

立法會
Legislative Council

LC Paper No. CB(2) 1592/98-99
(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 Tuesday, 26 January 1999 at 2:30 pm
in Conference Room B of the Legislative Council Building**

Members present : Hon Andrew CHENG Kar-foo(Chairman)
Hon Cyd HO Sau-lan
Hon LEE Cheuk-yan
Hon CHAN Wing-chan
Hon CHAN Kam-lam
Hon TAM Yiu-chung, JP

Members absent : Hon HO Sai-chu, JP
Hon Michael HO Mun-ka
Hon Ronald ARCULLI, JP
Dr Hon LEONG Che-hung, 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 G H FOX
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. Confirmation of minutes of meeting held on 26 November 1998
(LC Paper No. CB(2) 1089/98-99)

The minutes were confirmed.

II. Continued discussion on the Construction Sites (Safety)
(Amendment) Regulation 1998 (Amendment Regulation)

Matters arising from the last meeting
(LC Paper No. CB(2) 1125/98-99(01))

Defence to proposed regulations 38A, 38D, 38E and 38F

2. Assistant Commissioner for Labour (AC for L) said that a defence of “reasonably practicable” had already been provided in proposed regulation 38A. Proposed regulation 38D could be considered as an extension and elaboration of proposed regulation 38C. As proposed regulation 38C already had a defence which was embodied in proposed regulation 38H(1), a separate defence for proposed regulation 38D was not necessary. It was inappropriate to provide for a defence for failing to take the specific steps as required under proposed regulations 38E and 38F to make the scaffold, ladder and other means of support safe, otherwise proposed regulation 38G would be ineffectual. Moreover, a defence had indirectly been provided for proposed regulations 38E and 38F under proposed regulations 38C and 38H. The Administration therefore

considered that

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a defence was not necessary for proposed regulations 38A, 38D, 38E and 38F. The present drafting of the proposed regulations would be more effective in terms of enforcement.

3. The Chairman said that he would further consider whether a defence should be provided for proposed regulations 38A, 38D, 38E and 38F.

Fixed penalty system

4. Members noted the explanation given by the Administration as to why it considered that the introduction of a fixed penalty system to deal with contravention by employers and workers of safety regulations was not appropriate as set out in the paper, and that, as an alternative, the Labour Department would step up prosecutions and issue more Improvement/Suspension Notices wherever necessary and appropriate.

Draft amendments to the Amendment Regulation proposed by the Administration

(LC Paper No. CB(2) 1167/98-99(01))

5. Members agreed to the draft amendments, which were technical in nature, proposed by the Administration to be incorporated into the Amendment Regulation.

Proposal by the Democratic Party in respect of proposed regulation 38G

6. A paper on the proposal by the Democratic Party in respect of proposed regulation 38G was tabled at the meeting.

(Post-meeting note : The paper was circulated to absent members vide LC Paper No. CB(2) 1189/98-99(01).)

7. The Chairman briefly took members through the paper. He said that the Democratic Party was in support of the legislative intent to improve the safety of and protection for persons working at height. To allow more time for the boatswain's chair workers to be trained to perform other types of work, the Democratic Party proposed a grace period of one year upon the enactment of the Amendment Regulation before the proposed regulation 38G came into operation.

8. In response to the proposal, Principal Assistant Secretary for Education and Manpower (PAS/EM) and AC for L made the following points :

(a) The objective of the Amendment Regulation was to improve the

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safety of and protection for persons working at height. Where it was necessary for workers to work at height, the contractor had to provide proper working platforms. If this was not practicable, safety nets and safety belts should be provided. It was only when this was again not practicable that safety belts be used on their own.

- (b) Workers using boatswain's chairs were only supported by a chair board while working at height, they were extremely vulnerable because of the many human factors involved. The use of boatswain's chair should be prohibited except in special circumstances. Flexibility would be exercised in allowing the use of boatswain's chair when the use of suspended working platform was not feasible.
- (c) The boatswain's chair workers would have sufficient time to complete a course and obtain the certificate in using suspended working platform within the six months' grace period as proposed by the Administration. The relevant course organized by the Construction Industry Training Authority (CITA) only lasted for two days. A further extension of six months was therefore unnecessary.
- (d) Deferring the effective date for the proposed regulation 38G would serve no meaningful purpose as far as the boatswain's chair workers were concerned. After the implementation of the Amendment Regulation, a contractor had to comply with the provisions of the regulations even in the absence of regulation 38G. The Labour Department would continue the current operation practice to issue Suspension Notices to prohibit the use of boatswain's chairs in situations where other safer means of support were practicable. There would be little enhancement to the scope for the use of boatswain's chairs by deferring the implementation of regulation 38G.
- (e) The contractor would not be able to apply for exemption from proposed regulation 38G where the use of boatswain's chairs was the only reasonable and practicable option or for work of very short duration.
- (f) The Amendment Regulation should be implemented as early as possible so as to improve occupational safety in the construction sector.

Adm

9. At the request of members, PAS/EM agreed to provide the

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Administration's response to the Democratic Party's proposal in writing.

(Post-meeting note : The Administration's written response was circulated to members vide LC Paper No. CB(2) 1269/98-99.)

10. In response to Mr LEE Cheuk-yan, PAS/EM said that the boatswain's chair workers might still hope that the use of boatswain's chairs could continue. Therefore, they might not take the initiative to be retrained to perform other types of work. The Administration was willing to offer assistance to the affected workers to attend training courses organized by CITA and obtain the relevant qualifications to perform other types of work.

11. Mr CHAN Wing-chan said that he would consult the affected boatswain's chair workers on the proposal and would revert to the Subcommittee at the next meeting.

III Date of next meeting

12. The next meeting was scheduled for Wednesday, 10 February 1999 at 10:45 am.

13. The meeting ended at 3:45 pm.

Legislative Council Secretariat
22 March 1999