



**Labour Department (Headquarters)**

勞工處（總處）

Your reference 來函編號：

Our reference 本處檔案編號：( 4 ) in L/M(20) to LD OD/1-55/56

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16 June 2014

Miss Betty MA  
Clerk to the Panel on Manpower  
Legislative Council  
Legislative Council Complex  
1 Legislative Council Road  
Central  
Hong Kong

Dear Miss MA,

**Submission to the Panel on Manpower by the  
Association for the Rights of Industrial Accident Victims  
on Enhancement of Occupational Safety  
in the Construction Industry**

At the meeting of the Panel on Manpower (“the Panel”) on 15 April 2014, the Association for the Rights of Industrial Accident Victims made a submission on enhancement of occupational safety in the construction industry to the Panel. The Labour Department’s (“LD’s”) responses are set out as below.

**(A) Enhancing Safety Standards**

Limit on the Service Life of Lifting Appliances

Under the existing occupational safety and health (“OSH”) legislation, owners of lifting appliances (including contractors of construction sites) shall adopt adequate measures to ensure the safe use of lifting appliances, including the responsibility of ensuring that the lifting appliances are of good construction and properly maintained; that the stability is maintained during the lifting operations;



that the safe working load is not exceeded; that regular inspections are made by competent persons and regular tests and thorough examinations are conducted by competent examiners. In addition, the OSH legislation requires that the lifting appliances shall only be operated by persons who hold recognised certificates with relevant experience and competence; and that the contractors and the employers shall provide the operators with adequate information, instruction, training and supervision.

As there is already relevant legislation on regulation of the safe use, maintenance, regular tests and examinations of lifting appliances, LD has no intention of setting limits on the service life of lifting appliances at this stage. LD will continue to review from time to time the existing codes of practice relevant to lifting operations and the safety training course for crane operators, and enhance the safety of lifting operations through site inspections.

#### Mandatory Notification of Truss-Out Scaffolding Works

LD is highly concerned about the work safety of erection, dismantling and use of truss-out scaffolds (“TOS”), and has published suitable safety guides on relevant processes related to TOS works for the industry stakeholders, to remind contractors and workers engaged in TOS works of the need to ensure that metal brackets are securely fixed and of good construction, and that workers wear suitable safety harnesses securely attached to anchorage such as fixed anchors, independent lifelines or fall arresting systems, in order to avoid accidents. Besides, the Occupational Safety and Health Council (“OSHC”) is actively exploring ways for improving the safety devices and mode of operation for workers engaged in works at the external walls so as to prevent occurrence of accidents.

Under the existing Construction Sites (Safety) Regulations, contractors shall notify LD of any construction work to be completed in a period of not less than six weeks or with more than 10 workmen employed at work. Such notification is not required for those TOS erection/ dismantling works which are of short duration and/ or involve a small number of workers. Irrespective of whether notifications of scaffolding works have been received, LD officers would conduct surprise inspections to work sites of repair, maintenance, alteration and addition (“RMAA”) works involving the use of TOS and other scaffolds during area patrols or upon receiving complaints, to deter unsafe work practices. On discovery of breaches of law, LD would take immediate enforcement actions without prior warning. Taking into account the characteristics of short duration and high mobility of TOS



works, we consider that conducting area patrols is a more effective mode of enforcement.

Regarding RMAA works safety, LD issued a total of 1 118 suspension notices (“SNs”) / improvement notices (“INs”), and initiated 918 prosecutions in 2013, increasing by over 50% as compared to 2011.

Besides, we would from time to time deploy manpower to conduct extensive special enforcement operations. In the first quarter this year, LD conducted a special enforcement operation targeting RMAA works, with a total of more than 200 legal notices issued and 121 prosecutions to be initiated. LD will launch more special enforcement operations this year, with a view to deterring unsafe RMAA work practices.

#### Employment of Site Safety Officers

As those contractors responsible for sizeable construction projects usually need to employ a large number of workers and coordinate a variety of trade processes at the work sites concerned, LD needs to set more stringent OSH requirements for these sites. In accordance with the Factories and Industrial Undertakings (Safety Officers and Safety Supervisors) Regulations, a contractor employing 100 workers or more on a construction site shall employ a full-time registered safety officer (“RSO”). The duty of the RSO is to give recommendations on relevant OSH measures and standards to the contractor, particularly assisting the contractor in establishing a safety management system to prevent accidents.

The above notwithstanding, even if the number of site workers does not reach the statutory requirement for employment of an RSO, the contractors concerned still bear the ultimate legal liability on workers’ safety, and should urge their site management personnel (including foremen and site agents) to adopt effective measures to protect workers’ safety. Moreover, LD would conduct risk-based site inspections and take enforcement actions to deter unsafe work practices irrespective of the number of workers working on a site.



## **(B) Examine Feasibility of Construction Design and Management (“CDM”)**

### Legislation on CDM and Developers’ Liabilities

LD notes that the United Kingdom (“UK”) introduced a new set of CDM Regulations (“the Regulations”) in 2007 to replace the old one, and the Regulations were reviewed in 2012. Although the UK construction industry generally agreed that project clients (or developers) should bear more responsibilities on work safety, the Regulations gave rise to considerable amount of paperwork. Besides, the effectiveness of the Regulations in enhancing the OSH performance of the industry, in particular those small and medium-sized contractors, was not notable. Nevertheless, the Government recognises the principle of enhancing occupational safety through construction design and management. The Development Bureau (“DevB”) has adopted since 2006 the CDM approach in public works projects with contract sums over \$200 million, and published relevant guidelines and examples, taking the lead to promote such concept to the construction industry. The Government will closely watch the practical experience of foreign countries, and follow up the issue with the local construction industry.

### Design Safety for Work at External Walls of Buildings

Apart from promoting work-at-height safety through enforcement, LD publishes safety guidelines on maintenance works at external walls of buildings and updates the guidelines from time to time in the light of changes in the working environment. LD has, in collaboration with the Construction Industry Council (“CIC”), formulated guidelines on the planking arrangement on bamboo scaffolds. The guidelines delineate the responsibilities among principal contractors and sub-contractors so as to ensure the safety of workers engaged in external wall works with the use of bamboo scaffolds. CIC published the new guidelines in end-May 2014. LD is accordingly revising the Code of Practice for Bamboo Scaffolding Safety, which would be ready for promulgation in the middle of this year. In addition, the OSHC has been offering subsidy to the industry to purchase work safety equipment, including transportable anchor devices and full-body safety harnesses, etc.

LD has conveyed the issue of design safety for work at external walls of buildings to DevB, the Buildings Department (“BD”) and CIC. The Committee on Construction Site Safety under CIC has formed a Task Group to follow up the relevant issues. The Task Group comprises members from contractors of the



construction industry, OSH organisations, the property management sector, professional bodies and relevant government departments (including LD and BD). LD will continue to cooperate with the work of the Task Group.

### **(C) Setting Reasonable Construction Periods**

In accordance with the OSH legislation, contractors and employers shall ensure the safety and health of their employees. Contractors undertaking construction works shall closely monitor the work methods and progress throughout the construction period, and shall make suitable arrangement and manpower deployment to ensure safety and health at work. LD would continue to take strict enforcement actions, including initiating prosecutions and issuing SNs, against those contractors who disregard the safety of workers for sake of meeting tight work schedule or any other consideration. Upon receipt of the SNs, contractors shall immediately suspend the relevant work processes until they can assure LD that proper improvement measures have been taken to eliminate the risks of deaths or serious injuries to workers. Under such situation, the contractors should know very well that the progress of their projects would be seriously affected.

### **(D) Allowing Workers to Participate in the Formulation of Safety Policy and Facilitating Workers to Report Unsafe Practices**

Under the Factories and Industrial Undertakings (Safety Management) Regulation, a contractor in relation to construction work having an aggregate of 100 or more workers shall establish a safety committee. The functions of the safety committee include identifying, recommending and keeping under review measures (including formulating safety policy) to improve the OSH of their workplaces, and implementing such measures. Besides, it is stipulated in the legislation that the safety committee shall have at least half of its members representing workers of the relevant workplace.

LD has stepped up promulgating the complaint hotline for work safety and health. Workers and relevant interested parties are encouraged to report unsafe work practices or working environment with this complaint hotline through relevant OSH promotional activities, media, publications and LD's homepage. The complaint hotline is manned by dedicated staff during office hours and provided with auto-recording service outside office hours.



## **(E) Stepping up Inspections and Enforcement Actions as well as Raising Penalties**

### Stepping up Inspections and Enforcement

In view of the OSH performance of the construction industry, LD has launched special enforcement operations targeting high-risk processes, including work-at-height, lifting operations and electrical works. On discovery of breaches of safety legislation, LD will issue INs/SNs and initiate prosecutions as appropriate without prior warning.

LD created 18 posts (including 1 Occupational Health Officer and 17 Occupational Safety Officers) in 2014-15. All the increased manpower will be deployed to work areas related to enhancement of OSH in the construction industry, including strengthening the monitoring of work safety of major works projects, strengthening the monitoring of construction projects involving compressed air work, strengthening the engagement of major project clients, formulating codes of practice on safe work systems and high-risk work processes, and strengthening mandatory safety training for persons engaged in hazardous work/operations.

### Raising Penalties

Anyone who contravenes OSH legislation is liable to a maximum fine of \$500,000 and to imprisonment for 12 months. LD administers the relevant safety legislation and would initiate prosecutions on cases with sufficient evidence. The court would normally consider factors such as the nature of the case, whether the defendant pleads guilty, fine level imposed on the offence concerned in the past, conviction records of the defendant and mitigation reasons in determining the sentence. LD will submit to the court adequate information for reference in sentencing, including serious consequences that may be incurred by the accident in question, the upward trend of the type of accidents concerned, and the highest fine imposed for similar cases in the past. Depending on the circumstances of individual cases, LD will request the Department of Justice to consider filing a review or an appeal to the court in respect of the conviction and the penalty when necessary. LD notes that the fines imposed by the court on convicted cases related to fatal industrial accidents in the construction industry increased notably last year as compared to the past.



## **(F) Improving Mandatory Safety Training Course**

Under the Factories and Industrial Undertaking Ordinance and its subsidiary regulations, workers working in high-risk industries, or engaged in dangerous machinery operations or high-risk processes shall complete mandatory safety training. LD approves recognised training course providers (“TCPs”) to organise training courses and issue relevant certificates. LD officers will from time to time conduct surprise inspections to the TCPs to monitor their conduct of classes, particularly during examinations. On discovery of breaches of approval conditions, appropriate disciplinary actions will be taken, including possible withdrawal of the recognition for conducting the relevant courses.

LD has implemented a number of improvement measures for the Mandatory Basic Safety Training Course (i.e. “Green Card” Course) since 2011, including standardising course contents, formulating a set of more comprehensive approval conditions, preparing examination papers centrally and notifying the TCPs of the examination papers shortly before the examinations, and timely introduction of LD’s case studies of serious accidents in recent years and requesting the tutors to adopt an interactive teaching method with the use of clear and easy-to-understand illustrations.

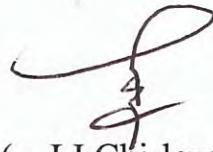
## **(G) Providing Safety Training for Young People joining the Construction Industry**

To enhance young people’s OSH awareness, officers of LD’s Occupational Safety and Health Training Centre deliver talks on OSH knowledge to the trainees under the “Youth Employment and Training Programme”.

LD is concerned about the OSH of new construction workers. In July 2012, LD, in collaboration with the Hong Kong Construction Association, launched a “Caring Programme for New Construction Workers”. Under this programme, workers who newly join the industry and workers who are new to a construction site will be identified with the labels “P” (i.e. Probationer) and “N” (i.e. Newcomer) respectively. Contractors will assign mentors to take care of the workers who newly join the industry for a period of not less than three months. If the workers new to a site already possess experience in construction work, they will only be required to carry the “N” labels for two weeks. LD will review the implementation of this programme from time to time, and will discuss with the industry stakeholders on measures to enhance the programme.

LD will continue to work in close partnership with related organisations, such as OSHC, CIC, trade associations, workers' unions, professional bodies and other government bureaux/ departments to promote work safety and health in the construction industry.

Yours sincerely,



( LI Chi-leung )  
for Commissioner for Labour