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Panel on Manpower

**Updated background brief prepared by the Legislative Council Secretariat
for the meeting on 19 November 2013**

Occupational safety performance in Hong Kong

Purpose

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

Background

2. According to the Administration, the Labour Department ("LD") attaches great importance to enhancing occupational safety, and is committed to ensuring that risks to the safety of people at work are properly managed and addressed through legislation, law enforcement, promotion, education and training. In the past decade, the number of occupational injuries¹ decreased from 47 023 in 2002 to 40 578 in 2011, representing a drop of 13.7%. The number of industrial accidents² also decreased from 22 453 in 2002 to 13 658 in 2011, down by 39.2%. The number of industrial accidents for all sectors in the first half of 2012 was 6 145, representing a drop of 4.5% over 6 436 in the same period of 2011. The accident rate per 1 000 workers also decreased by 6.4%, from 22.3 to 20.9 during the period. Most of the accidents, except those of the construction industry and manufacturing industry, were of minor nature and mainly due to "slip, trip or fall on the same level" and "incorrect manual lifting or carrying".

¹ Occupational injuries refer to injury cases in workplaces reported under the Employees' Compensation Ordinance, resulting in death or incapacity for work of over three days.

² Industrial accidents refer to injuries and deaths arising from industrial activities in industrial undertakings as defined under the Factories and Industrial Undertakings Ordinance.

Deliberations of the Panel

3. The Panel has monitored closely the issue of safeguarding occupational safety in Hong Kong. The major views and concerns of members are summarized below.

Safety performance of the construction industry

4. Members noted with concern that while the number of accidents in the construction industry had declined from 6 239 in 2002 to 3 112 in 2011, the number of fatal construction accidents had increased from 23 in 2011 to 24 in 2012 as compared with nine cases in 2010. Members were concerned about the effectiveness of preventive and enforcement measures adopted by the Administration in ensuring the occupational safety of construction workers.

5. According to the Administration, the construction industry was a high-risk sector, accounting for a large proportion of the more serious industrial accidents. To enhance the control of public works contractors on site safety, the Development Bureau ("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. Moreover, a merit and demerit system was put in place to control the safety performance of public works contractors. The past performance 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 tender. LD would also provide advice to relevant works departments and project clients at the planning stage of major projects. Consequent upon the safety measures in place, 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.

6. In the light of commencement in sequence of major infrastructure projects and a large number of maintenance works projects for old buildings, 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. Members called upon LD to conduct more workplace inspections to construction sites to induce compliance with the occupational safety and health ("OSH") legislation and deter unsafe work practices.

7. 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. 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.

8. 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.

9. 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, LD had since July 2012, in collaboration with the Hong Kong Construction Association and the Hong Kong General Building Contractors Association, launched a programme named "Caring of new construction workers" for taking greater care of and providing basic induction training to new workers. 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. A similar arrangement had been incorporated into the safety regulatory system of public works contractors.

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

10. Another issue of concern of the Panel was the increase in the number of accidents related to RMAA works. Members noted with concern 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.

11. The Administration advised that more than half of the construction fatal accidents were related to fall of person from height. Of these accidents, about 20% involved workers falling from bamboo scaffolds and 20% falling from A-shaped ladders. It was also noticed that in around one-third fall-from-height fatal accidents, workers had fallen from places of work of less than two to three metres high. LD in collaboration with the Occupational Safety and Health Council ("OSHC") would organize a "Work-at-Height Safety Forum" to explore with the industry measures to enhance work-at-height safety. In addition, a new sponsorship scheme would be launched for small-and-medium-sized enterprises to purchase mobile working platforms to further enhance work-at-height safety.

12. Members also noted that to address the sector-specific problem, LD in collaboration with OSHC had launched the "OSH Star Enterprise - Pilot Scheme on RMAA (Repair, Maintenance, Alteration and Addition works) Safety Accreditation" for the renovation and maintenance industry with focus on the high-risk bamboo scaffolding sector. Apart from providing free training and subsidy to purchase fall arresting devices and related equipment, accredited contractors could enjoy premium discount when procuring employees' compensation insurance under the Employees' Compensation Insurance Residual Scheme.

13. Members were also advised that LD had stepped up inspections and enforcement actions in ensuring compliance with the OSH legislation. 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 suspension notices/improvement notices or take prosecution actions without warning in advance. 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.

Electrical works safety

14. Members were concerned that seven fatal accidents involving electrocution in the construction industry were recorded in 2012, which exceeded the total number of similar cases in the past 11 years. Some members expressed concern as to whether project deadlines had been met at the expense of safe work practices.

15. The Administration advised that in many electrocution accidents workers had been performing electrical works at suspended ceiling or under humid

weather. LD, the industry stakeholders and OSHC had jointly organized a series of electrical works safety promotional activities to raise the alertness of electrical contractors and workers. Furthermore, LD had stepped up inspections and enforcement actions on contravention of electrical safety regulations and conducted a joint blitz operation with the Electrical and Mechanical Services Department. Members were advised that through concerted efforts of the industry stakeholders and the Administration, the trend of electrocution accidents was curbed by the end of 2012.

Occupational safety under hot or inclement weather

16. Members noted that the Construction Industry Council ("CIC") had released in 2008 the "Guidelines on Site Safety Measures for Working in Hot Weather" to promote the awareness of contractors and construction workers of the risk associated with working in hot weather, and recommended specific practices and measures for reference by the industry. Noting that most of the reported cases of heat stroke occurred while at work in construction sites, driving public buses and performing outdoor cleaning and that some of those in construction sites involved sudden death of construction workers, members were concerned about the Administration's plan on heat stroke prevention especially in the construction sites. As the Occupational Safety and Health Ordinance (Cap. 509) ("OSHO") provided that employers had a general duty to provide a safe and healthy workplace for employees, there was a suggestion that the general duty should include suspension of work under extremely hot weather in order to ensure the safety of workers.

17. According to the Administration, the number of reported cases of heat stroke at work decreased from 25 cases in 2011 to 16 cases in 2012. It was attributable to the taking of preventive measures, including inspections to workplaces with high heat stress such as construction work and container handling and the launching of a pilot scheme of providing a 15-minute rest break for bar-benders in the mornings since the summer of 2011 in a number of participating sites. There was a suggestion that such an arrangement should be extended to all other construction workers. The Administration understood that CIC was actively considering implementing the arrangement of additional rest breaks to all construction site workers during the summer months. In addition, the application of personal cooling vests on construction sites, which had undergone field tests in 2012, was being tested out for wider use in the construction industry.

18. As to whether suspension of work was necessary under very hot weather, the Administration advised that it would depend on the circumstances. The concept of general duty followed a common sense approach under which a reasonable person was expected to deal with a matter in a reasonable manner

having regard to the circumstances surrounding the case. The employers' associations of the construction industry had taken action to inform the media about the provision of rest breaks to construction workers working in hot weather as appropriate. As the construction process involved a number of inter-related steps, the delay of one step might affect the entire process. Suspension of work on a continuous basis, say, two to three consecutive days due to very hot weather warning announced by the Hong Kong Observatory, would affect not only the construction schedule but also the livelihood of construction workers who were paid on a daily basis.

19. In the light of the high risk of construction workers, professional drivers and cleansing workers in the airport suffering from heat stroke while at work, members sought clarification on whether employees who suffered from heat stroke were entitled to statutory compensation prescribed under the Employees' Compensation Ordinance (Cap. 282) ("ECO").

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

21. Members held the view that the Administration should investigate into cases of heat stroke at work and assess factors contributing to these incidents. Should the findings of the risk assessment indicate that the work environment of specific trades or industries was more prone to cause heat stroke at work, the Administration should give serious consideration to classifying heat stroke at work as an occupational injury. Members called on the Administration to keep separate statistics on occupational injuries arising from working under hot or inclement weather, which would provide useful reference for drawing up appropriate preventive measures.

22. According to the Administration, it was the responsibility of employers to assess the risk of heat stroke to their employees working in a hot environment and to take appropriate preventive measures commensurate with the needs of different industries and jobs. Such measures included arranging outdoor work in cooler periods during daytime, providing adequate drinking water, providing a shelter at the workplace and rest areas to shield off direct sunlight, enhancing ventilation at the workplace, arranging for workers to take rest breaks at

intervals, and providing relevant information, instructions, training and supervision.

OSH of professional drivers

23. Arising from the occurrence of some serious traffic accidents involving professional drivers in recent years, in particular in late 2012, members were concerned about OSH of professional drivers. Some members took the view that the coverage of OSHO should be extended to professional drivers to enhance their occupational safety.

24. The Administration advised that it had reviewed the existing legislation relating to professional drivers. The Road Traffic Ordinance (Cap. 374) ("RTO") covered road safety issues concerning all drivers (including professional drivers), and these included the design and maintenance of vehicles and roads, drivers' driving skills and attitude, the use of vehicle security devices as well as the behaviour of other road users. The Road Traffic (Construction and Maintenance of Vehicles) Regulations (Cap. 374 sub. leg. A) regulated the construction and maintenance of vehicles, including safety after alteration and driver's accommodation providing adequate protection against bad weather, and the Road Traffic (Safety Equipment) Regulations (Cap. 374 sub. leg. F) regulated the safety equipment of vehicles (such as seat belts). In view of the scope of the provisions of RTO, OSHO did not cover the driver's seat of a vehicle. The Administration pointed out that it was difficult for employers of professional drivers to fully ensure the occupational safety of drivers while they were driving, as drivers' driving attitude, road conditions and the behaviour of other road users were beyond their control in a reasonably practicable manner. However, OSHO safeguarded employed drivers' OSH while they were carrying out non-driving work. Nonetheless, the Administration would revisit the coverage of OSHO and revert to the Panel on the review findings. Members were further advised that LD collaborated with OSHC and relevant workers' unions to promote OSH message and launch publicity campaigns on healthy lifestyle for professional drivers, including self-employed drivers.

Relevant papers

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

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

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>
Panel on Manpower	25.1.2013 (Item V)	<u>Agenda</u> <u>Minutes</u>
Panel on Manpower	16.4.2013 (Item V)	<u>Agenda</u> <u>Minutes</u>