip-resistant shoes for kitchen frontline workers. These sponsorship schemes aimed to foster safety awareness and change work habits, and ultimately reduce the number of work accidents.

#### Occupational safety under hot or inclement weather

18. Members noted that CIC had released in 2008 the "Guidelines on Site Safety Measures for Working in Hot Weather" to promote the awareness of contractors and construction workers of the risk associated with working in hot weather, and recommended specific practices and measures for reference by the industry. Members called on the Administration to step up site inspection to prevent non-compliance with the guidelines. As the Occupational Safety and Health Ordinance (Cap. 509) ("OSHO") provided that employers had a general duty to provide a safe and healthy workplace for employees, there was a suggestion that the general duty should include suspension of work under extremely hot weather in order to ensure the safety of workers.

19. According to the Administration, LD had stepped up site inspection in very hot weather. 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' associations of the construction industry had taken action to inform the media about the provision of rest breaks to construction workers working in hot weather as appropriate. As the construction process involved a number of inter-related steps, 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.

20. Concern was raised about the risk of construction workers and professional drivers suffering from heat stroke while at work. Information was sought on whether employees who suffered from heat stroke were entitled to statutory compensation prescribed under the Employees' Compensation Ordinance (Cap. 282) ("ECO").

21. The Administration advised that under the existing law, employers were required to report cases of occupational injuries, fatal or non-fatal, arising from work accidents to LD. When filing such reports, some employers might, based on their observation, indicate that the employees' injuries might be heat stroke-induced. As symptoms of heat stroke were similar to those of some other diseases, whether an occupational injury was heat stroke-related could only be confirmed after doctors' diagnosis and LD's investigation of the case concerned. Employees suffering from occupational injuries were eligible for and could claim compensation under ECO, irrespective of whether the injuries were heat stroke-induced.

22. Members held the view that the Administration should investigate into cases of heat stroke at work and assess factors contributing to these incidents. Should the findings of the risk assessment indicate that the work environment of specific trades or industries was more prone to cause heat stroke at work, the Administration should give serious consideration to classifying heat stroke at work as an occupational injury.

23. According to the Administration, it was the responsibility of employers to assess the risk of heat stroke to their employees working in a hot environment and to take appropriate preventive measures commensurate with the needs of different industries and jobs. Such measures included arranging outdoor work in cooler periods during daytime, providing adequate drinking water, providing

a shelter at the workplace and rest areas to shield off direct sunlight, enhancing ventilation at the workplace, arranging for workers to take rest breaks at intervals, and providing relevant information, instructions, training and supervision.

24. In response to members' request for the extension of the coverage of OSHO to professional drivers to enhance their occupational safety, the Administration advised that it had reviewed the existing legislation relating to professional drivers. The Road Traffic Ordinance ("RTO") covered road safety issues concerning all drivers (including professional drivers), and these included the design and maintenance of vehicles and roads, drivers' driving skills and attitude, the use of vehicle security devices as well as the behaviour of other road users. The Road Traffic (Construction and Maintenance of Vehicles) Regulations regulated the construction and maintenance of vehicles, including safety after alteration and driver's accommodation providing adequate protection against bad weather, and the Road Traffic (Safety Equipment) Regulations regulated the safety equipment of vehicles (such as seat belts). In view of the scope of the provisions of RTO, OSHO did not cover the driver's seat of a vehicle. The Administration pointed out that it was difficult for employers of professional drivers to fully ensure the occupational safety of drivers while they were driving, as drivers' driving attitude, road conditions and the behaviour of other road users were beyond their control in a reasonably practicable manner. However, OSHO safeguarded employed drivers' OSH while they were carrying out non-driving work.

#### On-site safety officer

25. Members noted that an employer or a contractor was required to employ an on-site safety officer to monitor compliance with safety measures in the construction site. Concern was raised as to whether an on-site safety officer could discharge his duties with due diligence, as he might be in fear of dismissal upon reporting his employer's non-compliance with safety measures. There was a suggestion that in order to reduce accidents in construction sites, the Administration should review the employment policy of on-site safety officers, such that on-site safety officers would be employed by a third party such as surveyors, consultancy firms, or insurance companies which were engaged in the construction project to provide professional support and services, so as to keep the safety officer independent of the contractor.

26. According to the Administration, the primary role of a safety officer was to advise the principal contractor of safety and health practices, requirements and standards. A safety officer served as an in-house consultant assisting the management in instituting a safety management system and formulating control measures to enhance site safety, but did not have any regulatory role.

Frontline managers of construction sites, including site foremen, site agents and site managers, who had close working contact with workers daily, were in a position of authority to control the work and acts of individuals on site so as to prevent accidents.

### **Latest developments**

27. At the Panel meeting on 20 June 2012, members were briefed on the Administration's new measures to improve the OSH performance of construction workers and professional drivers. These measures included, among others, stepping up inspections and enforcement actions in the construction industry, launching of a "Work Safety Alert" on LD's website, implementing an "OSH Star Enterprise - Pilot Scheme on RMAA Safety Accreditation" to support SMEs of RMAA works to enhance work safety and launching of a series of publicity and promotional activities to disseminate to professional drivers the health messages of balanced diet, regular exercise and prevention of heat stroke.

28. The Administration will brief the Panel on the occupational safety performance in Hong Kong in 2011 at the meeting on 11 July 2012.

### **Relevant papers**

29. A list of the relevant papers on the Legislative Council website is in the **Appendix**.

**Relevant papers on  
Occupational Safety Performance in Hong Kong**

<b>Committee</b>	<b>Date of meeting</b>	<b>Paper</b>
Panel on Manpower	21.1.2009 (Item III)	<u>Agenda</u> <u>Minutes</u>
Panel on Manpower	16.7.2009 (Item II)	<u>Agenda</u> <u>Minutes</u>
Panel on Manpower	22.10.2009 (Item III)	<u>Agenda</u> <u>Minutes</u>
Panel on Manpower	21.1.2010 (Item III)	<u>Agenda</u> <u>Minutes</u>
Legislative Council	5.5.2010	<u>Motion on "Medical check-ups for professional drivers"</u>
Legislative Council	12.5.2010	<u>Motion on "Protecting the safety and health of employees at work in inclement weather"</u>
Legislative Council	19.5.2010	Motion on "Reviewing occupational safety and health and employees' compensation system"
Panel on Manpower	20.5.2010 (Item IV)	<u>Agenda</u> <u>Minutes</u>
Legislative Council	2.6.2010	<u>Official Record of Proceedings (Question 8)</u>
Panel on Manpower	20.1.2011 (Item IV)	<u>Agenda</u> <u>Minutes</u>



<b>Committee</b>	<b>Date of meeting</b>	<b>Paper</b>
Panel on Manpower	17.6.2011 (Item IV)	<u>Agenda</u> <u>Minutes</u>
Legislative Council	6.7.2011	<u>Official Record of Proceedings</u> <u>(Question 2)</u>
Legislative Council	19.10.2011	<u>Official Record of Proceedings</u> <u>(Question 7)</u>
Legislative Council	14.12.2011	<u>Official Record of Proceedings</u> <u>(Question 1)</u>
Legislative Council	11.1.2012	<u>Official Record of Proceedings</u> <u>(Question 10)</u>
Legislative Council	28.3.2012	<u>Official Record of Proceedings</u> <u>(Question 11)</u>
Panel on Manpower	20.6.2012 (Item V)	<u>Agenda</u>

Council Business Division 2  
Legislative Council Secretariat  
6 July 2012