

立法會
Legislative Council

LC Paper No. CB(2)491/13-14(12)

Ref : CB2/PL/MP

Panel on Manpower

**Background brief prepared by the Legislative Council Secretariat
for the meeting on 17 December 2013**

Occupational diseases in Hong Kong

Purpose

This paper summarizes the past discussions on occupational diseases in Hong Kong by the Panel on Manpower since the Fourth Legislative Council.

Background

2. According to the International Labour Organization, occupational diseases are diseases having specific or strong relationship with occupations, generally with one causal agent. The Employees' Compensation Ordinance (Cap. 282) ("ECO"), the Occupational Deafness (Compensation) Ordinance (Cap. 469) ("ODCO") and the Pneumoconiosis and Mesothelioma (Compensation) Ordinance (Cap. 360) ("PMCO") prescribe altogether 52 occupational diseases. Section 36(1) of ECO provides for the claim of compensation where a disease is not prescribed in these Ordinances but can be proved in individual cases to be a personal injury by accident arising out of and in the course of employment. All the 52 occupational diseases are also specified in the Second Schedule to the Occupational Safety and Health Ordinance (Cap. 509) ("OSHO") as notifiable occupational diseases. Medical practitioners are required to notify the Commissioner for Labour of cases of these occupational diseases.

3. According to the Administration, the number of confirmed cases of occupational diseases in 2010 and 2011 was 229 and 353 respectively. The increase was mainly from occupational deafness cases. Other

common occupational diseases included tenosynovitis of the hand or forearm and silicosis. The relevant figures are set out in **Appendix I**.

Deliberations of the Panel

List of compensable occupational diseases in the Second Schedule to ECO

4. Some members pointed out that as the service industry had become the mainstay in Hong Kong and the manufacturing sector was shrinking in recent decades, the Administration should conduct a comprehensive review on the list of compensable occupational diseases in the Second Schedule to ECO to examine whether its scope and coverage should be expanded in view of these changes. These members considered that certain work-related diseases, such as musculoskeletal disorders should be prescribed as occupational diseases.

5. The Administration advised that it reviewed the list of compensable occupational diseases from time to time and had updated the list in the light of international standards. Since 1991, there had been four amendments to the list, which included the addition of 13 new occupational diseases and expansion of the coverage of three occupational diseases. Mesothelioma was prescribed as a new occupational disease under PMCO in 2008. Amendment was also made to ODCO in April 2010 to extend the coverage of compensation to employees suffering from monaural hearing loss and those who had been compensated but their hearing loss had worsened over the years. The Administration would continue with such reviews.

6. Concern was raised that certain work-related diseases such as musculoskeletal disorders, including back pain, tennis elbow and osteoarthritis of knees, which were common among domestic helpers, cashiers, computer operators and employees working in the airport, had not been prescribed as an occupational diseases. Some members were of the view that the Administration should consider lowering the threshold for prescribing a disease as occupational disease such that an employee could apply for compensation under ECO.

7. The Administration advised that Hong Kong followed international practices and would make reference to the criteria adopted by the International Labour Organization in determining whether a disease should be prescribed as an occupational disease. Prescription of a disease as an occupational disease was based on the criteria of whether workers engaged in a certain occupation in Hong Kong had a significant and recognized risk of contracting the disease; and whether the causal relationship between the

disease and the occupation could be reasonably presumed or established in individual cases.

8. The Administration stressed that the causation criterion was particularly important in differentiating occupational diseases from work-related diseases. The 52 occupational diseases specified in the relevant Ordinances were diseases having specific or strong relationship with occupations, generally with only one causal agent, and recognized as such. Musculoskeletal disorders, on the other hand, were diseases with multiple causal agents. Nonetheless, six musculoskeletal diseases, including tenosynovitis of the hand or forearm, had already been prescribed as occupational diseases. Other musculoskeletal disorders such as low back pain and shoulder-neck pain resulting from the interaction of multiple risk factors, including obesity, lack of exercise, excessive force and awkward posture, were commonly found in the general population and not limited to workers engaged in a certain occupation. As these disorders could not satisfy the criteria for prescribing as occupational diseases, they were classified as work-related diseases instead.

9. Some members, however, considered that the Administration should not use "international standards" as an excuse to preclude the prescription of diseases commonly found among employees in the catering or the cleansing industries, such as varicose veins and muscle strain, as occupational diseases.

10. According to the Administration, even if a disease was not prescribed as an occupational disease and included in the list of compensable occupational diseases in the Second Schedule to ECO, an employee was protected by ECO and could apply for compensation under section 36(1) of ECO. However, it had to be proved in individual cases that the disease was a personal injury by accident arising out of and in the course of employment. The Administration stressed that once a disease was prescribed as an occupational disease, workers suffering from the disease could claim compensation if they were engaged in the designated occupations. It was therefore important to establish the casual relationship between a disease and the occupation.

Confirmed cases of occupational diseases

11. Members were advised that the two Occupational Health Clinics of the Labour Department ("LD") had provided 13 200 consultations in 2009 for patients including about 2 500 new patients. About 85% of the patients were diagnosed with diseases or injuries caused by, related to or aggravated by work, and the remaining suffered from diseases or injuries

unrelated to work. Among the new patients, 24 were diagnosed as suffering from occupational diseases prescribed in ECO.

12. Members were concerned whether the relatively small number of confirmed cases of occupational diseases was due to the high threshold adopted in defining an occupational disease. While recognizing members' concern, the Administration advised that LD had to follow the principle that only diseases that were prescribed as occupational diseases would be considered for employee compensation. A disease should not be prescribed as an occupational disease merely because many workers suffered from it, as the disease might be caused by employees' low awareness of the occupational safety and health ("OSH") requirements or inadequate preventive measures taken by employers.

13. Members also noted with concern that the number of confirmed cases of tenosynovitis of the hand or forearm increased from 48 in 2010 to 70 in 2011, representing a 45% increase. The Administration explained that tenosynovitis was a traumatic inflammatory disease resulting from prolonged and repetitive movements or excessive force exerted by the hand and forearm. It was most commonly reported in service personnel such as cooks, manual workers employed in construction sites as well as clerical and office personnel. LD had produced several leaflets advising proper working posture, back care and simple stretching exercises at workplaces for reference by both employers and employees. LD would continue to enhance its promotion and publicity work in this regard.

Measures to prevent occupational and work-related diseases

14. Information was sought on the measures adopted by the Administration to help workers diagnosed with work-related diseases, including the medical advice to be given to them, inspections to be conducted to their working environment, and whether rest breaks for certain work types would be made mandatory.

15. According to the Administration, LD had been adopting a three-pronged approach, namely, education, publicity and promotion as well as law enforcement to safeguard the working population's OSH. It had proactively educated employers and employees about the prevention of occupational and work-related diseases. Apart from public talks, LD also organized outreaching health talks at the workplaces of individual organizations. In addition, LD partnered with relevant organizations, including the Occupational Safety and Health Council ("OSHC"), Pneumoconiosis Compensation Fund Board, Occupational Deafness Compensation Board, employers' associations, workers' unions and

community groups, in promoting occupational health among workers of specific industries such as the retail and catering industries. On the other hand, risk assessment on OSH hazards made during LD's site inspections, the issuance of suspension notices and improvement notices, and prosecutions instituted against employers' malpractices were direct, specific and effective measures to induce employers to improve the working environment. If the situation so warranted, the Administration would make recommendations on the policies to ban work processes or the use of materials which jeopardized the health of workers.

16. Members were advised that to ensure that occupational health requirements under the Factories and Industrial Undertakings Ordinance (Cap. 59) and OSHO were complied with, Occupational Safety Officers and Occupational Hygienists of LD would, under the supervision of medical practitioners specializing in occupational medicine, carry out surprise inspections at different workplaces regularly and took enforcement actions against irregularities identified. In carrying out surprise inspections at different workplaces, the inspection teams would make use of appropriate equipment to assess employees' risk of contracting a certain disease.

17. On the arrangement of rest breaks, LD had issued a "Guide on Rest Breaks" to encourage employers and employees to work out suitable rest break arrangements between themselves. Should the arrangement be unreasonable, employees could lodge complaints against their employers and LD would follow up on the cases. In response to members' query about the effectiveness of the Guide to prevent musculoskeletal disorders and the suggestion of making rest breaks a mandatory requirement for certain work types, the Administration advised that it would be difficult to make rest break a statutory requirement in the light of the different operational needs and practices in different industries and trades. The Guide sought to provide useful reference for employers to provide appropriate rest breaks for employees.

Prevention of heat stroke at work

18. Concern was expressed about the risk of heat stroke to workers when working under very hot weather, including professional drivers, those in aircraft cabins and undertaking outdoor work. According to the Administration, LD had started to collate figures on injury cases owing to heat stroke at work as confirmed by medical practitioners since May 2009. Members were concerned as to whether employers had been advised to make arrangements for their workers to take rest breaks at regular intervals.

19. The Administration advised that LD would step up inspections and law enforcement actions during the peak season for heat stroke, i.e. the months between April and September. LD had published a guide on the prevention of heat stroke at work in a general hot environment and practical methods for abating the risk of heat stroke. To address the problem of heat stroke to professional drivers and workers in construction sites, LD would collaborate with relevant stakeholders to promote OSH messages among the drivers and workers.

20. In response to the suggestion of legislating for providing rest breaks for employees working under very hot weather, the Administration advised that the introduction of specific legislation for the prevention of heat stroke at work was a complex issue, having regard to the need to cater for different work activities, environment and processes which might pose a higher risk of heat stroke to employees. The existing OSH legislation had already been designed flexibly to cover different work activities and environment for the general protection of workers' OSH, including prevention of heat stroke at work.

21. The Administration advised that a pilot scheme was launched to provide a 15-minute rest break for bar-benders in the mornings since the summer of 2011 in a number of participating construction sites. The Construction Industry Council was actively considering implementing the arrangement of providing additional rest breaks to all construction site workers during the summer months. In addition, LD in collaboration with OSHC would launch a pilot scheme to explore the feasibility of promoting wider use of cooling vests, which had undergone field tests in 2012, on construction sites in future.

Relevant papers

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

Occupational Diseases Confirmed in Hong Kong from 2002 to 2011

Occupational disease	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
Occupational deafness*	114	74	52	60	51	47	58	77	70	157
Tenosynovitis of the hand or forearm	35	34	43	75	63	35	40	39	48	70
Silicosis	110	74	69	68	109	67	65	86	61	63
Tuberculosis	29	30	42	30	18	16	25	18	11	17
Mesothelioma [#]	-	-	-	-	-	-	1	15	12	13
Gas poisoning	30	26	28	4	5	1	4	17	17	11
Asbestosis	9	6	4	2	7	2	5	5	1	9
Occupational dermatitis	29	10	7	10	8	7	3	10	5	7
Streptococcus suis infection	0	0	1	6	0	1	3	0	3	1
Others	8	4	5	1	3	1	0	1	1	5
Total :	364	258	251	256	264	177	204	268	229	353

* The coverage of compensation under the Occupational Deafness Compensation Ordinance was extended in April 2010 to employees who have developed noise-induced monaural hearing loss. In 2011, there were a total of 69 such cases.

[#] Mesothelioma was prescribed as a new occupational disease under the Pneumoconiosis and Mesothelioma (Compensation) Ordinance in April 2008.

Note: Extracts from the Administration's paper entitled "A Review of Occupational Diseases in Hong Kong 2011" (LC Paper No. CB(2)1569/11-12(01))

**Relevant papers on
occupational diseases in Hong Kong**

Committee	Date of meeting	Paper
Legislative Council	29.10.2008	<u>Official Record of Proceedings (Question 1)</u>
Legislative Council	1.4.2009	<u>Official Record of Proceedings (Question 2)</u>
Panel on Manpower	21.5.2009 (Item III)	<u>Agenda Minutes</u>
Panel on Manpower	23.2.2010 (Item IV)	<u>Agenda Minutes</u>
Legislative Council	6.7.2011	<u>Official Record of Proceedings (Question 2)</u>
Panel on Manpower	12.7.2011 (Item III)	<u>Agenda Minutes</u>
Legislative Council	19.10.2011	<u>Official Record of Proceedings (Question 7)</u>
Panel on Manpower	12.4.2012 (Item IV)	<u>Agenda Minutes</u>