

**立法會**  
**Legislative Council**

LC Paper No. CB(2) 1503/98-99  
(These minutes have been seen by  
the Administration)

Ref : CB2/SS/4/98

**Subcommittee on  
regulations relating to  
occupational safety and health**

**Minutes of meeting  
held on Monday, 4 January 1999 at 2:30 pm  
in Conference Room B of the Legislative Council Building**

- Members present** : Hon Andrew CHENG Kar-foo(Chairman)  
Hon HO Sai-chu, JP  
Hon Cyd HO Sau-lan  
Hon LEE Cheuk-yan  
Hon CHAN Wing-chan
- Members absent** : Hon Michael HO Mun-ka  
Hon Ronald ARCULLI, JP  
Hon CHAN Kam-lam  
Dr Hon LEONG Che-hung, JP  
Hon LEUNG Yiu-chung  
Hon TAM Yiu-chung, JP  
Dr Hon TANG Siu-tong, JP
- Public Officers attending** : Mr Herman CHO  
Principal Assistant Secretary for Education and Manpower
- Mr Franco KWOK  
Assistant Secretary for Education and Manpower
- Mr William SIU  
Assistant Commissioner for Labour

Mr PANG Kwok-lam  
Chief Occupational Safety Officer (Operations)

Mr W B MADDAFORD  
Senior Assistant Law Draftsman

Ms Lonnie NG  
Senior Government Counsel

**Clerk in attendance** : Mrs Sharon TONG  
Chief Assistant Secretary (2)1

**Staff in attendance** : Mr Arthur CHEUNG  
Assistant Legal Adviser 5

Ms Lolita NG  
Senior Assistant Secretary (2) 5

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**I. Continued discussion on the Factories and Industrial Undertakings (Confined Spaces) Regulation (new Regulation)**

Clause 14(1)  
(LC Paper No. CB(2) 947/98-99(01))

Members noted that the Administration had accepted members' suggestion to amend clause 14(1) to the effect that for offences which were of a more serious nature and were punishable by imprisonment, a proprietor or contractor would be provided with an opportunity to show "reasonable excuse" or "reasonable cause" before imposing on him the penalty and that for offences which were of a less serious nature, a fine would be imposed and a strict liability approach would be adopted.

Submission of Hong Kong E & M Contractors' Association (HKEMA)  
(LC Paper Nos. CB(2) 918/98-99(01) and CB(2) 947/98-99(02))

2. Members noted the Administration's response to the submission of HKEMA as contained in the paper.

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3. Members agreed that the first Subcommittee report would be submitted to the House Committee at its meeting on 8 January 1999. Principal Assistant Secretary for Education and Manpower (PAS/EM) noted that the deadline for giving notice of moving the motion at the LegCo meeting on 20 January 1999 would be 5 January 1999.

**II. Discussion on the Construction Sites (Safety)(Amendment) Regulation 1998 (Amendment Regulation)**  
(LC Paper No. CB(2) 947/98-99(03) )

Matters arising from the meeting on 14 December 1998

*Overseas requirement that a boatswain's chair should measure 74 cm in depth*

4. Assistant Commissioner for Labour (AC for L) said that in accordance with the Safety Provisions (Building) Recommendation 1937 of the International Labour Organisation, a skip, large basket, boatswain's chair or similar equipment should only be used as a suspended scaffold in exceptional circumstances for work of short duration, and under the supervision of a responsible person. When a skip or large basket was used as a suspended scaffold, it should be at least 75 cm deep and should be carried by two strong iron bands which should be properly fastened and continued round the sides and bottom and should have eyes in the iron to receive the ropes.

5. AC for L briefed members on the relevant British and American standards as mentioned in the paper. He advised that many overseas laws did not provide detailed specifications on the construction of a boatswain's chair or similar devices. However, they would require that a boatswain's chair should only be used in special or exceptional circumstances.

*Risks to boatswain's chairs workers of spinal injuries*

6. Members noted the medical advice as contained in the paper.

7. Miss Cyd HO asked whether the Administration would consider improving the existing standard for the use of boatswain's chairs. AC for L said that the Administration would consult the trade and work out the requirements in the relevant code of practice. AC for L further said that the Administration would make reference to overseas standards when working out the requirements.

8. The Chairman enquired about the latest development of the matter relating to the 13 construction sites against which suspension notices were issued by the Labour Department (LD). PAS/EM responded that all the construction sites, except one, had resumed work. Chief Occupational Safety

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Officer (Operations) (COSO(O)) added that of those 13 projects, ten were projects of the Housing Authority (HA) while the other three were projects of private development. At present, the Administration had cancelled the suspension notices issued to nine of the 10 HA construction sites. In places where the use of suspended working platforms was not feasible, boatswain's chairs could be used subject to strict safety requirements laid down by LD. Suspended working platforms were used exclusively in one site where painting work was not required. For the rest of the sites, suspended working platforms were used in conjunction with boatswain's chairs.

9. CHAN Wing-chan asked about the proportion of work using suspended working platforms and boatswain's chairs in the construction sites. COSO(O) estimated that suspended working platforms were used in more than half of the work while boatswain's chairs were used in the remaining part of it.

10. Mr CHAN Wing-chan asked whether the use of boatswain's chairs would be allowed in conjunction with suspended working platforms after the Amendment Regulation came into operation. PAS/EM said that given the ultimate objective to improve occupational safety in the construction sector, blanket exemption for the use of boatswain's chairs would not be in line with the spirit and the principle to amend the Construction Sites (Safety) Regulations (existing Regulations). The use of boatswain's chairs would not be allowed across-the-board. However, a contractor could apply to the Commissioner for Labour (C for L) for an exemption to use boatswain's chairs in circumstances where the use of suspended working platforms was not feasible.

11. Mr LEE Cheuk-yan asked for the statistics on serious accidents in relation to falling from height involving the use of boatswain's chairs and an estimate on the extent of reduction in the business activities of the trade after the Amendment Regulation came into operation.

12. The responses of PAS/EM and AC for L were as follows -

- (a) The requisite information could not be made available because serious accident records of the construction sector were not kept separately in the present computer system. Only statistics on fatal cases were known; and
- (b) Despite a likely decrease in the numbers of boatswain's chair workers after the Amendment Regulation came into operation, workers could continue painting or repainting on suspended working platforms after completion of a short training course run by the Construction Industry Training Authority (CITA). They could still work in the construction sector though with lower wages.

13. Responding to Mr CHAN Wing-chan on the use of safety belts,

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COSC(O) advised that workers should be trained for proper use of safety belts to prevent them from falling from height. They would sustain bodily injuries if they had not locked their safety belts on independent life lines properly.

14. Mr HO Sai-chu took the view that the use of boatswain's chairs should not be encouraged in the construction sector. Despite the higher cost, proprietors accepted the proposal to improve occupational safety for the trade.

Clause-by-clause examination

*Clause 2 - Interpretation*

15. On clause 2(c), members noted that the definition of "working platform" would be revised to include "suspended working platforms" in addition to "working stages". With such revision, suspended working platforms would be required to comply with the safety requirements for working platforms. However, members noted that there was inconsistency in that suspended working platforms were not included in the Third Schedule which provided for safety requirements for working platforms. Referring to the Factories and Industrial Undertakings (Suspended Working Platforms) Regulation, the Chairman pointed out that the definition of "suspended working platform" therein had already included "working platform". In this conjunction, PAS/EM agreed to review whether it was necessary to add "suspended working platform" in the definition of "working platform".

Adm

*Clause 3 - Part substituted*

Proposed regulation 38 A - Safety of places of work

16. In response to the Chairman on the penalty for contravening the existing regulation 38A, AC for L and COSO(O) said that places of work in construction sites should be made safe as far as was reasonably practicable and that contractors had been prosecuted. At the request of the Chairman, PAS/EM agreed to provide statistics on cases that had been prosecuted by the Administration for contravening existing regulation 38A.

Adm

Proposed regulation 38B - Prevention of falls

17. Responding to the Chairman, PAS/EM said that the "adequate precautions" in proposed regulation 38B(3) referred to demolition operations. They were different from the "adequate steps" listed in the proposed regulation 38B(2).

Proposed regulation 38D - Construction and maintenance of scaffolds, etc.

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Adm

18. At the request of the Chairman, PAS/EM agreed to provide statistics on cases that had been prosecuted by the Administration for contravening existing regulation 38D.

Proposed regulation 38E - Trained workmen to erect scaffold under supervision

Adm

19. Referring to the term “competent person”, the Chairman asked about the meaning of “substantial” training and experience required to perform the duty. AC for L explained that the existing code of practice had spelt out the training and experience required of a competent person. For example, he should have received the relevant formal training in CITA or the Occupational Safety and Health Council and had a minimum of 10 years experience in the trade. The Chairman considered the existing definition unclear. He asked the Administration to consider redefining the term “competent person” with reference to the training and experience required as set out in the existing code of practice. PAS/EM agreed to examine the issue.

Proposed regulation 38G - Boatswain’s chairs (not power operated)

20. Noting the need to use boatswain’s chairs in some circumstances, the Chairman requested the Administration to consider providing expressly in the Amendment Regulation for exemption to use boatswain’s chairs in special circumstances and setting out the criteria for granting such exemption.

21. PAS/EM said that such an express provision would contradict the objective of the Amendment Regulation to improve the safety of and protection for persons working at height. He reiterated that flexibility would be exercised in allowing the use of boatswain’s chairs when the use of suspended working platforms was not feasible.

22. As regards the procedure and the criteria, AC for L and COSO(O) said that where necessary, contractors should apply to C for L for exemption from proposed regulation 38(G) to use boatswain’s chairs. As the criteria for approving the use of boatswain’s chairs were technical details, they would be included in the relevant code of practice. Any additional safety requirements applicable to a particular circumstance would be spelt out in the letter of approval for exemption.

23. The Chairman considered it more desirable to state the exemption criteria in the Amendment Regulation. PAS/EM responded that as the use of boatswain’s chairs was not encouraged, it would be inappropriate to specify the criteria or the safety requirements for exemption in the Amendment Regulation. The Administration would adopt a flexible approach and state the safety requirements in the letter of approval for exemption. Exemption would be considered on a case by case basis. LD would adopt a set of uniform standards in processing applications.

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**III. Date of next meeting**

24. The next meeting was scheduled for Monday, 11 January 1999 at 2:30 pm.
25. There being no other business, the meeting ended at 4:25 pm.

Legislative Council Secretariat  
12 March 1999