

立法會
Legislative Council

LC Paper No. CB(2)948/12-13(05)

Ref : CB2/PL/MP

Panel on Manpower

**Background brief prepared by the Legislative Council Secretariat
for the meeting on 16 April 2013**

Work safety in the construction industry

Purpose

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

Background

2. Statutory provisions regulating work-at-height safety on construction sites are set out under the Factories and Industrial Undertakings Ordinance (Cap. 59), the Construction Sites (Safety) Regulations (Cap. 59I), the Factories and Industrial Undertakings (Suspended Working Platforms) Regulation (Cap. 59AC), and the Occupational Safety and Health Ordinance (Cap. 509).

3. According to the Administration, construction activities by nature involve higher risks of accidents. The construction industry recorded the highest number of fatalities and accident rate among all industries, and the number of industrial accidents in the sector increased to 1 470 in the first half of 2012, up to 4.7%, when compared with 1 404 in the same period of 2011. However, the accident rate per 1 000 workers decreased from 47.8 to 41.3, dropped by 13.6%. By end-November 2012, the number of fatal accidents in the construction sector rose to 22 when compared with 20 in the same period of 2011.

Deliberations of the Panel

4. The Panel has monitored closely the issue of work safety in the construction industry. The major views and concerns of members are summarized below.

Safety performance of the construction industry

5. Members noted with concern that the construction industry recorded the highest number of fatalities and accident rate among all industries. Members queried the effectiveness of preventive and enforcement measures adopted by the Administration in ensuring the occupational safety of construction workers.

6. According to the Administration, the construction industry was a high-risk sector, accounting for a large proportion of the more serious industrial accidents. The Labour Department ("LD") had proactively strengthened cooperation with the Development Bureau ("DevB") and relevant departments to ensure proper attention to safety issues and due consideration of the occupational safety and health ("OSH") requirements from the design stage to every subsequent stage of project implementation and delivery.

7. Members were advised that to further enhance the control of public works contractors on site safety, DevB had introduced a series of additional measures including a pre-warning system whereby directorate officers of works departments would interview senior management of their public works contractors and request them to submit improvement plans whenever there was an upward trend in the number of accidents in individual contracts. In addition, every works department had set up a dedicated committee to examine and review the safety performance of their public works contractors from time to time. Regular meetings between works departments and their contractors were held to discuss site safety matters and share relevant experience. DevB had since 2010 introduced a new contractual provision in public works contracts requiring all frontline supervisors to attend the "Construction Safety Supervisor Course" to ensure that they had acquired and equipped with sufficient safety knowledge. Members were further advised that the accident rate per 1 000 site workers in public works projects had reduced from 51 in 1998 to nine in 2012 (up to October), which was all along lower than the overall accident rates of the construction sector.

8. In the light of commencement in sequence of major infrastructure projects, some members expressed concern that such works would put great pressure on the resources and manpower in the industry, and consequently at the expense of safe work practices. Referring to a serious industrial accident took place in October 2012 during the construction of the Hong Kong-Zhuhai-Macau

Bridge project, members called upon LD to conduct more workplace inspections on construction sites to induce compliance with the OSH legislation and deter unsafe work practices.

9. The Administration advised that LD had established a special team to step up inspection and enforcement action, urging contractors to implement safety management systems on construction sites and integrate OSH elements into their method statements through participating in their project preparatory meetings and site safety management committee meetings. This apart, LD would continue to conduct publicity and promotional activities targeting the construction industry in collaboration with the industry, with a view to promoting safety awareness among construction workers. Members were also advised that as a new initiative, LD in collaboration with a workers' union organized work safety and health talks for construction workers at construction sites during the lunch time.

Training on occupational safety

10. To further reduce the number of industrial and occupational accidents, some members considered that training on occupational safety should be provided for new entrants to the construction industry.

11. The Administration advised that construction workers were required to receive safety training and complete the Mandatory Basic Safety Training (Construction Work) course (commonly known as the "Green Card" course) before commencing work. In addition, the Hong Kong Construction Association and the Hong Kong General Building Contractors Association were mobilizing their members to participate in a programme named "Caring of new construction workers" for taking greater care of and providing basic induction training to new workers. Under the programme, two types of workers were identified with the label of "P" (i.e. Probationer) for those who newly joined the industry or "N" (i.e. Newcomer) for those who were new to a construction site. Contractors would assign mentors to take care of workers who newly joined the industry and would also provide basic induction safety training to these workers and make arrangement to get them familiarized with the working environment of the site.

Assessment of safety performance

12. Given the considerable number of fatal accidents that occurred in construction sites, concerns were raised over the penalty for contractors for non-compliance with the OSH requirements. Members were advised that a merit and demerit system was put in place by DevB to control the safety performance of public works contractors. The past performance, including the

number of prosecutions by LD, and accident rates of contractors would be taken into account under the current tender assessment system for public works contracts. Contractors having low accident rates might have higher chance in winning a public works contract. In addition, a dedicated enquiry panel under DevB would look into serious industrial accidents involving its listed contractors and consider taking appropriate regulating actions, such as suspension of contractors concerned from tendering for public works projects for a maximum period of 12 months. In the past five years, 46 contractors had been voluntarily suspended from tendering for public works contracts.

Safety of repair, maintenance, alteration and addition ("RMAA") works

13. Another issue of concern of the Panel was the increase in the number of accidents related to RMAA works. Members noted that of the 23 cases of construction fatalities in 2011, 10 cases were due to "fall of person from height", with over half of them involving workers falling from bamboo scaffolds and related to RMAA works. Given that RMAA works were expected to grow phenomenally with the implementation of the mandatory building inspection and window inspection schemes and the provision of government subsidies for owners of dilapidated buildings to carry out building repair and maintenance works, some members considered that the Administration should conduct more regular inspections, apart from surprise inspections, to workplaces to ensure RMAA works contractors' compliance with relevant safety legislation. Some members also took the view that a heavier penalty should be imposed for repeated non-compliance in order to achieve greater deterrent effect.

14. According to the Administration, LD would continue to seek improvements in work-at-height safety in the construction industry in close partnership with relevant stakeholders, including the Occupational Safety and Health Council ("OSHC"), the Construction Industry Council, trade associations, labour unions, professional bodies as well as other government bureaux/departments. Since 2011 LD regularly wrote to construction contractors to keep them posted of the major types of accidents which occurred during the preceding few months at construction work sites and their causes. LD would take the opportunity to notify contractors in advance of its forthcoming special enforcement campaigns.

15. To forestall the rise of accidents in these work activities, LD held a Construction Safety Forum ("Forum") in March 2012 to consider, in conjunction with industry stakeholders, measures to enhance the occupational safety of the construction industry. Participants of the Forum arrived at a consensus on a number of systematic preventive and enforcement measures. One of the measures was the launch of the "OSH Star Enterprise - Pilot Scheme on RMAA Safety Accreditation" ("the Pilot Scheme") on 1 June 2012 jointly by

LD and OSHC to encourage the industry to take practicable safety measures and improve working environment through subsidizing the cost of safety assessment, safety training and safety equipment. Enterprises accredited under the Pilot Scheme could enjoy up to 50% premium discount when procuring employees' compensation insurance under the Employees' Compensation Insurance Residual Scheme.

16. According to the Administration, cases where legal proceedings had been concluded, had a conviction rate of 85%. An employer who failed to provide safe workplaces for employees might be subject to legal sanction. Employees had the responsibility to comply with safety measures when carrying out works. However, legal proceedings were rarely instituted against workers in cases of their non-compliance. Having regard to the need to promote awareness of work safety to both employers and employees in the trade, LD had launched some tailor-made programmes for workers and had produced an Announcement in Public Interest appealing to workers' concern about safety at work.

17. There was a view that the substantial increase in the numbers of suspension notices ("SNs")/improvement notices ("INs") issued and prosecutions instituted had indicated that the Administration's strategy of improving safety through the self-regulation of contractors and employers in safety management failed to work effectively. Concern was raised over whether workers' representatives in safety committees could effectively discharge their duties of identifying, recommending and keeping under review measures to improve the safety and health of construction workers at sites. It was considered that the Administration should conduct a comprehensive review on the safety committee system.

18. The Administration advised that when officers of LD conducted special enforcement campaigns, they would, upon discovery of unsafe activities or conditions that might cause imminent risks of death or serious bodily injury, issue SNs/INs or take prosecution actions without warning in advance. This was one of the reasons why the numbers of SNs/INs issued and prosecutions instituted were higher than the figures in the past. The Administration further advised that the Factories and Industrial Undertakings (Safety Management) Regulation (Cap. 59 sub. leg. AF) required specified factories and industrial undertakings, employing 100 or more workers, to develop and implement a safety management system, including the establishment of a safety committee. The safety committee system had all along been functioning well, with the active participation of workers' representatives.

Relevant papers

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

Council Business Division 2
Legislative Council Secretariat
10 April 2013

**Relevant papers on
Work safety in the construction industry**

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

Committee	Date of meeting	Paper
Panel on Manpower	17.6.2011 (Item IV)	<u>Agenda</u> <u>Minutes</u>
Legislative Council	6.7.2011	<u>Official Record of Proceedings</u> (Question 2)
Legislative Council	19.10.2011	<u>Official Record of Proceedings</u> (Question 7)
Legislative Council	14.12.2011	<u>Official Record of Proceedings</u> (Question 1)
Legislative Council	11.1.2012	<u>Official Record of Proceedings</u> (Question 10)
Legislative Council	28.3.2012	<u>Official Record of Proceedings</u> (Question 11)
Panel on Manpower	20.6.2012 (Item V)	<u>Agenda</u> <u>Minutes</u>
Panel on Manpower	11.7.2012 (Item IV)	<u>Agenda</u> <u>Minutes</u>
Panel on Manpower	18.12.2012 (Item IV)	<u>Agenda</u> <u>Minutes</u>

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