

OFFICIAL RECORD OF PROCEEDINGS

Thursday, 21 February 2013

**The Council continued to meet at
half-past Two o'clock**

MEMBERS PRESENT:

THE PRESIDENT

THE HONOURABLE JASPER TSANG YOK-SING, G.B.S., J.P.

THE HONOURABLE LEE CHEUK-YAN

THE HONOURABLE JAMES TO KUN-SUN

THE HONOURABLE CHAN KAM-LAM, S.B.S., J.P.

THE HONOURABLE LEUNG YIU-CHUNG

DR THE HONOURABLE LAU WONG-FAT, G.B.M., G.B.S., J.P.

THE HONOURABLE EMILY LAU WAI-HING, J.P.

THE HONOURABLE TAM YIU-CHUNG, G.B.S., J.P.

THE HONOURABLE ABRAHAM SHEK LAI-HIM, S.B.S., J.P.

THE HONOURABLE TOMMY CHEUNG YU-YAN, S.B.S., J.P.

THE HONOURABLE VINCENT FANG KANG, S.B.S., J.P.

THE HONOURABLE WONG KWOK-HING, M.H.

THE HONOURABLE JEFFREY LAM KIN-FUNG, G.B.S., J.P.

THE HONOURABLE ANDREW LEUNG KWAN-YUEN, G.B.S., J.P.

THE HONOURABLE WONG TING-KWONG, S.B.S., J.P.

THE HONOURABLE RONNY TONG KA-WAH, S.C.

THE HONOURABLE CYD HO SAU-LAN

THE HONOURABLE STARRY LEE WAI-KING, J.P.

DR THE HONOURABLE LAM TAI-FAI, S.B.S., J.P.

THE HONOURABLE CHAN KIN-POR, B.B.S., J.P.

DR THE HONOURABLE PRISCILLA LEUNG MEI-FUN, J.P.

THE HONOURABLE CHEUNG KWOK-CHE

THE HONOURABLE WONG KWOK-KIN, B.B.S.

THE HONOURABLE IP KWOK-HIM, G.B.S., J.P.

THE HONOURABLE MRS REGINA IP LAU SUK-YEE, G.B.S., J.P.

THE HONOURABLE ALAN LEONG KAH-KIT, S.C.

THE HONOURABLE LEUNG KWOK-HUNG

THE HONOURABLE WONG YUK-MAN

THE HONOURABLE CLAUDIA MO

THE HONOURABLE JAMES TIEN PEI-CHUN, G.B.S., J.P.

THE HONOURABLE NG LEUNG-SING, S.B.S., J.P.

THE HONOURABLE STEVEN HO CHUN-YIN

THE HONOURABLE FRANKIE YICK CHI-MING

THE HONOURABLE YIU SI-WING

THE HONOURABLE GARY FAN KWOK-WAI

THE HONOURABLE MA FUNG-KWOK, S.B.S., J.P.

THE HONOURABLE CHARLES PETER MOK

THE HONOURABLE CHAN CHI-CHUEN

DR THE HONOURABLE KENNETH CHAN KA-LOK

THE HONOURABLE LEUNG CHE-CHEUNG, B.B.S., M.H., J.P.

THE HONOURABLE KENNETH LEUNG

THE HONOURABLE ALICE MAK MEI-KUEN, J.P.

DR THE HONOURABLE KWOK KA-KI

THE HONOURABLE KWOK WAI-KEUNG

THE HONOURABLE DENNIS KWOK

THE HONOURABLE CHRISTOPHER CHEUNG WAH-FUNG, J.P.

DR THE HONOURABLE FERNANDO CHEUNG CHIU-HUNG

THE HONOURABLE SIN CHUNG-KAI, S.B.S., J.P.

THE HONOURABLE IP KIN-YUEN

DR THE HONOURABLE ELIZABETH QUAT, J.P.

THE HONOURABLE MARTIN LIAO CHEUNG-KONG, J.P.

THE HONOURABLE POON SIU-PING, B.B.S., M.H.

THE HONOURABLE TANG KA-PIU

DR THE HONOURABLE CHIANG LAI-WAN, J.P.

IR DR THE HONOURABLE LO WAI-KWOK, B.B.S., M.H., J.P.

THE HONOURABLE CHUNG KWOK-PAN

THE HONOURABLE CHRISTOPHER CHUNG SHU-KUN, B.B.S., M.H., J.P.

THE HONOURABLE TONY TSE WAI-CHUEN

MEMBERS ABSENT:

THE HONOURABLE ALBERT HO CHUN-YAN

THE HONOURABLE FREDERICK FUNG KIN-KEE, S.B.S., J.P.

DR THE HONOURABLE JOSEPH LEE KOK-LONG, S.B.S., J.P.

THE HONOURABLE CHAN HAK-KAN, J.P.

DR THE HONOURABLE LEUNG KA-LAU

THE HONOURABLE PAUL TSE WAI-CHUN, J.P.

THE HONOURABLE ALBERT CHAN WAI-YIP

THE HONOURABLE MICHAEL TIEN PUK-SUN, B.B.S., J.P.

THE HONOURABLE WU CHI-WAI, M.H.

THE HONOURABLE CHAN HAN-PAN

THE HONOURABLE CHAN YUEN-HAN, S.B.S., J.P.

DR THE HONOURABLE HELENA WONG PIK-WAN

PUBLIC OFFICER ATTENDING:

THE HONOURABLE MATTHEW CHEUNG KIN-CHUNG, G.B.S., J.P.
SECRETARY FOR LABOUR AND WELFARE

CLERK IN ATTENDANCE:

MISS ODELIA LEUNG HING-YEE, ASSISTANT SECRETARY GENERAL

MEMBERS' MOTIONS

PRESIDENT (in Cantonese): Council now resumes and continues with the motion debate on "Ensuring occupational safety".

ENSURING OCCUPATIONAL SAFETY

Continuation of debate on motion which was moved on 20 February 2013

IR DR LO WAI-KWOK (in Cantonese): President, with the facilitation of employers, employees and the Government over the years, the occupational safety of the construction industry in Hong Kong has seen great improvement. However, the number of serious accidents at work sites has recently increased rather than decreased. Among which, fatal accidents arising from work-at-height activities are particularly disheartening. As stated in the original motion, an increasing number of large-scale projects will commence in Hong Kong in the future. Therefore, it is imperative and timely to conduct studies with a view to ensuring occupational safety and enhancing industrial safety level.

We should adopt a multi-pronged approach to strengthen the occupational safety of construction workers. Firstly, the Government should collaborate with the industry to strive for enhancing the construction design management safety level, so as to give sufficient regard for safety of construction and subsequent maintenance during the design stage, and formulate corresponding proposals on eliminating hazards and risks.

Secondly, different stakeholders of a construction project should work in concert to set a reasonable duration of construction to reduce industrial accidents caused by working against the clock. Despite the shortage of construction workers, quite a number of people in the construction industry have recently relayed to me that some important clients of the industry — including private developers, public organizations and government departments — propose an overly tight deadline for completion of works to contractors, or even request for squeezing the construction period. In so doing, contractors, subcontractors and construction workers are inevitably under pressure to work against the clock, thus affecting industrial safety.

Thirdly, the Government should put more effort to support the industry in providing better on-the-job trainings for employees. Be it contractors, subcontractors or employers, they should all support their employees to take relevant courses run by such organizations as the Construction Industry Council (CIC) and the Occupational Safety and Health Council, so that employees can move with the times and keep abreast of knowledge on occupational safety.

Fourthly, the occupational safety awareness of those working in the industry should be comprehensively enhanced. As far as contractors are concerned, the CIC is promoting the adoption of the Pay for Safety Scheme in construction contracts. Under the proposal, contractors have to clearly list out items of expenses spent on work-site safety in their tender documents. These expenses can be refunded if safety performance is satisfactory. Otherwise, an appropriate amount is deducted from the refund or even no refund will be made at all. This will encourage contractors to put emphasis on ensuring occupational safety. As for those working in the industry, there are quite a number of events, such as talks and seminars, in place to help promote their awareness of occupational safety.

Fifthly, employers who violate the law should, of course, be punished according to law. The training on and management of occupational safety for employees should also be strengthened at the same time. Employees who do not comply with industrial safety guidelines, or even work under the influence of alcohol and drugs, should be educated and advised against such actions. Penalty should be applied to serious offenders.

Sixthly, a five-day work week for work sites should be actively promoted, rendering it unnecessary to work on Saturday. If it is necessary to work on Saturday, a shift system should be implemented, so as to ensure that employees will be in good shape and can stay alert at work, as well as maintain work-life balance and enjoy family life. A colleague proposed in his amendment enacting legislation on setting standard working hours. As this issue is still very controversial in the community, it is really not appropriate to be implemented in a hasty manner.

Seventhly, the Government can consider setting set up a "central employees' compensation fund" or compensation funds for employees by

industry, so as to provide comprehensive compensation protection to employees for all injuries and deaths or occupational diseases arising from work.

President, if we are to tackle the problem not only expediently but permanently, and strengthen the occupational safety of construction workers, the authorities must face up to and expeditiously resolve the shortage of construction workers and the imbalance of its supply and demand. As shown by the findings of a manpower survey conducted in the form of questionnaire by several organizations such as the Hong Kong Construction Association and the Hong Kong Federation of Electrical and Mechanical Contractors in November 2012, construction sites with works in progress had over 15% of labour shortage in all kinds of skilled workers on average. This brought serious challenges to work progress and work site safety. Members of the industry have repeatedly relayed to me the seriousness of this problem.

In the past, when project schedules were not that tight, employers could allocate manpower to guide newcomers and give sufficient time for them to practice on the job. As practice makes perfect, mistakes could subsequently be reduced and occupational safety be enhanced. Nowadays, the construction industry is facing the difficulties of succession gap and manpower strain. It is difficult to allocate manpower to guide newcomers, and workers very often are forced to work overtime day and night, racing against the clock to complete their works. Working overtime continuously in such an exhausted state, occupational safety would inevitably be greatly compromised.

In fact, at the Legislative Council meeting on 9 January, I raised an oral question to the relevant authorities regarding labour shortage of the construction industry. I hereby urge once again that the SAR Government, together with members of the industry, to make a good estimate on the supply and demand of the construction manpower, to review and optimize the existing arrangements such as the Enhanced Construction Manpower Training Scheme and the Contractor Cooperative Training Scheme, and to put in more training resources to attract more newcomers to join the industry while striving to raise the skill level and industrial safety standard of newcomers, with a view to strengthening occupational safety protection.

President, I so submit.

MR TOMMY CHEUNG (in Cantonese): President, occupational safety has long been a key concern of the catering industry. As an employer, I often said that one accident is still too many. The catering industry has for years been in full collaboration with the Labour Department as well as other relevant departments in strengthening publicity and education to reduce the number of injury cases at work. In fact, I can see that such awareness has been substantially raised in the industry, with safety measures more comprehensive than before.

In fact, our achievements are there for all to see. According to figures of the Labour Department, the number of industrial accidents in the catering industry has been on the decline over the past 11 years, down from 12 621 cases in 2001 to 7 154 cases in 2011, representing a decrease of more than 40%. The figures for the first half of 2012 also continued to fall, down from 3 413 cases in the first half of 2011 to 3 063 cases, representing a decrease of 10.3%. The accident rate per 1 000 workers also decreased by 11.4%, from 29.5 to 26.2.

Although the catering industry has the highest number of industrial accidents among all industries, most of the injuries sustained are minor and 80% involved workers getting injured by moving heavy articles or using certain tools, or they get burned or slip on the floor. Fatal cases are rare.

President, the amendments made to the original motion and the main arguments in our debate today all focused on employers' responsibilities. However, we have neglected another problem. Although employers have become increasingly aware of occupational safety and the numbers of injuries and fatalities have been decreasing, employees' compensation insurance premiums continue to rise. In recent years, there are frequent cases of insurance companies refusing to underwrite insurance policies.

Take the catering industry as an example. In recent years, employees' compensation insurance premiums have at least recorded a single-digit increase year on year. Double-digit increases have been common and some members of the industry even have more than a twofold increase. Yet, an increase in premium can still be regarded as bearable, being refused to underwrite an insurance policy is a real headache. Very often, employers will only receive notice of non-renewal from insurance companies when insurance policy is about to expire, leaving members of the industry at a loss.

We should not think that it is the fault of the industry for not getting their insurance policies renewed. In many cases, companies being refused an insurance policy have a pretty good record, with very small amount of insurance claimed in the past. For example, insurance companies would rather refuse to underwrite insurance policies for restaurants which provide delivery services on bicycle in order to avoid unnecessary risks. As such, how should members of the industry make a choice? Should they choose an insurance policy or a value-adding business opportunity? Does that make sense at all?

President, I have warned the authorities long ago that insurance companies focusing on businesses for small and medium enterprises (SMEs) often refuse to underwrite insurance policies or would raise premiums as the catering industry is regarded as high risk in nature. With the problem looming large, the bargaining power of the industry is dwindling. It has also threatened the space of survival for SMEs.

According to people familiar with the insurance sector, one of the main reasons for raising insurance premiums is the substantial surge in claims in which claimants exaggerated his clinical conditions and degrees of injuries to get higher insurance compensation, which have incurred losses to insurance companies, making it necessary to raise premiums significantly. In fact, the minimum wage is also one of its reasons as wages have been higher.

I have a strong aversion to insurance companies which have unilaterally shifted all the risks to employers. However, I would like to point out that while we put the responsibility for occupational safety mainly on employers, it is also necessary to address squarely the problem of fake work injuries. The authorities are also responsible for stepping up measures to combat cases of making fraudulent claims, especially illegal acts such as champerty and conspiracy to make fraudulent insurance claims.

I moved a relevant motion in late 2011 at this Council, requesting the Government to face up to this problem. The motion was supported by colleagues and passed. Unfortunately, more than a year has passed, the market operation of employees' compensation insurance still sees no improvement today. Worse still, it becomes even more chaotic and ineffective.

Regarding one of the amendments proposing the setting up of a "central employees' compensation fund", I would like to caution the authorities, while the Liberal Party has reservations about this proposal, setting up a "central employees' compensation fund" may be a way out if the problems remain unresolved. The reason is that only the Government can bear the responsibility of "managing the books". Only then can it prompt the authorities to proactively control the losses, combat cases of fraudulent insurance claims, and plug the loopholes.

I would like to take this opportunity to advise the authorities to take seriously the difficulties of taking out employees' compensation insurance in the industry as soon as possible. Otherwise, once SMEs cannot bear it anymore, they will force the Government to shoulder the responsibility of ensuring the industry can take out employees' compensation insurance at reasonable and inexpensive costs.

President, I so submit.

DR CHIANG LAI-WAN (in Cantonese): President, how do we ensure occupational safety? My words of motto are "industrial safety is everyone's responsibility". Everyone here refers to employers, the management and employees. They are all responsible for ensuring occupational safety. When we talk about safeguarding occupational safety, the construction industry should not be left unmentioned. According to statistics, a total of 24 cases of fatal accidents happened in the construction industry in 2012, claiming two lives every two months on average. The number of fatal accidents in the construction industry was also the highest among all industries. In view of the vast number of accidents, there are suggestions that the Government should increase the amount of coverage for accident insurance. I think life is invaluable. Once an accident happens, no matter how much insurance compensation is given, it cannot reverse the situation. Therefore, I have "zero tolerance" for industrial accidents. Not even one single accident should have happened.

Why did so many accidents happen in the construction industry in recent years? I think there are three main reasons, namely the increasing number of construction projects, manpower shortage due to an ageing workforce in the

industry, and accidents resulting from workers working against the clock because of project delay.

Firstly, a number of large-scale construction projects have been underway in Hong Kong in recent years. Apart from three railway lines, the express rail link, the cruise terminal and the Hong Kong-Zhuhai-Macao Bridge, quite a number of private and public building projects are under construction at the same time. It has put a strain on the resources of the industry, leading to severe manpower shortage. As far as I understand, there is currently a severe shortage of skilled bar fixers and plank fixing workers in the industry. Even with a daily wage rate of \$2,000, it is hard to hire workers. With so many projects under construction at the same time, it has not only resulted in manpower shortage, ever-increasing wages and significant rise in construction costs, but has also greatly compromised the construction quality and work safety of projects.

Secondly, the construction workforce has been ageing rapidly in recent years. Young people are unwilling to join the industry, resulting in a severe manpower shortage. According to figures released by the Construction Workers Registration Authority, as at the fourth quarter of 2012, more than half of the registered workers were aged over 45. It was even worse for plank fixing workers, with more than half of them aged over 55 on average. This situation is a cause for concern. Younger workers aged under 30 only make up 12.9% of the total workforce. These figures clearly reflect that serious problem of succession gap in the industry.

Under the collaboration of the Government and private enterprises, a number of training programmes have been launched in recent years to attract young people to enter the industry by offering comprehensive training and subsidies. Yet, even if young people do not mind the hard and exhausting work of the industry, I reckon that their parents and family members, in view of the high accident rate of the construction industry, probably do not want their children or husbands to engage in such high-risk work if there is a choice. Therefore, we hope that the Government would expeditiously roll out measures to improve the operating environment of construction sites and raise the safety level of the construction industry, so that the number of injuries and fatalities in the construction industry can be reduced and parents can feel assured to let their children join the industry.

Thirdly, I would like to talk about accidents resulting from workers working against the clock because of project delay. As far as I understand, many contractors and sub-contractors in the industry are very concerned about being fined because of project delay. As a result, they ask workers to work against the clock and ignore safety supervision. To race against time to complete the projects, workers with insufficient equipment and inadequate training are also forced to take up complicated and dangerous work. President, some projects allocated plenty of time in land resumption and design, allowing only one or two years for construction. That was totally unreasonable. Therefore, the DAB supports setting a reasonable period for construction, which can probably reduce accidents resulting from working against the clock.

President, according to the Employment Ordinance, all employers have to take out employers' compensation insurance for their employees and report work injuries. However, nowadays, many sub-contractors would hire self-employed workers. There is only contractual relationship between sub-contractors and workers. Without employment relationship between both parties, sub-contractors have no responsibility to take out employers' compensation insurance for their workers and report work injuries. Besides, as the construction industry is of a high-risk nature, its insurance premiums would be higher than that of other industries. The premiums are so high that many self-employed workers cannot but give up taking out insurances. If they were injured or died because of industrial accidents, they may not receive any compensation.

Therefore, the DAB supports mandating principal contractors to take out employees' compensation insurance for all workers (including self-employed persons) involved in the construction project and to share the legal responsibility of reporting work injuries with contractors, so as to refine the system for reporting work injuries. In this way, both the self-employed workers and employers can enjoy the protection of employees' compensation insurance.

The DAB generally agrees to the original motion moved by Mr POON Siu-ping. As for the amendment moved by Mr LEE Cheuk-yan, the DAB supports a number of his proposals. As such, the DAB will vote to support both of them. Mr TANG Ka-piu suggested including heat stroke in the scope of occupational diseases. This suggestion is worth studying, even though the community has not reached a consensus on it. Therefore, the DAB will vote in

support of his amendment. As for the amendment moved by Mr SIN Chung-kai, we think that (*The buzzer sounded*)

PRESIDENT (in Cantonese): Dr CHIANG, your speaking time is up.

DR CHIANG LAI-WAN (in Cantonese): the specific working hour system should be left to be discussed between employers and employees. Thank you.

MR FRANKIE YICK (in Cantonese): President, when it comes to occupational injuries and fatalities, one case is really too many for the construction industry or other industries. According to figures of industrial accident cases for the first half of 2012 announced by the authorities, the number of accidents recorded in the industries of transportation, storage, postal and courier services dropped by 7% when compared with the same period of 2011. Nevertheless, many members of the logistics and transport industry told me that it has been very difficult for them to take out employees' compensation insurance (labour insurance) in recent years. Insurance companies still refuse to underwrite insurance for the logistics and transport industry on the pretext of its relatively high accident and claim rates. Even they are willing to underwrite insurance policies, the premiums would be significantly raised. For example, the insurance premium for a 10-staff transport company has considerably surged from tens of thousands dollars to \$300,000 or \$400,000.

Although the Employees' Compensation Insurance Residual Scheme came into being in April 2012 to assist employers of the logistics and transport industry who have difficulties in taking out labour insurance, the insurance premiums it offers are usually higher. It is basically just a stop-gap, rather than permanent, solution. It cannot hit the nail on the head in resolving the problem of expensive insurance premiums and insufficient insurance companies willing to underwrite insurance policies for the industry. People in the insurance sector claim that the ever-increasing and relatively high accident claim rate is one of the reasons they turn their back on the logistics and transport industry. Therefore, if occupational safety can be effectively enhanced to reduce the occurrence of accidents, it should help reduce the premiums.

Employers should of course put in place the necessary safety measures, provide adequate training, instructions and equipment, and advise their employees on how to work safely. However, employees at the same time are also responsible for co-operating with employers to ensure occupational safety for themselves and their co-workers. The Hong Kong Storehouses, Transportation & Logistics Staff Association and the Hong Kong International Terminals Group Employees General Union once conducted an occupational safety survey for their industries, with 23% of the respondents indicating that accidents were caused by careless and negligence on their own. Therefore, in order to raise employers' and employees' awareness and concern of occupational safety and health so that they can cultivate good working habits, we think that the authorities should step up relevant publicity and promotion, as well as education and training efforts. In view of the relatively high number of industrial accidents in the construction and catering industries, the authorities organized the Construction Industry Safety Award Scheme and the Catering Industry Safety Award Scheme in 2012. I hope that the relevant award scheme can be extended to the logistic and transport industry, through which to raise its occupational safety concern.

Apart from installing relevant safety equipment and improving employees' working habits, maintaining good health would also help reduce the accidents caused by physical illness. However, as professional drivers stay in vehicles for long hours and with no exercises and irregular meal time, they very often are highly susceptible to urban diseases such as diabetes and hypertension. With an ageing population, drivers on average are mostly aged over 50 nowadays. This is particularly the case for those driving green light buses, the ages of three light bus drivers may add up to at least 200 years. As professional drivers grow older, their physical condition would deteriorate, generating various types of hidden diseases like heart disease. Besides, accidents caused by the sudden onset of diseases by professional drivers were not uncommon in recent years. Last November, a traffic accident happened on Chai Wan Road where the bus driver was stricken by a sudden onset of diseases while driving. Besides, there is now a manpower shortage in the industry, prompting drivers to extend their working hours with inadequate rest. This also explains the occurrence of accidents.

In fact, as many professional drivers are so-called self-employed persons or rentee-drivers, they are not protected by the Employees' Compensation Ordinance. Besides, the Occupational Safety and Health Ordinance does not

cover drivers. Professional drivers can only keep their fingers crossed. To ensure the safety of professional drivers, the authorities should encourage professional drivers to pay attention to their health, and constantly provide some regular and flexible medical check-up schemes so that they can nip diseases in the bud. It is also hoped that resources can be allocated to organizing more publicity activities to promote the health awareness of professional drivers, and even offer training on the right attitude and posture of driving, and so on. By doing so, it will exert an ongoing subtle influence on professional drivers and raise their alertness on occupational safety.

Besides, to ensure the safety of drivers and passengers, the working hours for drivers should not be too long in order to prevent any unnecessary accidents caused by fatigue. The authorities should face up to the problem of labour shortage faced by the transport industry. The Government pointed out that there are about 1 million or more people holding various kinds of driving licenses of commercial vehicles like taxis, light buses, goods vehicles and buses, far exceeding the total of nearly 150 000 relevant licensed vehicles. Nevertheless, it does not mean that holders of relevant driving licenses will all opt to become professional drivers. According to a media report last Saturday (16 February), there is a severe manpower shortage of drivers for cross-boundary vehicles, non-franchised buses and green public light buses, and so on. Therefore, the Government should take measures to encourage more people to enter the industry. If the problem of manpower shortage cannot be resolved with local workforce, it is necessary to seriously consider introducing a labour importation scheme as suggested by the industry, so as to allow enough resting time for drivers and reduce accidents.

President, I so submit.

DR KWOK KA-KI (in Cantonese): President, I thank Mr POON Siu-ping for proposing such a meaningful motion of "Ensuring occupational safety" on this very day. Judging from the figures of injury cases today, we may find the situation not bad. As many colleagues mentioned earlier, the figures have been reduced significantly. However, we have to understand that Hong Kong has transformed from a construction-focused to a service-oriented city over the past two decades, with many factories having moved northward. It is for this reason that many work injury cases have simply disappeared in Hong Kong. However,

people who once travelled to Shenzhen or Guangdong province would know that many unsafe industrial behaviors and accidents have just been shifted from Hong Kong to the Mainland. We all know that many factory owners on the Mainland are in fact Hong Kong people. If we fell happy to see improvement of occupational safety in Hong Kong, I think that is a false dawn.

Back in the days when I was pursuing my studies, I joined the Association for the Promotion of Occupational Health with a group of doctors. I also teamed up with a group of colleagues to set up the Hong Kong Workers' Health Centre in 1984, and had witnessed the development of occupational safety and the trend of industrial accidents in Hong Kong. As we just heard, many colleagues raised a big issue, that is, it is not possible to take out employees' compensation insurance (labour insurance). President, this is a very interesting question: why are they so concerned about not being able to take out labour insurance policies? They do not care about employees' safety, but are most concerned about being unable to take out labour insurance.

Let us imagine if the Labour Department, the Occupational Safety and Health Council (OSHC), employers and employees were all doing a good job, insurance premiums would not be so expensive. So, why would the insurance premiums be so expensive in Hong Kong? It has much to do with our weak awareness of occupational safety, the persistently high number of injury cases at work, as well as employers' and employees' general lack of concern about preventing occupational diseases and work injuries.

Mr Frankie YICK just mentioned that it is very easy to take out insurances in his sector. In fact — Mr Tommy CHEUNG is not here — it would not be very difficult for any people to take out insurances. I hope that employers or the business community would think for a moment about it. Actually, they have themselves to blame for the difficulties in taking out insurance. Yet, they blame the Government. If zero accident can really come true in Hong Kong today when we pass through various construction sites, signage reading "Zero is the target for both fatal and injury accidents at work" can be seen which show their goals of becoming a quality construction site. Yet, figures tell us otherwise.

I believe that the coming decade will still be a peak season for industrial accidents. Whenever Hong Kong is in a construction boom with large-scale

infrastructure projects underway and an urge to build housings, the number of injuries and fatalities would certainly go on the rise. Now that many jobs have been delegated to the OSHC by the Government, it may also do good as the OSHC can act as a shield for the Government. Yet, most important and fundamental of all, the OSHC cannot be deputized to make and enforce laws. It can at best act as a bridge among the Government, employers and employees, hoping that safety awareness can be spread across all sectors. However, for employers, especially those of some large-scale work sites, to comply with and duly implement labour legislations, there is still a long way to go before achieving this target.

At present, safety officers are employed in many construction sites with more than 100 workers. Yet, why does the persistently high number of injuries and fatalities shows no sign of abating? Who are the safety officers working for? As we all know, they of course work for the bosses of construction sites. Therefore, how would the safety officers stand forward and tell their bosses not to blindly force workers to work against the clock and advise that there is room for improvement in the safety of scaffolding? It is true that we must have safety officers in place. However, they can by no means replace a watchdog organization and make employers abide by laws. Over the years, we do not think the Labour Department has fulfilled its duties to monitor work sites. The significant drop in the number of work-injury cases may belie the reality we see. Besides, the figures, as we all know, are very often "fudged". Let us not stretch too far. At present, cases of work injuries with incapacity for less than four days do not have to be reported, and no one would report about it. Therefore, figures of many minor work-injuries cannot be seen by us. President, employers should not sing their own praises for the low figures. It is just owing to the fact that the authorities do not handle work injuries with incapacity for less than four days and they are not required to report about it.

As such, are these mere figures telling us that occupational safety has been guaranteed and there has been protection against occupational diseases? That is absolutely not the case. In fact, many organizations have specifically pointed out two tasks which the Government has not carried out. The first is amending various guidelines regarding worker protection under the Factories and Industrial Undertakings Ordinance. These guidelines should actually be enacted into laws. When I chatted with Mr Charles Peter MOK earlier on, he mentioned that the sector to which he belongs actually has a set of guidelines on work injuries.

However, as they are not laws, many people working in the information and technology sector do not know that they should follow the guidelines, and employers do not abide by them either. It has been discussed in the sector for over two decades, with an aim to enact the guidelines into laws. Yet, the Government has turned a deaf ear to it. The second is the setting up of a central compensation fund. This area had been talked about before.

Lastly, I would also like to point out that the Government should provide work-injury rehabilitation services. The existing rehabilitation services are very inadequate. We hope that a central mandatory rehabilitation programme would be developed, so that all employees who have had injuries at work could receive proper rehabilitation services and care as soon as possible. It is also most important that they can return to work at the earliest possible time, because once the golden period is missed, it would be impossible for them to return (*The buzzer sounded*)

I so submit. Thank you, President.

MR LEUNG KWOK-HUNG (in Cantonese): President, "I will get the job done" is a famous saying of Donald TSANG when he was the Chief Executive. Since the post of the Chief Executive is considered as a job, accordingly Legislative Council Members will follow suit, in particular the group of Members in support of Donald TSANG. Some of them have already become LEUNG's fans. In fact, politicians will suffer from an occupational disease, which is telling lies.

I wish to seek the advice of Secretary Matthew CHEUNG as to whether the post of Legislative Council Member is considered as an occupation. When we fill in forms, we will declare that being Legislative Council Member is our occupation, is our safety protected? Having taken up this occupation for some time, Members cannot help telling lies and inevitably possess the skills of fooling themselves as well as others, has he ever considered providing occupational safety training to us, 70 Members, reminding us not to tell lies too often? For example, Mr TAM Yiu-chung claimed that he did not know Lawrence MA Yan-kwok, nor did he know Mr MA would attend and speak at a meeting. What is the point of inventing Google? It is because we can easily tell the truth from falsehood on Google. It is found that Mr TAM Yiu-chung is the spokesman for judicial and legal affairs of the Democratic Alliance for the Betterment and

Progress of Hong Kong, and Mr Lawrence MA Yan-kwok is the deputy spokesman. Buddy, is this a lie?

PRESIDENT (in Cantonese): Mr LEUNG, you have digressed from the subject, please speak on this motion.

MR LEUNG KWOK-HUNG (in Cantonese): Yes, I simply quote an example. If I tell a big lie which also involves myself, it means I should be condemned. This is a lie within a lie, a lie to cover up another lie. Accordingly, I hope Secretary Matthew CHEUNG can consider formulating a tailor-made scheme for us, 70 Members, a scheme that we should not go too far in telling lies, otherwise it becomes a disease, and we can hardly have any compensation.

I know the President is going to stop me, therefore I will not go on talking about it anymore. The President is right, I have digressed from the subject. Fine, I go back to the subject under discussion.

Everyone of us talk about ensuring occupational safety. Fellow Members, how is the safety of workers measured? It is measured by the degree and duration of their work. Let me start with duration, that is, working hours. President, LEUNG Chun-ying also suffers from an occupational disease, he suffers from the illness of lying. He lied about studying on how to introduce legislation for standard working hours after taking office, but then he failed to do so. President, God helps those who help themselves, if workers do not even have the right to determine the number of hours they work, and the Government does not enact legislation to regulate the maximum number of weekly or monthly working hours of workers, which means there is no protection over the duration of work, how can there be occupational safety? If a person has no protection over the number of hours he works, how can he protect himself?

Mr Frankie YICK has just mentioned that the green minibus industry is hard hit, with many elderly people working in the industry. I have once received a complaint from an elderly person, who later told me not to follow up. I asked him for the reason, and he said, "Mr LEUNG, I have retired and I can hardly make ends meet, I then looked for a job to earn some money. If you lodge a complaint, I will lose my job." I asked him why he approached me, he said he

simply wanted to air his grievances, and that was all. Is he pitiful? The Government's undesirable handling of retirement protection has prompted elderly people to join the workforce again, which in turn expose them to occupational diseases. Even so, they dare not request Honourable Members to lodge a direct complaint against their bosses, is this miserable? In this regard, if no legislation is enacted for standard working hours, all our discussions today will be a waste of time, or at least not very fruitful.

Secondly, the minimum wage of \$30 per hour. Buddy, if people cannot make their living from their existing working hours, they will naturally have to work longer hours. If the Government does not protect the hourly wage of workers so that they can make ends meet, workers have to work longer hours.

Thirdly, employees do not have collective bargaining power when they want to express their views to employers. This is a gift from TUNG Chee-hwa to employers by scrapping the right to collective bargaining. If that elderly man who approached me was entitled to collective bargaining power, and if I succeeded in opposing the abolition of three pieces of labour law in the public gallery of the old Legislative Council Building in 1997, so that workers should not be discriminated against, why should that elderly man approach Long Hair who is a rascal, and who has been scolded by the "potato" with yellow skin and a white heart? That elderly man could have tackled the problem on his own.

Hence, what has the Government said here? Discrimination against workers is acceptable, collective bargaining power is absent, and minimum wage is a stopgap measure formulated by a commission with four parties, a commission comprising the Government in collusion with the business sector and the labour, controlled by unscrupulous academia. At each meeting, we will move a motion for discussion in this Chamber, but each time we will "shout to scare", just like hitting villains on the street. In the absence of fundamental rights, how can workers be protected? In a Legislative Council controlled by wealthy people, how can there be enough votes to pass the bills which aim at protecting workers? My speaking time is up, right? But I still have nine seconds of speaking time and I want to scold further. LEUNG Chun-ying is an avenger, not legislating for standard working hours. He is a villain, a sinful person (*The buzzer sounded*)

.....

PRESIDENT (in Cantonese): Mr LEUNG, your speaking time is up.

MR MARTIN LIAO (in Cantonese): President, we hear about industrial accidents in the construction industry every now and then. In October last year, there was a serious incident in which an operating platform at a construction site of an artificial island for the Hong Kong-Zhuhai-Macao Bridge (HZM Bridge) collapsed suddenly, causing one death and 14 injures. This incident aroused the public concern about occupational safety and health once again.

The number of industrial accidents in the construction industry has substantially fallen in the past decade, from about 9 200 in 2001 to about 2 800 in 2010, that is, the accident rate per 1 000 workers dropped from 114.6% to 52.1%. Having said that, some people in the industry suggest that the drop in numbers may be due to the small number of construction works undertaken in the past few years, which does not mean there has been a substantial improvement in occupational safety.

In fact, the number of industrial accidents in 2011 has a year-on-year increase of 8% to about 3 100 cases with 23 deaths. Last year, the number of fatal cases maintained at a level of about 22 cases, and compared to nine in 2010, the situation warrants our concern. Comparing to 3.9% in the United States and 1.9% in the United Kingdom, the accident rate in the construction industry in Hong Kong still leaves much to be desired.

President, following the commencement of the 10 major infrastructural projects, including three railways, the Express Rail Link, the cruise terminal and also the HZM Bridge, the works of some of them are already in full swing, and coupled with the public and private housing construction works to be embarked on in the near future, including the provision of at least 100 000 public rental housing units in the next five years, resumption of the Home Ownership Scheme and urban renewal projects as pledged by the Chief Executive in the Policy Address, as well as some potential projects, such as the third runway in the Airport and new town development plans, we believe that the number of construction works will continue to rise in the next few years. More and more workers will join the construction industry, among them, many will be newcomers. Relatively speaking, these people have inadequate experience,

skills and safety awareness, hence there is a higher chance for accidents and the Government needs to enhance work safety through various means.

According to the analysis of the industry, with the commencement of large-scale works projects or when various projects reach the peak of construction, the resources and manpower in the industry are under great strain and incidents involving negligence are prone to happen, and very often industrial accidents will increase. One of the main causes is the time limit set for the construction of government projects. For works project under a tight schedule, in order to finish the works on time to avoid being fined, workers and contractors may neglect safety measures or safety requirements for the sake of convenience. The most common examples are workers forgetting to wear the safety harness or helmet, or not complying with the safe work procedures or contractors hiring workers who lack the skills to deal with complicated work procedures. All these are potential risks of industrial accidents.

The incident involving the HZM Bridge was said to be related to working against the clock as the project had been delayed for a year because of the lawsuit. Therefore, I believe that the Government should review the reasonable duration of construction and review the construction timetable according to the prevailing situation with the contractor on a regular basis, so that the contractors and construction workers will not neglect the safety measures or safety code of practice for fear of being fined due to the failure to meet the deadline. Of course, the Labour Department should also step up the inspection of construction sites and issue suspension notice and institute prosecution against non-compliant contractors. It should also enhance the occupational safety training for workers and safety officers provided on a regular basis.

According to the information of the Labour Department, more serious accidents that occurred in the construction industry were mainly due to fall of person from height, electrocution, collapse of structures/soil, lifting operation and people struck by falling objects. There are two pieces of legislation regulating safety in the construction industry, namely the Factories and Industrial Undertakings Ordinance and the Construction Sites (Safety) Regulations. However, these ordinances only stipulate that the proprietors and contractors of construction sites have "general duties" to ensure the work safety of all employees, including providing and maintaining safe plants and safe systems of work, and taking adequate steps to prevent any person in the construction sites

from falling from a height of 2 m or more, with no provision regulating the work-at-height procedures and safety measures, as well as the responsibility and penalties of those concerned.

Comparatively speaking, the United Kingdom, which attaches great importance to occupational safety, has formulated dedicated legislation, namely the Work at Height Regulations 2005, as early as 2005, to regulate the safety of work-at-height activities. It has reviewed the legislation more than once and defined "work-at-height" activities and set down strict requirements concerning the structure and area of the work platform and the relevant safety measures.

President, I agree to the suggestions of my colleagues that the Government should enact dedicated legislation to provide for stricter requirements on the work procedures, safety measures and criminal liabilities for work-at-height activities. I also suggest that the Government should introduce a blacklisting system and publish the names of non-compliant contractors, and also implement a strict Demerit Point System to impose a deterrent effect.

President, I so submit.

PRESIDENT (in Cantonese): Does any other Member wish to speak?

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): Mr POON Siu-ping, you may now speak on the three amendments. You may speak for up to five minutes.

MR POON SIU-PING (in Cantonese): President, I thank the 15 Members who have expressed their views on occupational safety. I would especially like to thank the three Members who have moved amendments to the motion and they have all put forward some specific proposals.

The proposal of Mr SIN Chung-kai in his amendment tallies with the direction of the labour sector in striving for legislating on standard working hours. The proposals put forward by Mr TANG Ka-piu in his amendment are

also in line with many of my views, such as the comprehensive review of the Employees' Compensation Ordinance and the extension of the coverage of occupational diseases.

Mr LEE Cheuk-yan's amendment mainly concerns occupational safety in the construction industry and I agree to his suggestions in principle. As regards his suggestion to enact legislation for regulating work safety of construction, there is actually a scheme in place. The Hong Kong Housing Authority (HA) has introduced a three-pronged approach regarding the safety at construction sites through the procurement strategies and performance monitoring mechanism, strengthening the terms of the contract, and also studies, training and publicity. It has also had a safety vetting and approval system.

It is proven that the relevant measures are effective. In 2010, the accident rate in the construction industry was 52.1 per 1 000 workers while the rate of HA was 8.65; in 2011, the accident rate in the construction industry was 49.7 per 1 000 workers while the rate of HA was 8.15; and last year, the accident rate in the construction industry was 36 per 1 000 workers while the rate of HA was 7.4. The difference was even more apparent as regards the fatal accidents in the work sites. The HA only had one fatal accident in construction sites in the past three years. If the work site safety measures of the HA are implemented in all work sites in the construction industry, the safety level of the construction industry will be significantly enhanced.

I so submit. Thank you, President.

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, I would like to thank Mr POON Siu-ping once again for moving this motion and I also thank the 15 Members who have spoken last night and today for putting forward so many precious opinions.

First of all, I have to reiterate that the Government has always attached great importance to the protection of employees' occupational safety and health, as well as the rights and interests of industrial accident victims. We are also very anxious to have all "wage earners" go to work cheerfully and go home safe and sound. I would like to briefly respond to the views and suggestions of Members.

First, the Labour Department and the stakeholders in the construction sector have embarked on a phased implementation of various recommendations to improve the safety level. These improvement measures can be divided into two main categories of work: the first is to strive for a systemic prevention of accidents at source; the second is to focus on the high-risk processes and take targeted measures to address these problems.

The Labour Department joined hands with the Occupational Safety and Health Council (OSHC) to launch an "OSH Star Enterprise — Pilot Scheme on Safety Accreditation" in June last year to encourage enterprises to enhance their performance in occupational safety by providing them with safety training and subsidizing the cost of safety facilities. Enterprises passing the safety assessment can enjoy up to 50% premium discount when taking out labour insurance. At present, 50 small and medium sized enterprises (SMEs) of repair and maintenance works have joined this Scheme. Four of them have passed the assessment and accredited as a star enterprises under the Scheme and can enjoy a special premium discount when taking out labour insurance.

The Labour Department also joined hands with the Hong Kong Construction Association and the Hong Kong General Building Contractors Association to launch a programme for taking greater care of new workers in the construction industry in July last year. Under the programme, two types of workers are identified with the label of "P" (that is, Probationer) for workers who newly join the industry and "N" (that is, Newcomer) for workers who are new to a construction site respectively. The letters "P" and "N" will be marked on the safety helmets of the relevant workers. Contractors would assign mentors to take care of workers who newly join the industry and they will be under this care for a period of not less than three months. If the workers new to a site have already possessed experience in construction work, they would only be required to carry the "N" labels for two weeks. The Development Bureau has incorporated similar measures into its safety regulation system in respect of the public works contractors and fully implemented these measures early this year.

We also work closely with the Development Bureau and various works departments so that they can perform their function of monitoring the safety performance of the contractors more effectively. The Development Bureau conducted a comprehensive review on the safety management system of the public works in 2010 and 2011 and drew up a series of enhancement measures,

including stepping up the monitoring of contractors, improving the current merit and demerit system regarding the contractors, strengthening the training of site supervisors, and lastly, of course, enhancing the publicity and promotion work. These measures were introduced to the Panel on Manpower in detail at its meeting on 18 December 2012. The Labour Department will support the Development Bureau's various policy initiatives and step up the inspection of contractors who have engaged in unsafe work practice and also the checking of their safety assessment reports.

Some Members are concerned that the processes of work-at-height activities would pose safety hazards to construction workers. This is one of the high-risk work processes that the Labour Department focuses on this year. The Department wrote to all construction contractors and sub-contractors in Hong Kong to remind them that they had to comply with the safety legislation when carrying out the works and take all the preventive measures to prevent work hazards, particularly those involving working at height. We have also urged the contractors to ensure the safety of workers. The Labour Department will also launch a new round of special law-enforcement actions and once violation of work safety requirements is found, it will immediately enforce the law without prior warning.

Besides rigorous law enforcement, the Labour Department will also join hands with the construction sector to hold a meeting featuring the safety of working at height early this year. At the meeting, some novel and highly effective safety equipment will be displayed. To complement the meeting, the OSHC will introduce a scheme to subsidize SMEs for the cost of work platforms. The Labour Department will also work with the property management sector to draw up safety guidelines for external works and working at height, and disseminate the message of safety to all property owners through the properties that they manage.

Moreover, everyone knows that a series of accidents related to electrocution happened in the latter half of last year which aroused our great concern. With great efforts made by the industry and the Government, the situation in the fourth quarter of last year was brought under control. The Labour Department will continue to pay close attention to the safety of electrical work and should any violation of the relevant work safety requirements be found, we will enforce the law right away without prior warning. The Labour

Department will continue to hold topical seminars this year to remind the contractors and workers engaged in electrical works to remain vigilant.

Mr POON Siu-ping suggests in his speech the introduction of a "safe community programme" in all districts in Hong Kong to enhance occupation safety and health culture in the whole society, particularly the situation regarding the repair and maintenance works. I totally agree with him. At present, the OSHC has set up a special committee on safe communities in nine districts. The Labour Department will support the OSHC's work in this respect and through the social network in this programme, including commercial and industrial organizations, enterprises, schools, hospitals and government departments to promote the message of occupation safety and health, especially the work safety of repair and maintenance works.

Moreover, in his speech last night, Mr WONG Kwok-hing mentioned an accident in Sorrento on 28 August last year in which a scaffolding worker fell to his death from the 60th floor onto the terrace on the 6th floor while erecting a truss-out bamboo scaffolding outside the external wall. We attach great importance to this incident. The Labour Department has completed the investigation about this accident and we are consulting the Department of Justice regarding the employer who might have violated the occupational safety legislation and the Employees' Compensation Ordinance (ECO) concerning the taking out of labour insurance. Should there be sufficient evidence, we shall institute prosecution according to law and follow through with it.

Moreover, Mr LEE Cheuk-yan questioned last night why the number of fatal accidents in the construction industry had a significant increase last year and the year before that while the overall accident rate dropped. I would like to explain that with the robust development in the construction industry in recent years, the number of construction workers has significantly risen from 51 000 in 2009 to 72 000 in the third quarter of last year and these are the numbers of workers working in construction sites only. Take the numbers in 2012 and 2011 as an example. The number of construction workers had a significant increase while the numbers of injuries had a slight increase. With a bigger base, the accident rate per 1 000 workers will, of course, continue to drop. This is merely a numerical reflection.

As regards the proposal on the reporting system for work injuries and occupational diseases, we also find it very important. The current Employees' Compensation Ordinance (ECO) has clearly stipulated the employer's responsibility of reporting work accidents. After learning of an accident causing work injuries or an employee suffering from an occupational disease prescribed in the ECO, the employer must report it to the Commissioner for Labour, irrespective of whether the accident or occupational disease gives rise to any liability to pay compensation. In the case of serious or fatal occupational accidents, no matter whether the victim is being employed or self-employed, the police and the Fire Service Department will also notify the Labour Department immediately to facilitate its investigation and follow-up actions.

Under the current system, cases of mental impairment arising from work are protected under the law. When processing sick leave clearance for employees suffering from work injuries, the Labour Department will find out if the employee needs examination by a clinical psychiatrist to see if he is mentally impaired by the work accident. If necessary, the Department will arrange the employee to receive relevant assessments to determine the amount of compensation. The Labour Department will also endeavour to provide the employer and employee with appropriate assistance and advice, and will also monitor the situation of similar cases closely.

Concerning occupational diseases, I explained last night that when the Labour Department considers whether a certain disease is entitled for compensation under labour laws, it will use a professional and objective approach and make reference to relevant criteria of the International Labour Organization as well as factors like the incidence pattern of diseases in the local context, and so on. At present, the ECO has listed some diseases involving muscles and bones, such as tenosynovitis of the forearm, as occupational diseases since the evidence of epidemiology has proved that these diseases are obviously related to specific occupations, such as hauling heavy loads, word processing, cleaning, and so on. As for diseases involving conditions such as waist and back, neck and shoulder and upper limb pains, ageing of the knee joints, varicose vein in the lower limb, as they can be caused by many factors and people suffering from these conditions are not limited to employees of certain specific trades and industries, these health problems do not meet the requirements of occupational diseases as defined at this stage.

Generally since heat stroke can be caused by many factors and there are differences between various trades and industries, posts or working environments, the symptoms of heat stroke suffered by workers while working cannot be listed as an occupational disease. After the Labour Department has learned of such incidents, it will gather relevant information and consult an occupational health doctor if necessary so as to help the employer, employee and family of the deceased to handle the compensation matters as soon as possible.

President, the labour law mainly aims to regulate the employer-employee relationship. As self-employed people are not employees, they are not under the protection of the ECO. However, I wish to stress that employers cannot treat their employees as self-employed with an aim to evade their responsibility under the ECO. If both parties inherently maintain an employer-employee relationship, the employer has to fulfil his legal responsibility, including reporting work injuries, paying compensation to employees who are injured or died at work and taking out labour insurance.

In respect of rehabilitation, the Labour Department has implemented the Voluntary Rehabilitation Programme to provide injured employees an additional channel to receive free rehabilitation services in the private sector through the insurer to facilitate their safe and early return to work. I wish to stress that participation of employees in this Programme is entirely voluntary and the statutory benefits of injured employees will not be affected by the Programme.

I want to point out that many Members have mentioned about the setting up of the "central employees' compensation fund". As this is a very complicated issue and we have to carefully consider the possible impacts and problems brought by this proposal. For example, without the risk spreading arrangement and mutual subsidization with other insurance businesses, the scheme can easily plunge into financial difficulties, thus increasing the pressure of a hike in the premium.

As a matter of fact, the insurance sector introduced the Employees' Compensation Insurance Residual Scheme in 2007 to provide a market of last resort for the labour insurance. The Scheme's function as a market of last resort was activated on August 2011. From then on, it can directly underwrite and issue labour insurance policies to employers who had difficulties taking out this insurance. As at the end of January this year, the Scheme has provided

employers with the final insurance coverage in 186 cases. It proves that the present labour insurance system can ensure the availability of labour insurance to all employers in the insurance market. Given that the present labour insurance system has been working effectively and can better cater for the present environment in Hong Kong, it is not desirable to make significant changes at the present stage. However, we will continue to keep a close watch on the development of the situation, and also keep in close contact with the parties concerned and the insurance sector to ensure the employees' benefits are fully protected.

Dr KWOK Ka-ki is also concerned about the premium of the labour insurance. I would like to point out that the relevant Policy Bureaux and government departments will work hand in hand with the industry to ensure the continuous improvement of the current system. The Labour Department will also employ a three-pronged strategy to raise the industry's awareness and level of occupational safety and health, and prevent accidents through law enforcement, training and publicity. I believe that these measures can reduce insurance claims thereby leaving room for a decrease in the premium rate.

Finally, I wish to stress that the Government has not stalled or evaded the problem of standard working hours. The Labour Department has just finished a very detailed, over 300-page long, Report of the Policy Study on Standard Working Hours. The Government has embarked on forming a Special Committee comprising representatives of labour unions and employers' associations, academics, community leaders and government officials to follow up the relevant matters. We believe that through the platform provided by the Special Committee, all sectors in society can pool together ideas and discuss this topic in depth in an impartial and objective manner so as to build a consensus. The Committee will actively start working as soon as it is formed.

In the past 10 odd years, the occupational safety and health of the construction industry has continued to improve through the combined efforts of all sectors. Of course, we cannot be complacent. In the past two years, everyone sees that as various construction works commence, the numbers of injuries and deaths have clearly increased and that warrants our concern. However, we believe that with the concerted efforts of employers, employees and the Government, these challenges will be overcome. The Government will

continue to work hand in hand with the industry, all trade unions and workers to promote occupational safety and health through multiple channels and strategies.

Concerning the ECO, we have heard many suggestions from Members. We will continue to pay close attention to the social situation in various aspects and take on board views of various sectors and carry out reviews and improvements promptly in the hope that a reasonable and right balance will be struck between the protection of employees' benefits and employers' receptibility.

Thank you, President.

PRESIDENT (in Cantonese): Mr LEE Cheuk-yan, you may now move your amendment.

MR LEE CHEUK-YAN (in Cantonese): President, I move that Mr POON Siu-ping's motion be amended.

Mr LEE Cheuk-yan moved the following amendment: (Translation)

"To delete ", as" after "That"; to add "; in this connection" after "remains high"; and to add "; the relevant measures should include: (1) to raise the level of work safety in construction design management, including studying the enactment of legislation to require sufficient regard for safety of construction and subsequent maintenance during the design stage, and the formulation of corresponding proposals on eliminating hazards and risks; (2) to set a reasonable duration of construction to reduce industrial accidents caused by working against the clock; (3) to enact legislation to require principal contractors to take out workmen's compensation insurance for all workers engaged in construction works (including employees of subcontractors and other self-employed workers), and to shoulder jointly with subcontractors the legal responsibility of reporting work injury accidents; (4) to enhance the Labour Department's inspections and prosecutions, and impose heavier penalties on law-breaking employers; and (5) to enhance occupational safety and health training for workers, and raise their awareness of occupational safety and health" immediately before the full stop."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr LEE Cheuk-yan to Mr POON Siu-ping's motion, be passed.

PRESIDENT (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

PRESIDENT (in Cantonese): Those against please raise their hands.

(Members raised their hands)

Mr Jeffrey LAM rose to claim a division.

PRESIDENT (in Cantonese): Mr Jeffrey LAM has claimed a division. The division bell will ring for five minutes.

PRESIDENT (in Cantonese): Will Members please proceed to vote.

PRESIDENT (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Functional Constituencies:

Mr WONG Ting-kwong, Mr CHAN Kin-por, Mr Steven HO, Mr Charles Peter MOK, Mr Kenneth LEUNG, Mr KWOK Wai-keung, Mr Dennis KWOK, Mr IP Kin-yuen, Mr POON Siu-ping and Mr TANG Ka-piu voted for the amendment.

Mr Tommy CHEUNG, Mr Frankie YICK and Mr CHUNG Kwok-pan voted against the amendment.

Dr LAU Wong-fat, Mr Abraham SHEK, Mr Jeffrey LAM, Mr Andrew LEUNG, Ms Starry LEE, Mr NG Leung-sing, Mr MA Fung-kwok, Mr Christopher CHEUNG, Mr Martin LIAO and Ir Dr LO Wai-kwok abstained.

Geographical Constituencies:

Mr LEE Cheuk-yan, Mr CHAN Kam-lam, Mr LEUNG Yiu-chung, Ms Emily LAU, Mr TAM Yiu-chung, Mr Ronny TONG, Ms Cyd HO, Dr Priscilla LEUNG, Mr WONG Kwok-kin, Mr Alan LEONG, Mr LEUNG Kwok-hung, Mr WONG Yuk-man, Ms Claudia MO, Mr Gary FAN, Mr CHAN Chi-chuen, Dr Kenneth CHAN, Mr LEUNG Che-cheung, Miss Alice MAK, Dr KWOK Ka-ki, Mr SIN Chung-kai, Dr Elizabeth QUAT and Dr CHIANG Lai-wan voted for the amendment.

Mr James TIEN voted against the amendment.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 23 were present, 10 were in favour of the amendment, three against it and 10 abstained; while among the Members returned by geographical constituencies through direct elections, 24 were present, 22 were in favour of the amendment and one against it. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was negatived.

MR ANDREW LEUNG (in Cantonese): President, I move that in the event of further divisions being claimed in respect of the motion on "Ensuring occupational safety" or any amendments thereto, this Council do proceed to each

of such divisions immediately after the division bell has been rung for one minute.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr Andrew LEUNG be passed.

PRESIDENT (in Cantonese): Does any Member wish to speak?

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

PRESIDENT (in Cantonese): Those against please raise their hands.

(No hands raised)

Mr Tommy CHEUNG rose to claim a division.

PRESIDENT (in Cantonese): Mr Tommy CHEUNG has claimed a division. The division bell will ring for five minutes.

PRESIDENT (in Cantonese): Will Members please proceed to vote.

PRESIDENT (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Functional Constituencies:

Dr LAU Wong-fat, Mr Tommy CHEUNG, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Ms Starry LEE, Mr CHAN Kin-por, Mr NG Leung-sing, Mr Steven HO, Mr Frankie YICK, Mr MA Fung-kwok, Mr Charles Peter MOK, Mr Kenneth LEUNG, Mr KWOK Wai-keung, Mr Christopher CHEUNG, Mr IP Kin-yuen, Mr Martin LIAO, Mr POON Siu-ping, Mr TANG Ka-piu, Ir Dr LO Wai-kwok and Mr CHUNG Kwok-pan voted for the motion.

Mr Abraham SHEK abstained.

Geographical Constituencies:

Mr LEE Cheuk-yan, Mr CHAN Kam-lam, Mr LEUNG Yiu-chung, Ms Emily LAU, Mr TAM Yiu-chung, Mr Ronny TONG, Ms Cyd HO, Dr Priscilla LEUNG, Mr WONG Kwok-kin, Mr Alan LEONG, Mr LEUNG Kwok-hung, Mr WONG Yuk-man, Ms Claudia MO, Mr James TIEN, Mr Gary FAN, Mr CHAN Chi-chuen, Dr Kenneth CHAN, Mr LEUNG Che-cheung, Miss Alice MAK, Dr KWOK Ka-ki, Mr SIN Chung-kai, Dr Elizabeth QUAT and Dr CHIANG Lai-wan voted for the motion.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 22 were present, 21 were in favour of the motion and one abstained; while among the Members returned by geographical constituencies through direct elections, 24 were present and 23 were in favour of the motion. Since the question was agreed by a majority of each of the two groups of Members present, he therefore declared that the motion was passed.

PRESIDENT (in Cantonese): I order that in the event of further divisions being claimed in respect of the motion on "Ensuring occupational safety" or any

amendments thereto, this Council do proceed to each of such divisions immediately after the division bell has been rung for one minute.

PRESIDENT (in Cantonese): Mr TANG Ka-piu, you may move your amendment.

MR TANG KA-PIU (in Cantonese): President, I move that Mr POON Siu-ping's motion be amended.

Mr TANG Ka-piu moved the following amendment: (Translation)

"To delete ", as" after "That"; to add "; the traffic and transportation industry also indicates that the rate of occupational injuries of the industry remains high, with the annual number of deaths reaching double digits, but owing to the lack of a clear employer-employee relationship, the industry is not covered by the protection under the Employees' Compensation Ordinance, whereas the Occupational Safety and Health Ordinance also does not cover the driver's seat of a vehicle, rendering the regulation of professional drivers' occupational safety and health not comprehensive enough; in addition, quite a number of occupations (such as tour escorts and tourist guides in the tourism industry) also lack protection under the Employees' Compensation Ordinance due to an unclear employer-employee relationship; in this connection" after "remains high"; and to add ", including: (1) to comprehensively review the policy on occupational safety and health to reverse the existing policy of relying on the trades to self-regulate in respect of occupational safety and health; (2) to step up regular monitoring and inspection of industrial establishments, impose severe penalties on law-breaking employers, and make public the items in respect of which prosecutions have been instituted by the Labour Department during inspection; (3) to enact dedicated legislation to provide for the work procedures, safety measures and criminal liabilities, etc. for work-at-height activities, so as to reduce the occurrence of accidents involving fall of workers from height, which constitute the largest number of fatal cases in the construction industry; (4) to motivate employers to dutifully shoulder the responsibility for

ensuring employees' occupational safety and health, allocate resources for employees' training, and provide facilities and a work environment that ensure employees' occupational safety and health; (5) to stipulate that in the event of occurrence of accidents and occupational diseases in workplaces, including those involving subcontractors and self-employed persons, employers, contractors or persons in charge of the construction sites, etc. have to report such cases to the Government, so as to improve the reporting system for work injuries and occupational diseases, thereby enabling the authorities to obtain more accurate statistics on work injuries and occupational diseases; (6) to comprehensively review the Employees' Compensation Ordinance, including the inclusion of mental impairment in the category of injury under Schedule 1 and the classification of repetitive strain injury and heat stroke as prescribed occupational diseases under Schedule 2, so as to provide more comprehensive protection for employees who suffer work-related mental disorders, physical injuries or heat stroke; and in addition to providing employees with financial compensation, improve the mechanisms for prevention of work injuries and occupational diseases as well as rehabilitation to assist injured employees in recovering and rejoining society; and (7) to set up a 'central employees' compensation fund' or compensation funds for employees by industry (such as a central employees' compensation fund for professional drivers), so as to provide comprehensive compensation protection to employees for all injuries and deaths or occupational diseases arising from work irrespective of the employer-employee relationship" immediately before the full stop."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr TANG Ka-piu to Mr POON Siu-ping's motion, be passed.

PRESIDENT (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

PRESIDENT (in Cantonese): Those against please raise their hands.

(Members raised their hands)

Mr Andrew LEUNG rose to claim a division.

PRESIDENT (in Cantonese): Mr Andrew LEUNG has claimed a division. The division bell will ring for one minute.

PRESIDENT (in Cantonese): Will Members please proceed to vote.

PRESIDENT (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Functional Constituencies:

Mr WONG Ting-kwong, Mr Steven HO, Mr Charles Peter MOK, Mr Kenneth LEUNG, Mr KWOK Wai-keung, Mr IP Kin-yuen, Mr POON Siu-ping and Mr TANG Ka-piu voted for the amendment.

Mr Abraham SHEK, Mr Tommy CHEUNG, Mr Frankie YICK and Mr CHUNG Kwok-pan voted against the amendment.

Dr LAU Wong-fat, Mr Jeffrey LAM, Mr Andrew LEUNG, Ms Starry LEE, Mr CHAN Kin-por, Mr NG Leung-sing, Mr MA Fung-kwok, Mr Christopher CHEUNG, Mr Martin LIAO and Ir Dr LO Wai-kwok abstained.

Geographical Constituencies:

Mr LEE Cheuk-yan, Mr CHAN Kam-lam, Mr LEUNG Yiu-chung, Ms Emily LAU, Mr TAM Yiu-chung, Mr Ronny TONG, Ms Cyd HO, Mr WONG

Kwok-kin, Mr Alan LEONG, Mr LEUNG Kwok-hung, Mr WONG Yuk-man, Ms Claudia MO, Mr Gary FAN, Mr CHAN Chi-chuen, Dr Kenneth CHAN, Mr LEUNG Che-cheung, Miss Alice MAK, Dr KWOK Ka-ki, Mr SIN Chung-kai, Dr Elizabeth QUAT and Dr CHIANG Lai-wan voted for the amendment.

Mr James TIEN voted against the amendment.

Dr Priscilla LEUNG abstained.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 22 were present, eight were in favour of the amendment, four against it and 10 abstained; while among the Members returned by geographical constituencies through direct elections, 24 were present, 21 were in favour of the amendment, one against it and one abstained. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was negatived.

PRESIDENT (in Cantonese): Mr SIN Chung-kai, you may move your amendment.

MR SIN CHUNG-KAI (in Cantonese): President, I move further amendment by my revised amendment

PRESIDENT (in Cantonese): You are not required to revise your amendment but you need to move your amendment.

MR SIN CHUNG-KAI (in Cantonese): President, I move that was my amendment negatived? President, I move my revised amendment.*(Laughter)*

PRESIDENT (in Cantonese): Mr SIN Chung-kai, please move your amendment.

MR SIN CHUNG-KAI (in Cantonese): President, I move that Mr POON Siu-ping's motion be amended.

Mr SIN Chung-kai moved the following amendment: (Translation)

"To delete "," after "That" and substitute with "the working class at large in Hong Kong has all along not been provided with comprehensive protection for their rights and interests (including occupational safety), and its aspiration for enacting legislation on setting standard working hours to ensure occupational safety, among others, has persistently been disregarded and stalled by the Government;"; and to delete "to ensure" after "effective measures" and substitute with", such as enacting legislation on setting standard weekly working hours and working hour limits for the construction industry and other industries, and enacting legislation to require employers, except in the case of emergency services, to allow employees to enjoy a rest of at least 20 minutes after five hours of continuous work, so as to ensure that employees have a healthy state of mind and maintain a high level of vigilance while working, with a view to reducing the possibility of industrial accidents and ensuring employees' physical and mental health as well as"."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr SIN Chung-kai to Mr POON Siu-ping's motion, be passed.

PRESIDENT (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

PRESIDENT (in Cantonese): Those against please raise their hands.

(Members raised their hands)

Ir Dr LO Wai-kwok rose to claim a division.

PRESIDENT (in Cantonese): Ir Dr LO Wai-kwok has claimed a division. The division bell will ring for one minute.

PRESIDENT (in Cantonese): Will Members please proceed to vote.

PRESIDENT (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Functional Constituencies:

Mr Charles Peter MOK, Mr IP Kin-yuen and Mr POON Siu-ping voted for the amendment.

Dr LAU Wong-fat, Mr Abraham SHEK, Mr Tommy CHEUNG, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr Frankie YICK, Mr Christopher CHEUNG, Ir Dr LO Wai-kwok and Mr CHUNG Kwok-pan voted against the amendment.

Mr WONG Ting-kwong, Ms Starry LEE, Mr CHAN Kin-por, Mr NG Leung-sing, Mr Steven HO, Mr MA Fung-kwok, Mr KWOK Wai-keung, Mr Martin LIAO and Mr TANG Ka-piu abstained.

Geographical Constituencies:

Mr LEE Cheuk-yan, Mr LEUNG Yiu-chung, Ms Emily LAU, Mr Ronny TONG, Ms Cyd HO, Mr Alan LEONG, Mr LEUNG Kwok-hung, Mr WONG Yuk-man, Ms Claudia MO, Mr Gary FAN, Mr CHAN Chi-chuen, Dr Kenneth CHAN, Dr KWOK Ka-ki and Mr SIN Chung-kai voted for the amendment.

Mr James TIEN voted against the amendment.

Mr CHAN Kam-lam, Mr TAM Yiu-chung, Dr Priscilla LEUNG, Mr WONG Kwok-kin, Mr LEUNG Che-cheung, Miss Alice MAK, Dr Elizabeth QUAT and Dr CHIANG Lai-wan abstained.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 21 were present, three were in favour of the amendment, nine against it and nine abstained; while among the Members returned by geographical constituencies through direct elections, 24 were present, 14 were in favour of the amendment, one against it and eight abstained. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was negatived.

PRESIDENT (in Cantonese): Mr POON Siu-ping, you may now reply and you have two minutes 58 seconds.

MR POON SIU-PING (in Cantonese): President, I believe that colleagues in the Chamber have taken note of my motion, and I do not intend to spend my remaining speaking time. Thank you, President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Mr POON Siu-ping be passed.

PRESIDENT (in Cantonese): Will those in favour please raise their hands?

(Members raised their hands)

PRESIDENT (in Cantonese): Those against please raise their hands.

(No hands raised)

PRESIDENT (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections, who are present. I declare the motion passed.

NEXT MEETING

PRESIDENT (in Cantonese): I now adjourn the Council until 11 am on Wednesday 27 February 2013.

Adjourned accordingly at seven minutes to Four o'clock.