

立法會
Legislative Council

LC Paper No. CB(2) 1656/98-99

(The 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 Wednesday, 10 February 1999 at 10:45 am
in Conference Room A 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 Ronald ARCULLI, JP
Hon CHAN Wing-chan
Hon CHAN Kam-lam
Dr Hon LEONG Che-hung, JP

Members absent : Hon Michael HO Mun-ka
Hon TAM Yiu-chung, 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

Action

**I. Confirmation of minutes of meeting held on 8 December 1998
(LC Paper No. CB(2) 1270/98-99)**

The minutes were confirmed.

**II. Continued discussion on the Construction Sites (Safety)
(Amendment) Regulation 1998 (Amendment Regulation) -
outstanding issues**

Proposal to defer the commencement date of the Amendment Regulation to one
year after its enactment

2. Having regard to the Administration's explanations that the postponement of the effective date for the proposed 38G would serve no meaningful purpose as far as the boatswain's chair workers were concerned, the Chairman invited the Administration and members to consider a proposal to extend the grace period to one year upon the enactment of the Amendment Regulation before it took effect.

Action

3. At the invitation of the Chairman, Assistant Legal Adviser 5 said that the motion on the Amendment Regulation, if passed, would authorize the Commissioner for Labour by notice in Gazette to appoint a day for the commencement of the Amendment Regulation. The commencement notice was a piece of subsidiary legislation and was subject to the scrutiny of the Legislative Council. It would not be necessary to amend the Amendment Regulation for deferring the effective date of the Amendment Regulation.

4. Principal Assistant Secretary for Education and Manpower (PAS/EM) said that the Administration considered that the Amendment Regulation should be implemented as early as possible so as to improve the safety of and protection for persons working at height. The Administration remained of the view that the Amendment Regulation should take effect six months after its enactment.

5. Dr LEONG Che-hung agreed that the Amendment Regulation should be implemented as early as possible. He supported the Administration's proposal for a six months' grace period.

6. Miss Cyd HO said that members of The Frontier supported the early implementation of the Amendment Regulation. The effective date of the Amendment Regulation should not be deferred by another six months.

7. Mr CHAN Wing-chan said that given that the employment opportunities of boatswain's chairs workers would be seriously affected, Members of the Hong Kong Federation of Trade Unions would oppose the proposed regulation 38G as well as the Amendment Regulation.

8. The majority of members accepted the six months' grace period as proposed by the Administration.

Fixed penalty system for contravening proposed regulation 38I

9. The Chairman took members through a proposal by the Democratic Party for a fixed penalty system which was tabled at the meeting. He said that where a worker was found not wearing a safety belt as required under the proposed regulation 38I, a proprietor or contractor had to identify the worker concerned and a fixed fine of HK\$500 would be served on the worker. If the proprietor or contractor was unable to identify the worker in 14 days, he would then be subject to a fixed fine of the same amount. The proposal aimed to provide sufficient deterrent effect from contravening the regulation. Hence, the safety of persons working at height could be improved. He invited members' views on the proposal.

(Post-meeting note : The proposal was circulated to absent members vide

Action

LC Paper No. CB(2) 1296/98-99(01).)

10. Mr HO Sai-chu opposed the proposal. He pointed out the difficulties in identifying or proving the breaches of the safety regulation by workers. It was unfair to hold the proprietor or contractor responsible for the fixed fine should he be unable to identify the worker concerned. He doubted whether the proposal could achieve its intended purpose. To improve safety at work, he suggested that the Administration should step up enforcement of safety regulation and prosecution against workers and promote safety training for workers.

Adm

11. Mr Ronald ARCULLI shared Mr HO's view that the proposal was unfair to proprietors or contractors. He requested the Administration to provide prosecution figures against construction workers and proprietors/contractors for contravening safety regulations for the past five years.

12. Mr LEE Cheuk-yan opposed the proposal of imposing a duty on the contractor to identify the worker for non-compliance with the safety regulation.

13. While agreeing to a fixed penalty system, Miss Cyd HO opposed the imposition on the contractor of a duty to identify the worker concerned and to enforce the safety regulation.

14. PAS/EM said that the introduction of a fixed penalty system was not in line with the Administration's new strategy in encouraging self-regulation by both the proprietors and workers in enhancing workplace safety through a safety management system. The Administration had recently introduced the Factories and Industrial Undertakings (Amendment) Bill 1999 into the Legislative Council, which, inter alia, required mandatory safety training for all workers in the construction and container handling industries. The Administration hoped that upon the implementation of mandatory safety training, together with a new regulation on a safety management system in selected industrial undertakings including construction sites, a new safety culture among construction workers could be cultivated.

15. Members agreed that a report on the deliberations of the Subcommittee on the Construction Sites (Safety) (Amendment) Regulation 1998 be submitted to the House Committee on 26 February 1999. PAS/EM noted that the deadline for giving notice of moving the motion at the LegCo meeting on 10 March 1999 would be 23 February 1999.

16. The meeting ended at 11:50 am.

Legislative Council Secretariat
30 March 1999