

立法會
Legislative Council

LC Paper No. CB(2)672/20-21
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by the Administration)

Ref : CB2/PL/MP

Panel on Manpower

Minutes of meeting
held on Tuesday, 17 November 2020, at 4:30 pm
in Conference Room 2 of the Legislative Council Complex

Members present : Hon LUK Chung-hung, JP (Chairman)
Hon CHAN Chun-ying, JP (Deputy Chairman)
Hon WONG Ting-kwong, GBS, JP
Hon Starry LEE Wai-king, SBS, JP
Hon CHAN Kin-por, GBS, JP
Hon WONG Kwok-kin, SBS, JP
Hon Michael TIEN Puk-sun, BBS, JP
Hon Steven HO Chun-yin, BBS
Hon YIU Si-wing, BBS
Hon CHAN Han-pan, BBS, JP
Hon LEUNG Che-cheung, SBS, MH, JP
Hon Alice MAK Mei-kuen, BBS, JP
Hon KWOK Wai-keung, JP
Hon Elizabeth QUAT, BBS, JP
Hon POON Siu-ping, BBS, MH
Dr Hon CHIANG Lai-wan, SBS, JP
Hon CHUNG Kwok-pan
Hon Jimmy NG Wing-ka, BBS, JP
Hon SHIU Ka-fai, JP
Hon Wilson OR Chong-shing, MH
Hon YUNG Hoi-yan, JP
Dr Hon Pierre CHAN
Hon LAU Kwok-fan, MH
Hon Vincent CHENG Wing-shun, MH, JP

Member attending : Hon Holden CHOW Ho-ding

Members absent : Hon Frankie YICK Chi-ming, SBS, JP
Dr Hon Fernando CHEUNG Chiu-hung
Hon Kenneth LAU Ip-keung, BBS, MH, JP

Public Officers attending : Item V

Mr Jeff LEUNG Wing-yan, JP
Deputy Commissioner for Labour (Occupational Safety and Health)

Dr WAN Yuen-kong
Occupational Health Consultant (1)
Labour Department

Miss Christine BUT Wing-tung
Senior Labour Officer (Special Duties) 1
Labour Department

Mr MA Kwok-kuen
Senior Labour Officer (Compensation) (Operations 1)
Labour Department

Item VI

Mr Jeff LEUNG Wing-yan, JP
Deputy Commissioner for Labour (Occupational Safety and Health)

Mr WU Wai-hung, JP
Assistant Commissioner for Labour (Occupational Safety)

Mr WAN Chi-ping
Chief Occupational Safety Officer (System and Support)
Labour Department

Clerk in attendance : Ms Betty MA
Chief Council Secretary (2) 1

Staff in attendance : Ms Rita LAI
Senior Council Secretary (2) 1

Ms Gloria TSANG
Senior Council Secretary (2) 7

Ms Priscilla LAU
Council Secretary (2) 1

Ms Kiwi NG
Legislative Assistant (2) 1

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I. Election of Deputy Chairman

(Appendices III and IV to LC Paper No. CB(2)8/20-21)

Election of Deputy Chairman

The Chairman called for nominations for the deputy chairmanship of the Panel. Mr CHAN Chun-ying was nominated by Mr CHAN Kin-por and the nomination was seconded by Mr Jimmy NG. Mr CHAN Chun-ying accepted the nomination. The Chairman called for other nominations.

2. As there was no other nomination, the Chairman declared Mr CHAN Chun-ying elected as Deputy Chairman of the Panel for the 2020-2021 session.

II. Information papers issued since the last meeting

(LC Paper Nos. CB(2)38/20-21(01), CB(2)46/20-21(01), CB(2)83/20-21(01), CB(2)110/20-21(01), CB(2)119/20-21(01), CB(2)166/20-21(01), CB(2)182/20-21(01), CB(2)283/20-21(01) and CB(2)284/20-21(01))

3. Members noted that the following papers had been issued since the last meeting:

- (a) joint letter dated 14 October 2020 from Mr Andrew WAN and Mr HUI Chi-fung suggesting the Panel to discuss issues relating to the Work Orientation and Placement Scheme;
- (b) letter dated 15 October 2020 from Dr KWOK Ka-ki requesting the Panel on Manpower and the Panel on Health Services to hold a joint meeting to discuss actions taken by the Hospital Authority ("HA") in respect of those staff who participated in a strike;

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- (c) information paper provided by the Education Bureau on the latest developments of the Hong Kong Qualifications Framework;
- (d) letter dated 28 October 2020 from Mr Jeremy TAM requesting the Panel to hold a joint meeting with the Panel on Economic Development to discuss issues relating to the job cuts at Cathay Pacific Group;
- (e) joint letter dated 29 October 2020 from Mr Andrew WAN and Mr LAM Cheuk-ting requesting the Panel to discuss issues relating to the job cuts at Cathay Pacific Group;
- (f) letter dated 3 November 2020 from Mr KWOK Wai-keung proposing the Panel to follow up regularly with the Administration of its proposal to abolish the offsetting arrangement under the Mandatory Provident Fund ("MPF") System;
- (g) letter dated 5 November 2020 from Ms Elizabeth QUAT proposing items for discussion by the Panel at future meetings; and
- (h) two respective letters dated 13 November 2020 from Mr KWOK Wai-keung proposing the Panel to follow up regularly with the Administration on its proposal to increase progressively the number of statutory holidays under the Employment Ordinance (Cap. 57), as well as items for discussion by the Panel at future meetings.

4. Referring to paragraph 3(f) and (h) above, the Chairman said that in the light of community concern, the Administration should be requested to provide members with an update on the progress of the two proposals at each subsequent regular meeting of the Panel. Members agreed.

5. The Chairman added that he intended to brief the Panel on his proposed Member's Bill to amend the Minimum Wage Ordinance (Cap. 608) to the effect that the Statutory Minimum Wage rate should be reviewed annually.

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6. With respect to other proposed items for discussion, the Chairman said that he would follow up the issues raised by members when he and the Deputy Chairman discussed the work plan of the Panel for the 2020-2021 session with the Secretary for Labour and Welfare.

III. Date of next meeting and items for discussion

(LC Paper Nos. CB(2)209/20-21(01) and (02))

Regular meeting in December 2020

7. Members agreed that the following items proposed by the Administration be discussed at the next regular meeting at 4:30 pm on 15 December 2020:

- (a) Creation of one permanent post of Chief Labour Officer (D1) in the Labour Department to take forward various new measures to enhance statutory maternity leave;
- (b) Review of the levels of compensation/payment under employees' compensation-related ordinances and extension of employees' compensation protection to employees commuting to or from work under "extreme conditions"; and
- (c) Enhancing deterrent effect of penalty for occupational safety and health offences.

(Post-meeting note: With the concurrence of the Panel Chairman, the Panel would receive a briefing by the Secretary for Labour and Welfare on the Chief Executive's 2020 Policy Address, and item (a) above would not be discussed at the meeting. In the light of the COVID-19 epidemic, the meeting will be rescheduled to 7 January 2021.)

IV. Proposal for appointment of a subcommittee under the Panel to study the setting up of an unemployment assistance system in Hong Kong

(LC Paper No. CB(2)1475/19-20(01))

8. Members noted the joint letter dated 2 September 2020 from the Chairman and Mr KWOK Wai-keung proposing the appointment of a

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subcommittee under the Panel to study the setting up of an unemployment assistance system in Hong Kong ("the proposal"). The Chairman briefed members on the need for and the objective of the proposal, as detailed in the joint letter provided to the Panel.

9. Ms Starry LEE, Mr LEUNG Che-cheung, Ms Elizabeth QUAT, Mr Wilson OR and Mr Vincent CHENG expressed support for the proposal. With respect to the work plan of the Subcommittee, Ms QUAT suggested that the feasibility of allowing individual members of MPF Schemes to withdraw a certain portion of the accrued benefits in their accounts under various MPF Schemes be studied so as to address their imminent financial needs. Ms LEE proposed that specific measures be discussed to address the difficulties faced by various hard hit sectors, such as travel industry and cross-boundary transport industry.

10. The Chairman concluded that members supported the proposal. As regards timing for activation of the Subcommittee, the Chairman said that the House Committee would soon deliberate on the priority for the activation of various policy subcommittees after taking into account how the Legislative Council ("LegCo") Secretariat's resources were allocated to the servicing of these committees.

V. Pilot rehabilitation programme for employees injured at work
(LC Paper Nos. CB(2)209/20-21(03) and (04) and CB(2)301/20-21(01))

11. At the invitation of the Chairman, Deputy Commissioner for Labour (Occupational Safety and Health) ("DC for L (OSH)") briefed members on the progress of the relevant preparatory work for the launch of a three-year Pilot Rehabilitation Programme for Employees Injured at Work ("the Pilot Programme") targeting injured employees from the construction industry, as detailed in the Administration's paper.

12. Members noted an updated background brief entitled "Rehabilitation services for employees injured at work" prepared by the LegCo Secretariat.

Design and mechanics of the Pilot Programme

13. Mr SHIU Ka-fai sought information on the background for launching the Pilot Programme.

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14. DC for L (OSH) advised that the Government had been attaching great importance to the rehabilitation services for injured employees, which could facilitate their recovery and return to work as early as possible. The Labour Department ("LD"), in collaboration with the insurance industry, launched the Voluntary Rehabilitation Programme ("VRP") in 2003 to provide injured employees with an additional channel to receive free and timely medical and rehabilitation services in the private sector. Given that VRP was operated by the insurance industry, it was perceived by some employees as primarily driven by insurers' and employers' interests. The Administration agreed that there was room for improvement in the participation rate of VRP, and had taken this into account in drawing up the proposal to introduce the Pilot Programme, aiming to speed up recovery of injured employees and to facilitate their early return to work.

15. Mr Wilson OR said that Democratic Alliance for the Betterment and Progress of Hong Kong was in general supportive of the Pilot Programme. Given that participation in the Pilot Programme was on a voluntary basis, Mr OR was concerned how the Administration would encourage target employees to join the Pilot Programme.

16. Ms Alice MAK pointed out that injured employees were required to cease to receive rehabilitation treatment services provided by hospitals and clinics under management of HA for their work injuries that were covered in the Pilot Programme. In view of the long queue for receiving clinical consultations and medical treatment in public hospitals and clinics, Ms MAK cautioned that some injured employees might not join the Pilot Programme simply because they did not wish to cease the rehabilitation services being received in hospitals and clinics under HA's management.

17. DC for L (OSH) advised that timely and well-coordinated rehabilitation treatment services were critical to early recovery and return to work for employees injured at work. At present, most injured employees sought rehabilitation services in hospitals and clinics under HA's management. The majority of work-injury cases involved physical injuries and required physiotherapy and occupational therapy, orthopaedics treatment and imaging service, etc. Similar to other members of the public, injured employees were facing long waiting time for public rehabilitation treatment services. LD would, after taking into account the nature of work injuries and sick leave durations, identify appropriate cases and initiate contacts with the target injured employees

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and invite them to join the Pilot Programme which was to be administered by the Occupational Safety and Health Council ("OSHC"). Under the Pilot Programme, participating injured employees would be provided with private out-patient rehabilitation treatment services related to their work injuries. A case manager would be assigned to each participant as soon as he/she was admitted to the Pilot Programme to follow up on his/her case. Moreover, the medical and rehabilitation professionals concerned would be accountable to LD and OSHC and there would be no participation of insurance companies. This could help address the concern of injured employees about the neutrality of rehabilitation treatment services.

18. DC for L (OSH) further advised that the publicity efforts would be geared towards promoting the Pilot Programme to the target employees. Since free and timely rehabilitation treatment services would be provided to the participants to facilitate their recovery and return to work as early as practicable, it was believed that injured employees would be receptive to joining the Pilot Programme.

19. Mr Wilson OR was concerned about the impact on those participating injured employees who had not yet fully recovered and still needed to receive rehabilitation treatment services upon the expiry of the three-year Pilot Programme.

20. DC for L (OSH) responded that in consultation with the medical professionals when drawing up the framework of the Pilot Programme, it was envisaged that the recovery process of participating injured employees would in general take several months except for those very exceptional cases. He assured members that injured employees admitted to the Pilot Programme would be provided with rehabilitation treatment services till recovery or reaching the point where further treatment would not improve the medical condition any further i.e. maximum medical improvement ("MMI"). Occupational Health Consultant (1)/LD gave a brief account on the notion of MMI and advised that participating injured employees would be arranged to undergo assessment by the Employees' Compensation Assessment Board in respect of permanent loss of earning capacity as necessary.

Target employees

21. Mr POON Siu-ping enquired whether the Administration would consider expanding the scope of the Pilot Programme to cover those industries which also recorded high work injury rates.

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22. DC for L (OSH) responded that as construction employees constituted the highest percentage of injured employees taking sick leave for six weeks or more among various industries in recent years, construction employees were hence targets of the Pilot Programme. Moreover, among the settled employees' compensation ("EC") cases of construction employees involving incapacitation for more than three days in 2019, over 60% involved working day loss of six weeks or more. DC for L (OSH) further advised that according to the findings of the "Strategic Review on Healthcare Manpower Planning and Professional Development", there was a general shortage of occupational therapists and physiotherapists in the short to medium term. It was therefore considered pragmatic to introduce a work-injury rehabilitation programme for injured construction employees on a pilot basis, having regard to the manpower situation of the relevant professions. Subject to the effectiveness of the Pilot Programme, the Administration would explore extending the Pilot Programme to cover injured employees in other industries.

23. While expressing support for the Pilot Programme, Mr CHAN Kin-por queried whether it was merely because of administration convenience that the Pilot Programme would target at injured construction employees who had not returned to work six weeks after sustaining physical injuries at work. In his view, target employees of the Pilot Programme should also cover those employees who had sustained severe physical injuries at work and were recommended by doctors to join the Pilot Programme. Mr CHAN called on the Administration to make reference to the successful experience of the Multidisciplinary Orthopaedics Rehabilitation Empowerment Programme run by the Chinese University of Hong Kong and to reconsider the target employees of the Pilot Programme.

24. DC for L (OSH) said that member's view and suggestion were noted. The Administration would take these into account when refining the programme details of the Pilot Programme.

25. Mr SHIU Ka-fai sought information on the trend and number of cases of injured employees taking sick leave for six weeks or more in the construction industry in the past five years. In reply, DC for L (OSH) said that the numbers of relevant cases in the construction industry were in general stable in the past five years. Senior Labour Officer (Special Duties) 1/LD added that the respective numbers of settled EC cases of

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construction employees involving working day loss of six weeks or more in 2018 and 2019 were 2 301 and 2 334 respectively. At Mr SHIU's request, the Administration agreed to provide information on the numbers of injured employees taking sick leave of six weeks or more in various industries in the past 10 years after the meeting.

Procurement of rehabilitation treatment services

26. In the light of limited manpower supply of therapists, Mr Wilson OR expressed concern about possible bid-rigging among tenderers in setting the service fees for providing rehabilitation treatment in the tender exercise. Mr OR enquired about the preventive measures put in place. The Chairman was of the view that the Administration should ensure fairness and prevent bid-rigging in the tender exercise.

27. DC for L (OSH) assured members that relevant guidelines issued by the Financial Services and the Treasury Bureau would be closely observed in the procurement exercise.

Administration of the Pilot Programme

28. Noting that the Government proposed to commission OSHC to administer the Pilot Programme through legislative amendments, Mr Wilson OR was concerned about the role played by LD.

29. DC for L (OSH) responded that while OSHC would be commissioned to administer the Pilot Programme, LD would take charge of formulating its design and oversee its implementation. Moreover, LD would closely monitor the operation and effectiveness of the Pilot Programme, and LD representatives would take part in a committee to be set up under OSHC in relation to the implementation of the Pilot Programme.

Financial arrangement for the Pilot Programme

30. Mr Wilson OR asked about the breakdown of the estimated total non-recurrent expenditure for the Pilot Programme. Mr POON Siu-ping asked about the computation of the estimated case management expenditure which amounted to some \$115 million. The Chairman and Mr OR also sought information on the estimated number of work injury cases to be handled by a case manager.

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31. DC for L (OSH) advised that the total non-recurrent expenditure of about \$434 million for the three-year Pilot Programme was estimated on the basis that some 2 300 injured construction employees would be eligible to join the Pilot Programme each year. It mainly covered expenditure on rehabilitation treatment and case management as well as expenses in relation to the preparatory work and review of the Pilot Programme. Actual expenditure of the Programme would be subject to various factors including the tender results, the actual number of participating injured employees, as well as the rehabilitation treatment service needs of individual participants, etc.

32. As regards the caseload of a case manager, DC for L (OSH) advised that the preliminary thinking was that a case manager would be assigned to each participating injured construction employee to follow up on his/her case. The number of case managers to be recruited and the relevant expenditure would be subject to the actual number of participating injured construction employees under the Pilot Programme and their rehabilitation progress.

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33. At Mr Wilson OR's request, DC for L (OSH) agreed to provide after the meeting information on itemized breakdown of the total estimated non-recurrent expenditure of the Pilot Programme, such as expenditure on rehabilitation treatment, case management and other items in relation to the preparatory work and review of the Pilot Programme, together with the respective percentage of these expenditure items.

34. The Chairman asked about the basis for determining the amount of professional service fees allocated for each participating injured employee to receive rehabilitation treatment services under the Pilot Programme. DC for L (OSH) advised that details of the framework for the Pilot Programme were to be worked out by LD, OSHC and relevant professionals. The preliminary thinking was that relevant rehabilitation treatment service cost would be estimated based on the number of times of seeking such services by participating injured employees. Details of the rehabilitation treatment services that were covered in the Pilot Programme would be specified in the tender documents and service contracts accordingly.

35. Referring to the experience of receiving rehabilitation services by some injured employees under rehabilitation plans provided by their employers, the Chairman pointed out that the labour sector was worried that injured employees would be assessed to be fit for return to work

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prematurely. On the other hand, the Chairman pointed out that it was equally undesirable that the rehabilitation process was unnecessarily prolonged by the service providers. He called on the Administration to address these issues in drawing up the details of the Pilot Programme.

Implementation timetable

36. Mr POON Siu-ping asked about the progress of the legislative exercise for the Pilot Programme and the implementation timetable. DC for L (OSH) responded that LD was preparing the Occupational Safety and Health Council (Amendment) Bill to empower OSHC to undertake new functions relating to the rehabilitation of injured employees, including administering the Pilot Programme. The Administration planned to introduce the Amendment Bill into LegCo in the 2020-2021 legislative session, and to launch the Pilot Programme in 2022 subject to the progress of the legislative amendment exercise and the time required for concrete preparatory work to be commenced afterwards.

Employees' compensation issue

37. Mr SHIU Ka-fai said that he had received complaints from some employers about dubious work injury cases. In such cases, employers had to make employees' compensation to their employees who claimed to have sustained work injury for an unduly long period. Mr SHIU expressed concern about rights and obligations of employers under such circumstances. Echoing a similar concern, Mr CHAN Kin-por held the view that there was apparent loophole under the employees' compensation system.

38. Senior Labour Officer (Compensation) (Operations 1)/LD ("SLO(C)(OP1)/LD") said that the number of complaints received by LD in relation to doubtful work injury cases was not many. SLO(C)(OP1)/LD added that for a work injury compensation claim, the employee concerned would in general be required to undergo medical clearance and work injury assessment on the permanent loss of earning capacity whenever appropriate. If the case was in dispute, LD would gather information and provide views on the likelihood of the case being a work injury from the medical point of view and according to the provisions of the Employees' Compensation Ordinance (Cap. 282) ("ECO") to both the employer and employee for reference. If the injury was not related to work, the employer was not required under the law to

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provide periodical payment to the employee concerned. This apart, an employer might require an employee who was in receipt of periodical payments to undergo a medical examination arranged by the employer so as to provide reference to the employer when considering whether the employee's injury and respective sick leave were work-related.

39. Ms Alice MAK and Mr POON Siu-ping were of the view that it would be difficult for employees to make false work injury compensation claim, having regard to the need to undergo work injury assessment. Ms MAK was gravely concerned that there were cases in which employers did not acknowledge the work injuries of their employees.

40. DC for L (OSH) advised that the implementation of the Pilot Programme would be beneficial to both injured employees and their employers. Notably, a case manager would be assigned to each participant as soon as he/she was admitted to the Pilot Programme to follow up on his/her case and the case manager would make sure that the injured employees would understand their rights and obligations under ECO.

VI. Hong Kong's occupational safety performance in the first half of 2020

(LC Paper Nos. CB(2)209/20-21(05) and (06))

41. At the invitation of the Chairman, DC for L (OSH) briefed members on Hong Kong's occupational safety performance in the first half of 2020 as detailed in the Administration's paper.

42. Members noted an updated background brief entitled "Occupational safety performance in Hong Kong" prepared by the LegCo Secretariat.

Occupational injuries statistics

43. Mr POON Siu-ping pointed out that although the numbers of occupational injuries and industrial accidents in the first half of 2020 were comparatively smaller than those in the corresponding period in 2019, this did not necessarily reflect the improvement of occupational safety performance in various trades and industries. The phenomenon might be simply because of the recent high unemployment and underemployment rates under the deteriorating economy and COVID-19 epidemic. The Chairman shared a similar view. Mr POON asked

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whether, apart from making reference to the accident rates per 1 000 employees, there was other way to measure occupational safety performance.

44. DC for L (OSH) acknowledged that the decrease in accidents for all sectors in the first half of 2020 as compared with the same period of 2019 might be attributed to the rising unemployment and underemployment rates in various industries in the past months. LD considered that the some 20 fatal cases in the construction industry in each of the past few years was on the high side.

45. Mr CHAN Kin-por was gravely concerned that the number of industrial fatalities had remained on the high side in the past years and they had brought about dire consequences on the families of workers concerned. Mr CHAN considered it imperative to ensure that work safety measures were duly adopted in the construction projects and there were adequate deterrent effect on duty-holders/employers for non-compliance with the occupational safety and health ("OSH") legislation. He sought explanation for lack of significant improvement over occupational safety over the years.

46. DC for L (OSH) advised that enhancing the OSH performance of the construction industry had always been LD's top priority. LD from time to time organized promotional and educational programmes of different themes and scales to heighten the OSH awareness of industry stakeholders, including employers and employees, over systemic safety problems and the need to implement appropriate preventive measures. In addition, LD had been adopting a risk-based strategy in stepping up inspection and enforcement targeting at the construction industry. LD also participated actively in site safety management committee meetings of public works projects and provided advice on work processes of higher risk and urged the contractors and relevant duty holders to conduct risk assessments, devise safe method statements and implement safety measures as early as possible. Regarding work safety of the renovation, repair, alteration and addition ("RMAA") works, LD had strengthened cooperation with property management companies to raise the awareness of property owners and tenants of the common hazards associated with RMAA works. LD had also made use of the platforms of the Buildings Department to strengthen promotion on safe work practices to owners and tenants of domestic and commercial properties, advising them to urge their contractors to ensure works were conducted in compliance with the safety standards when their premises underwent renovation and repairs.

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Occupational safety of self-employed persons

47. Expressing concern about the occupational safety and protection for self-employed persons ("SEPs"), including those providing food delivery service in the catering sector, under the law in the event of work accidents, Ms Alice MAK asked whether SEPs were included in the occupational injuries statistics. Ms MAK called on the Administration to consider introducing relevant legislative amendments to enhance the employees' compensation protection for SEPs.

48. DC for L (OSH) advised that work injury cases of SEPs were not included in the occupational injuries statistics which were compiled in accordance with injury cases in workplaces reported under ECO, resulting in death or incapacity for work of over three days. That being said, LD and OSHC had been promoting OSH messages and strengthening the publicity efforts to all employees and general public and fostering their occupational safety at workplaces through various channels.

49. The Chairman asked about measures taken by the Administration to combat false self-employment. Citing recent cases of severe work injury accidents involving people taking orders on digital platforms to engage in food delivery jobs paid on a per-service basis ("platform workers"), the Chairman expressed concern that some companies/employers concerned did not acknowledge the employment relationship and evaded the legal liabilities to make employees' compensation. The Chairman was concerned about the protection of the employees' rights, benefits and welfare of platform workers under such circumstances and called on the Administration to review the existing legislation as appropriate. The Chairman further urged the Administration to strengthen the inspection work for false self-employment.

50. DC for L (OSH) responded that concerns about protection of employees' rights, benefits and welfare of digital platform workers would be relayed to LD's Labour Administration Branch. From the OSH perspective, LD would study the causes of severe work injury cases, including those involving SEPs, and thereafter disseminate OSH messages to employees and general public as appropriate.

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Support to ethnic minorities

51. Pointing out that many ethnic minorities were working in the construction industry and their OSH awareness was rather low, Ms Alice MAK was concerned about their work safety and protection of their employees' rights and benefits in case of industrial accidents. Ms MAK asked about measures taken by LD to strengthen their work safety.

52. Chief Occupational Safety Officer (System and Support)/LD responded that LD had been stepping up its efforts to enhance the OSH awareness of workers of diverse races, including producing picture-centric, simple and reader-friendly OSH promotional leaflets in languages of diverse races (including Hindi, Nepali and Pakistani), and disseminated work safety messages through newspapers and periodicals to these workers. LD would also translate the sub-titles of the "Work Safety Alerts" animation videos into languages of diverse races (including Hindi, Nepali, Tagalog and Urdu) to facilitate the construction workers of different ethnic origins to comprehend the OSH information.

Inspection and enforcement

53. Mr SHIU Ka-fai was of the view that apart from raising penalties of OSH legislation, the Government could prevent the occurrence of occupational injuries and industrial fatalities by strengthening the educational work as well as inspection efforts. Mr SHIU sought detailed information on the relevant inspection and enforcement work. Mr POON Siu-ping shared a similar concern.

54. DC for L (OSH) responded that in 2020 (up to September), LD conducted a total of some 80 000 inspections in various trades and industries, in particular the construction industry and the food and beverage services sector, with 2 014 prosecutions initiated. Assistant Commissioner for Labour (Occupational Safety) ("AC for L (OS)") added that inspection work, including regular inspections, special enforcement operations and in-depth surprise inspections, would be conducted. Notably, no prior notice would be served for all inspections which were made by LD officers in plain clothes.

55. DC for L (OSH) further advised that LD would continue to adopt a risk-based approach in conducting inspections to work sites as necessary. Pursuant to the Construction Sites (Safety) Regulations (Cap. 591), contractors responsible for construction works lasting for six weeks or more and engaging more than 10 workmen should notify LD of the

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relevant information within seven days after commencement of the works. LD would conduct relevant risk assessment and conduct inspections to the work sites concerned as necessary. AC for L (OS) added that registered safety officers employed by contractors were required under the Factories and Industrial Undertakings (Safety Officers and Safety Supervisors) Regulations (Cap. 59Z) to give advice and recommendations on relevant OSH measures and standards to the contractors, particularly assisting the contractors in establishing a safety management system to prevent accidents.

Complaint channel

56. Mr POON Siu-ping asked about the breakdown by case types of 2 587 OSH complaint cases received by LD through the online OSH complaint platform since its launch in March 2019 and until the end of June 2020 as well as the outcome of the 181 prosecutions initiated/to be initiated arising from the breaches of OSH legislation detected in connection with the complaints. Mr POON further asked whether there was any abuse in making complaints.

57. DC for L (OSH) responded that LD did not maintain the breakdown as requested by Mr POON Siu-ping. In general, the reported unsafe working conditions involved unsafe work-at-height on ladders, working platforms without guardrails, failing to use safety helmets or safety harnesses whilst at work, obstruction of means of escape, and use of machinery without valid certificates, etc. Around 90% of the reported cases were related to OSH. There was no evidence indicating that the complaint platform had been abused.

Raising penalties of occupational safety and health legislation

58. Mr POON Siu-ping enquired about the progress of the legislative amendment exercise to raise the deterrent effect of penalties for non-compliance with the OSH legislation. Pointing out that the Administration's proposal for raising penalties of the OSH legislation was pledged by the Chief Executive in the 2017 Policy Address, the Chairman called on the Administration to expedite the relevant legislative work.

59. Expressing the view that it was the responsibility of employers to provide a safe working environment for their employees, Ms Alice MAK considered it imperative to raise the deterrent effect of the penalties for non-compliance with the OSH legislation.

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60. DC for L (OSH) advised that comparing to the penalties of the OSH legislation in other advanced countries/regions, the maximum fines of the OSH legislation in most of these places far exceeded those of Hong Kong. By comparison, the penalties of the OSH legislation in Hong Kong were on the very low side. The penalties imposed by the court on OSH offences were on the low side and did not have sufficient deterrent effect to propel the improvement of OSH performance. Moreover, the penalties of the Factories and Industrial Undertakings Ordinance (Cap. 59) ("FIUO") and the Occupational Safety and Health Ordinance (Cap. 509) ("OSHO") had not been revised for over 20 years. The Government proposed to make legislative amendments in 2019 to raise the penalties of the OSH offences under these two Ordinances. It was expected that the number of occupational injuries and fatalities could be reduced following the enactment of the proposed legislative amendments.

61. DC for L (OSH) further said that following the consultation with the key stakeholders on the preliminary legislative amendment proposals in 2019, the Administration had analyzed and considered the views received for refining the legislative amendment proposal. LD would revert to the Panel in December 2020 on the latest legislative amendment proposals. Subject to the progress of law drafting, the Administration aimed to complete the legislative amendment exercise within the term of the current Government.

62. Given the penalties of FIUO and OSHO had not been revised for over 20 years, Mr SHIU Ka-fai said that the business sector subscribed to the view that the penalties needed to be reviewed. However, it was considered inappropriate to peg the fines of OSH offences with the turnover of the convicted companies as the proposed penalty level was unreasonably high. Mr SHIU called on the Administration to fully consult the relevant stakeholders on the legislative proposal.

63. Mr POON Siu-ping called on the Government to be determined to raise the penalty level of OSH offences without further delay.

64. The Chairman cast doubt about the effectiveness of the legislative proposal in achieving greater deterrence, if the court still imposed a fine at a level far below the maximum fine. The Chairman sought information on the number of requests for appeals made by LD in respect of the penalties imposed on convicted cases related to industrial accidents in the construction industry in the past years.

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65. DC for L (OSH) said that the Administration understood that the Judiciary would accordingly impose heavier penalties on OSH offences following the enactment of the relevant legislative proposal. Moreover, there would be stronger justifications for the Department of Justice ("DoJ") to seek review of or appeal against the penalties imposed by the court after the maximum fines had been raised. AC for L (OS) added that from 2014 to September 2020, LD requested DoJ to consider filing a review or an appeal in respect of low fines for 49 cases involving offences under OSO and FIUO. There were three such cases in 2020 (up to September).

66. There being no other business, the meeting ended at 6:36 pm.

Council Business Division 2
Legislative Council Secretariat
15 January 2021