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Panel on Manpower

**Background brief prepared by the Legislative Council Secretariat
for the meeting on 17 November 2011**

Construction safety in Hong Kong

Purpose

This paper provides background information on the discussions of the Panel on Manpower ("the Panel") on the subject of construction safety in Hong Kong.

Background

2. In 2010, the construction industry recorded the highest number of fatalities and accident rate among all industries. In 2010, the number of fatal accidents in the construction sector stood at nine, representing a decrease of 52.6% as compared with 19 accidents in 2009. The number of industrial accidents in the sector increased by 4.7% to 2 884, as compared with 2 755 in 2009. During the same period, the accident rate per 1 000 workers decreased by 4.5% from 54.6 to 52.1. Regarding repair, maintenance, alteration and addition ("RMAA"), there were 1 422 accidents involving six fatalities in 2010, representing an increase of 3.1% when compared with 1 379 accidents in 2009.

3. Among the nine cases of construction fatalities in 2010, six were related to "fall of person from height", two were related to "contact with moving machinery or object being machined" and one was related to "contact with electricity or electric discharge".

Deliberations of the Panel

Work-at-height safety of the construction industry

4. The work-at-height safety of the construction industry was discussed at the meeting of the Panel on 22 October 2009. Members called on the

Administration to review, together with all relevant stakeholders in the construction industry, the policy on construction safety and improve construction safety through -

- (a) stepping up enforcement action by making more visits to construction sites;
- (b) extending the construction period of property development; and
- (c) imposing a statutory requirement on the private sector to reserve 2% of the construction budget for occupational safety purposes.

5. According to the Administration, the general duties of employers as required under the Factories and Industrial Undertakings Ordinance (Cap. 59) and the Occupational Safety and Health Ordinance (Cap. 509) to provide and maintain safe plants and systems of work and a safe environment, together with the concerted efforts of relevant stakeholders in the industry to promote work safety, had made steady improvement in the safety performance of the construction industry. The number of industrial accidents in the construction industry had dropped from 14 078 in 1999 to 3 033 in 2008. The accident rate per 1 000 workers had dropped from one out of five in 1998 to one out of 20 in the first half of 2009.

6. There was a suggestion that a demerit point system should be introduced such that the licence of an employer or a contractor who had repeatedly breached industrial safety requirements would be suspended. According to the Administration, the Housing Authority and the Development Bureau had adopted a system under which an employer or a contractor who had a poor track record in industrial safety would be sanctioned.

7. Information was sought on the penalties imposed on employers for non-compliance with safety legislation and whether such penalty levels had any deterrent effect.

8. According to the Administration, while the average fine imposed on an employer or a contractor for more serious offences was about \$15,000, the amount varied with seriousness and nature of each case. The Labour Department ("LD") would provide the Court with information on the defendant's previous offences and fines, if any. The Court would usually impose a higher penalty for repeated offenders.

Safety in the use of tower cranes on construction sites

9. The safety in the use of tower cranes on construction sites was discussed at the Panel meetings on 8 July 2008 and 21 January 2010. Regarding a tower crane accident at a demolition site in Causeway Bay on 10 July 2007 resulting in the death of two workers and injury of five others ("the Causeway Bay accident"), members were concerned that the defendant was fined \$35,000 only and such a low penalty level had conveyed a false message to the public that the offence was not serious. Noting that the Informal Task Force on Safety of Tower Cranes under the Construction Industry Council had concluded its study of the Causeway Bay accident and had formulated a set of Guidelines on Safety of Tower Cranes ("the Guidelines") for adoption by the construction industry, members enquired whether the Administration would consider introducing legislation to enforce the practices as recommended in the Guidelines to enhance deterrence.

10. According to the Administration, the broad scope of provisions in existing legislation on safety of tower cranes had the advantage of casting a wider net to hold employers accountable for non-compliance with safety measures at construction sites. There were different tower crane models, and as technology advanced and improved models introduced, the Guidelines which dealt with the detailed process of tower crane operations might not be applicable to all models. Legislating the Guidelines could be counterproductive as unscrupulous employers might translate them into convenient clues to circumvent the law.

11. There was a suggestion that the Administration should consider imposing a limit on the life span of tower cranes. The Panel noted that some cranes were made of old parts from scrapped cranes. Owing to metal fatigue, such assembled cranes could be unsafe to use.

12. According to the Administration, it was difficult to draw a line on the life span of tower cranes which had hundreds of components. In addition, their degree of wear and tear varied from model to model and from brand to brand. At present, a number of measures had been put in place to ensure the safe use of tower cranes. These included -

- (a) tightening up the requirements for inspection and certification of tower cranes to include, among others, checking of key components before delivery to site;
- (b) tightening up the requirements for site supervision. These included requirements for the appointment of a supervising

engineer with qualifications, experience and competence to control, monitor and supervise operations on tower cranes, the conduct of a risk assessment and the carrying out of pre-installation checking;

- (c) requiring the owner of a tower crane to provide a checklist of components for inspection. A competent mechanical engineer would verify the components of a tower crane against the list provided by the manufacturer of the tower crane;
- (d) mandating proper keeping of maintenance and operations record to facilitate checking and verification by a competent examiner; and
- (e) mandating non-destructive testing on no less than 10% of the welded parts of a tower crane which had been used for 15 years. If cracks were identified, all the welded parts would be tested.

Safety in RMAA works

13. 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 paying surprise inspections, to workplaces. In case of non-compliance constituting an offence for repeated breach of the law, a heavier penalty should be imposed in order to achieve greater deterrent effect.

14. According to the Administration, LD had launched promotion and publicity campaigns vigorously, focusing on construction safety, RMAA works safety, scaffolding safety, catering safety, cargo and container handling safety. Where circumstances warranted, LD had taken rigorous enforcement actions and issued improvement notices or suspension notices to ensure compliance with relevant safety legislation and to remove imminent risks of death or serious bodily injury.

15. Information was sought on whether LD had any difficulties in planning and conducting safety inspections targeting RMAA works, since RMAA works were usually small in scale and carried out at the home of members of the public or old buildings under renovation, which might not come to the notice of LD.

16. According to the Administration, most RMAA works were small in scale, scattered in nature and very often undertaken by small contractors within a relatively short span of time. Small RMAA contractors were generally less conversant with the occupational safety and health legislation and their workers

were less aware of the need to take safety precautionary measures. All these presented challenges to enforcement since LD might not have information on the existence of some of the projects. With the introduction of the Mandatory Building Inspection and Window Inspection Schemes by the Buildings Department ("BD") and the launch of various sponsorship schemes to encourage the maintenance of dilapidated buildings, the anticipated growth in RMAA works would bring challenges to enforcement and promotion of work safety. To address the problems, LD would continue to work closely with BD, trade associations and workers' unions to promote safety and health at work through initiatives such as publicity campaigns and targeted programmes. Apart from continuing with the promotion activities, LD had established referral systems with the Housing Department, the Hong Kong Housing Society, the Urban Renewal Authority and the Hong Kong Association of Property Management Companies to collect intelligence on RMAA works to facilitate prompt and targeted enforcement actions on high-risk work activities. In the past few years, cases involving RMAA works had been referred to LD through the established mechanism. At the community level, LD also collaborated with District Councils and property management companies to promote RMAA works safety.

Relevant papers

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

**Relevant papers on
Construction safety in Hong Kong**

| Committee | Date of meeting | Paper |
|---------------------|-------------------------|--|
| Panel on Manpower | 22.4.1999 (Item VI) | <u>Agenda</u> <u>Minutes</u> |
| Legislative Council | 12.5.1999 | <u>Official Record of Proceedings</u> (Question 20) |
| Legislative Council | 7.7.1999 | <u>Official Record of Proceedings</u> (Question 7) |
| Panel on Manpower | 25.5.2000 (Item VII) | <u>Agenda</u> <u>Minutes</u> |
| Panel on Manpower | 15.2.2001 (Item IV) | <u>Agenda</u> <u>Minutes</u> |
| Legislative Council | 7.3.2001 | <u>Official Record of Proceedings</u> (Question 14) |
| Legislative Council | 16.10.2002 | <u>Official Record of Proceedings</u> (Question 2) |
| Legislative Council | 2.7.2003 | <u>Official Record of Proceedings</u> (Question 1) |
| Legislative Council | 10.3.2004 | <u>Official Record of Proceedings</u> (Question 5) |
| Panel on Manpower | 20.5.2004 (Item II) | <u>Agenda</u> <u>Minutes</u> |
| Panel on Manpower | 16.6.2005 (Item V) | <u>Agenda</u> <u>Minutes</u> |
| Panel on Manpower | 15.6.2006 (Item IV) | <u>Agenda</u> <u>Minutes</u> |
| Panel on Manpower | 21.12.2006 (Item V) | <u>Agenda</u> <u>Minutes</u> |

| Committee | Date of meeting | Paper |
|---------------------|--------------------------|--|
| Legislative Council | 30.5.2007 | <u>Official Record of Proceedings</u> (<u>Question 6</u>) |
| Panel on Manpower | 21.6.2007 (Item VI) | <u>Agenda</u> <u>Minutes</u> |
| Panel on Manpower | 20.12.2007 (Item III) | <u>Agenda</u> <u>Minutes</u> |
| Panel on Manpower | 8.7.2008 (Item I) | <u>Agenda</u> <u>Minutes</u> |
| 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> |
| Panel on Manpower | 20.5.2010 (Item IV) | <u>Agenda</u> <u>Minutes</u> |
| Legislative Council | 2.6.2010 | <u>Official Record of Proceedings</u> (<u>Question 8</u>) |
| Panel on Manpower | 20.1.2011 (Item IV) | <u>Agenda</u> <u>Minutes</u> |
| Panel on Manpower | 17.6.2011 (Item IV) | <u>Agenda</u> <u>Minutes</u> |