



**Occupational Safety and Health (Headquarters)
Labour Department**

勞工處職業安全及健康（總部）

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23 October 2015

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

Dear Miss MA,

Reply to the Panel on Manpower on Outstanding Questions

On 16 June 2015, the Legislative Council Panel on Manpower discussed the situation of occupational safety in Hong Kong and requested the Labour Department (LD) to provide further information in this regard. I now set out my reply as follows.

Construction fatalities in 2014 categorised as “struck by falling object” and “fall of person from height”

2. In respect of the five construction fatalities in 2014 categorised as “struck by falling object”, the workers concerned had been provided with safety helmets whilst at work. However, the workers were killed by the strong impact of the strike or the striking objects hitting the workers’ body parts other than their heads. As regards the seven construction fatalities in 2014 involving “fall of person from height”, the contractors had not provided the workers concerned with safe working platforms or fall arresting devices whilst at work, thereby causing the incidents.

Repair, Maintenance, Alteration and Addition Safety Accreditation Scheme

3. As at end-September 2015, a total of 99 small-and-medium sized contractors had made applications under the Accreditation Scheme. Thirty of them, accounting for about 30% of the total number of applications, had been accredited.

Inspections to container terminals

4. All inspections to container terminals conducted by LD officers are surprise check without prior notification given to the concerned container terminal operators or contractors. Owing to traffic control inside the container terminals, LD officers cannot drive their vehicles into the container terminals. LD officers will register at the security office and then take the vehicles arranged by terminal staff to various workplace locations as specified by the LD officers, covering different operations for inspection, including operation of heavy machinery and equipment, cargo handling and other undertakings. In general, the container terminal operators are able to make the concerned arrangements within a short period of time.

Work injuries involving the use of meat mincer

5. Progress of investigation into the two accidents involving the use of meat mincers in the past year is set out below:

- (i) Regarding the accident involving the use a meat mincer at a nursery in Tung Chung in January 2015, LD officers conducted an immediate investigation on the spot on the day of the accident and issued an improvement notice (IN) to the employer concerned. LD then completed the investigation and initiated two prosecutions against the employer concerned. The employer pleaded guilty to the two charges and was fined \$30,000 in total.
- (ii) In respect of the other accident involving the use of a meat mincer at a noodle factory in Aberdeen in June 2015, LD officers conducted an immediate investigation on the spot on the day of the accident and issued an IN to the proprietor concerned. LD is investigating the accident

including its causes and the legal responsibilities of the relevant duty holders. LD will take legal actions if any violation of occupational safety and health (OSH) legislation is detected.

OSH under hot or inclement weather

6. The Occupational Safety and Health Ordinance and the Factories and Industrial Undertakings Ordinance prescribe the general OSH duties of an employer to ensure, so far as reasonably practicable, the safety and health of all his/her employees. Moreover, there are specific provisions under the Occupational Safety and Health Regulation, the Factories and Industrial Undertakings Regulations, and the Construction Sites (Safety) Regulations requiring the person responsible for a workplace to ensure that sufficient potable water is provided at the workplace, and to provide a room or covered area at a construction site where workers can take shelter during inclement weather.

7. LD has formulated codes of practice and guidelines on OSH for employers and employees. Regarding extreme and inclement weather, LD has produced “Code of Practice in times of Typhoons and Rainstorms”, “Guide on Safety at Work in times of Inclement Weather”, “Health Guide for Working during the Cold Weather”, a guide on “Prevention of Heat Stroke at Work in a Hot Environment” and a checklist on “Risk Assessment for the Prevention of Heat Stroke at Work”. Among them, the guide on “Prevention of Heat Stroke at Work in a Hot Environment” serves to remind employers that they should assess the risk of heat stroke for workers working in a hot environment and take appropriate preventive measures, including provision of sufficient potable water and suitable rest breaks for employees. LD also produces assessment checklists targeting at construction sites and outdoor cleansing workplaces. The checklists advise employers and their employees on how to assess the risk of heat stroke and on practicable methods and measures to prevent heat stroke. On very hot days, LD also issues a press release to enhance the awareness of different trades about the risk of heat stroke during work and to remind them to take appropriate preventive measures, so as to safeguard the OSH of their employees.

8. Furthermore, the Construction Industry Council published, in 2013, the “Guidelines on Site Safety Measures for Working in Hot Weather”. The

Guidelines recommend the construction sector to provide an additional 15-minute rest break in the morning for workers during the hot summer months from May to September, on top of the usual 30-minute rest break in the afternoon work session, to prevent heat stroke at work.

9. In recent years, during the summer season from April to September, LD has strengthened inspections to workplaces with a higher risk of heat stroke, including construction sites, outdoor workplaces and kitchens etc., and has taken enforcement actions against contractors or employers who failed to take appropriate heat stroke preventive measures. From April to September 2015, LD conducted over 30 300 inspections with 27 warnings and one IN issued. Over the years, LD, in collaboration with relevant organisations, has launched a series of publicity and educational activities, including distributing relevant guidelines and risk assessment checklists, organising health talks, issuing press releases in light of weather conditions, publishing feature articles, broadcasting publicity videos and Announcements of Public Interest through various media, and conducting promotional visits to outdoor workplaces. In addition, LD issued an advisory letter in June 2015 to the major construction contractors, urging them to step up work safety measures to eliminate or mitigate the risk of heat stroke for workers at their construction sites.

10. Regarding work safety under inclement weather, LD adopts a multi-pronged approach of inspection and enforcement, including issue of press releases in light of inclement weather, publicity and promotion, as well as education and training to safeguard the occupational safety of employees working under inclement weather. LD from time to time collaborates with relevant organisations in organising safety talks and distribution of relevant safety publications, so as to enhance the awareness of employers and employees about work safety under inclement weather.

Claiming compensation under Employees' Compensation Ordinance

11. The Employees' Compensation Ordinance (ECO) has clear provisions which stipulate that an employer must notify the Commissioner for Labour (CL) of any accident or prescribed occupational disease in the prescribed form within a specified period irrespective of whether the accident or the occupational disease has led to any liability to pay compensation. The notice period for fatal cases is seven days while that for non-fatal cases is 14 days. Any

employer who, without reasonable excuse, fails to give notice of an accident to CL commits an offence and is liable to a maximum fine of HK\$50,000.

12. LD has published leaflets reminding employees to notify their employers immediately after work injuries and the important points to note. Meanwhile, if an injured employee notices or suspects that his/her employer has not reported his/her work injury to CL, he/she may contact the Employees' Compensation Division of LD to check whether his/her employer has done so. Upon receipt of LD's advice, the employer in general will submit the notification of the accident to LD unless there are severe disputes on whether the work injury falls within the ambit of ECO.

13. If there is sufficient evidence supporting a contravention of section 15 of the ECO that the employer who, without reasonable excuse, fails to give notice to the Commissioner for Labour within a prescribed period and the employee is willing to serve as a prosecution witness, LD will take out prosecution against the law-defying employer.

Yours sincerely,



(Ms Queenie TANG)
for Commissioner for Labour