

立法會
Legislative Council

LC Paper No. CB(2)836/11-12
(These minutes have been seen
by the Administration)

Ref : CB2/PL/MP

Panel on Manpower

Minutes of meeting
held on Thursday, 17 November 2011, at 2:30 pm
in Conference Room 3 of the Legislative Council Complex

Members present : Hon LEE Cheuk-yan (Chairman)
Hon LI Fung-ying, SBS, JP (Deputy Chairman)
Hon CHEUNG Man-kwong
Hon LEUNG Yiu-chung
Hon Andrew CHENG Kar-foo
Hon WONG Kwok-hing, MH
Hon Andrew LEUNG Kwan-yuen, GBS, JP
Hon CHAN Kin-por, JP
Hon CHEUNG Kwok-che
Hon WONG Sing-chi
Hon WONG Kwok-kin, BBS
Hon IP Wai-ming, MH
Dr Hon PAN Pey-chyou
Hon Alan LEONG Kah-kit, SC
Hon LEUNG Kwok-hung

Members absent : Hon Tommy CHEUNG Yu-yan, SBS, JP
Hon Frederick FUNG Kin-kee, SBS, JP
Hon IP Kwok-him, GBS, JP

Public Officers attending : Item IV
Mr CHEUK Wing-hing, JP
Commissioner for Labour

Mr Byron NG Kwok-keung, JP
Assistant Commissioner for Labour
(Labour Relations)

Ms Melody LUK Wai-ling
Chief Labour Officer (Labour Relations)
Labour Department

Miss Christine BUT Wing-tung
Senior Labour Officer (Labour Relations)
Labour Department

Ms Elsa LEE Ling-yee
Senior Statistician (Social) 2
Census and Statistics Department

Item V

Mr David LEUNG, JP
Deputy Commissioner for Labour
(Occupational Safety and Health)

Mr TSO Sing-hin, JP
Assistant Commissioner for Labour
(Occupational Safety)

Mr LEUNG Chun-ho
Chief Occupational Safety Officer (Support Services)
Labour Department

Clerk in attendance : Mr Raymond LAM
Chief Council Secretary (2) 1

Staff in attendance : Ms Clara TAM
Assistant Legal Adviser 9

Miss Josephine SO
Senior Council Secretary (2) 7

Mr Ian CHOW
Council Secretary (2) 1

Ms Kiwi NG
Legislative Assistant (2) 1

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I. Confirmation of minutes of previous meeting
(LC Paper No. CB(2)168/11-12)

The minutes of the meeting held on 13 October 2011 were confirmed.

II. Information paper(s) issued since the last meeting

2. Members noted that no information paper had been issued since the last meeting.

III. Date of next meeting and items for discussion
(LC Paper Nos. CB(2)286/11-12(01) and (02))

3. Members agreed to discuss the following items proposed by the Administration at the next regular meeting scheduled for 15 December 2011 at 2:30 pm -

- (a) Supplementary provisions required for top-up payment to government service contractors arising from the implementation of statutory minimum wage; and
- (b) Latest progress of the setting up of a pioneer one-stop employment and training centre in Tin Shui Wai.

Report on the Panel's overseas duty visit to study the experience in the implementation of standard working hours in the Republic of Korea

4. The Chairman said that the drafting of the overseas duty visit report was close to completion. A relevant item might be included in the agenda for the Panel meeting on 15 December 2011 to note the report.

Merging of construction-related cards

5. The Chairman informed members that the subject of the merging of construction-related cards as raised by Mr WONG Kwok-hing at the Panel meeting on 20 October 2011 fell within the purview of the Panel on Development and was discussed at its meeting on 23 November 2010 in the context of "Updating on matters concerning the construction industry". Members agreed that the matter be referred to the Panel on Development for follow-up.

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IV. Continuous contract under the Employment Ordinance
(LC Paper Nos. CB(2)285/11-12(01) and CB(2)286/11-12(03))

6. With the aid of powerpoint presentation, Assistant Commissioner for Labour (Labour Relations) ("AC for L (LR)") and Chief Labour Officer (Labour Relations) ("CLO(LR)") presented the major findings of a survey conducted by the Census and Statistics Department ("C&SD") on employees engaged under employment contracts with short duration or working hours as published in its Special Topics Report No. 55 ("the Report") released in July 2011, details of which were set out in the Administration's paper.

(Post-meeting note: The softcopy of the powerpoint presentation material was issued to members vide LC Paper No. CB(2)347/11-12(01) on 17 November 2011.)

7. Commissioner for Labour ("C for L") highlighted that -
- (a) employees were accorded different levels of protection and benefits under labour legislation depending on their length of employment or weekly working hours. Certain protection and entitlement were accorded to all employees, irrespective of their duration of employment or hours of work per week. These included protection concerning payment of wages, restriction on deductions from wages, entitlement to statutory holidays and protection against anti-union discrimination under the Employment Ordinance (Cap. 57) ("EO"); protection regarding compensation for employees who sustained work injuries or suffered from prescribed occupational diseases under the Employees' Compensation Ordinance (Cap. 282); and protection of statutory minimum wage ("SMW") under the Minimum Wage Ordinance (Cap. 608);
 - (b) under EO, employees who had been employed under a contract of employment by the same employer for four weeks or more and had worked for 18 hours or more each week ("continuous contract employees"), irrespective of whether they worked full-time or part-time, were further entitled to other employment benefits, such as rest days, paid statutory holidays, annual leave, sickness allowance, severance payment and long service payment etc, subject to their meeting the relevant eligibility criteria;

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- (c) it was noteworthy that among the 148 300 employees engaged under employment contracts with short duration or working hours ("SDWH employees") instead of a continuous contract, 75 800 employees usually worked 18 hours or more per week but were employed in their present jobs for less than four weeks at the time of enumeration. 50 200 of this group of persons expected to work in their present jobs continuously for four weeks or more and hence might subsequently become continuous contract employees. Discounting this group of persons, there were 98 000 SDWH employees who were virtually not engaged under a continuous contract, accounting for 3.4% of the total number of employees in the non-government sector; and
- (d) among the 56 300 SDWH employees who usually worked less than 18 hours a week, some 42 600 did not choose to work longer hours for personal reasons.

8. Mr LEUNG Yiu-chung expressed concern that the survey findings had indicated that a substantial percentage of SDWH employees were people aged between 40 and 59 with low educational qualifications. He considered that the Administration should formulate concrete measures to enhance employment protection and benefits for SDWH employees, as many of them were being exploited by their employers who adopted odd pattern of hours of work in order to evade responsibilities under labour laws. Mr LEUNG pointed out that three large companies in Hong Kong scheduled the pattern of hours of work of their part-time employees in such an odd way that the employees concerned would not be entitled to protection and benefits that were accorded to continuous contract employees. In his view, the Administration should plug the loopholes as early as possible by removing the "4-18" threshold and putting forward legislative proposals to ensure SDWH employees would also be entitled to employment benefits. He asked about the Administration's course of actions after the publication of the Report.

9. C for L responded that -

- (a) with the development of the labour market and calls for relaxing the continuous contract requirement (the so-called "4-18" requirement) under EO for the protection of rights and benefits of SDWH employees, the Administration was undertaking a review of the subject with reference to the findings of the survey on SDWH employees as revealed in the Report;

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- (b) since continuous contract was the cornerstone upon which various employment benefits were provided by employers to their employees under EO, any change to the "4-18" requirement would have far-reaching implications on the labour market and the community as a whole. In drawing up any possible proposals on the subject, the Administration must be careful not to create undue financial burden to enterprises doing business in Hong Kong, particularly small and medium-sized enterprises ("SMEs"), and upset the local business environment;
- (c) in determining whether any changes would need to be made, the Administration would bear in mind the overall interests of Hong Kong and endeavour to strike a reasonable balance between the interests of employees and the affordability of employers. In the course of the review, the Administration would continue to listen to the views of different parties; and
- (d) the Administration intended to consult the Labour Advisory Board ("LAB") on the review in mid-2012. After deliberations by LAB, the Panel would be consulted.

10. Mr WONG Kwok-kin said that he was a former member of LAB and the issue of enhancing the protection under EO for employees who were not employed under a continuous contract had been discussed by LAB without reaching any consensus some six to seven years ago. Expressing dissatisfaction with the Administration's progress in taking forward the review of EO, he urged the Administration to come up with concrete proposals so as to better protect the rights of non-"4-18" employees.

11. Sharing Mr WONG Kwok-kin's concern, Mr WONG Kwok-hing pointed out that at the Panel meeting on 17 January 2008, members had passed a motion urging the Government to proceed immediately to amend EO for protection of non-"4-18" employees so that they would be entitled to the statutory employment rights and benefits. He said that there was an increasing trend of employers adopting odd pattern of hours of work or reducing the working hours of their part-time employees to less than 18 hours per week in order to evade employers' responsibilities to provide part-time employees with employment benefits. In his view, there was an urgent need for the Administration to plug the loopholes of EO to minimize unscrupulous employers' exploitation on SDWH employees.

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He called on the Administration to remove or relax the "4-18" threshold for continuous employment in this light and revert to the Panel by the end of this legislative session.

12. C for L responded that the Administration had been reviewing the continuous contract requirement having regard to concerns over the rights and benefits of non-"4-18" employees under EO. He explained that the complexity of the subject, the need to strike a reasonable balance between the interests of employees and those of employers, as well as the far-reaching implications on the labour market and the community as a whole all warranted an in-depth and thorough study on the protection of workers not employed under a continuous contract. C for L said that in the course of its review, the Administration would thoroughly assess the social-economic implications of any possible changes, analyze and draw on experience of overseas countries. LAB would be consulted on the review in mid-2012. After deliberations by LAB, the Administration would revert to the Panel on the subject.

13. Responding to Mr WONG Kwok-hing's enquiry as to whether consultation with LAB and the Panel could be held concurrently, C for L advised that it was a standing practice for the Administration to submit proposals on labour issues to LAB for deliberation and secure its consensus first, before presenting them to the Panel for consideration. In response to members' request that relevant proposals on the subject be discussed by the Panel within the current legislative session, he said that the Administration would revert to the Panel on the subject with proposals after the matter had been deliberated by LAB.

14. Mr Alan LEONG expressed concern about the progress of the Administration's review on the definition of continuous employment and the overseas experience that had been drawn on by the Administration during the process.

15. C for L responded that the review was already underway. Before deciding whether changes needed to be made to the "4-18" requirement, the Government had to conduct an in-depth study of the subject. The Administration's plan was to consult LAB on the review in mid-2012. After deliberations by LAB, the Panel would be consulted. In conducting the review, the Administration would make reference to relevant laws and regulations, measures and experiences of other places, including neighbouring and European countries, with due regard to Hong Kong's own circumstances.

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16. Referring to paragraph 14 of the Administration's paper, the Deputy Chairman expressed deep concern that 49.7% of those 25 600 employees who did not expect to work in their present jobs continuously for four weeks or more had mentioned "custom of trade/norm of company /business arrangement of company" as the reasons why their employers would not offer them a longer term contract. She considered that the reasons were merely excuses of unscrupulous employers or well-established enterprises to evade their statutory responsibilities to provide SDWH employees with employment benefits. Enquiring about the measures to be taken by the Administration to address the problem, she also sought clarification on what exactly the impacts would be and to what extent the business environment and labour market would be affected should legislative amendments be introduced to EO to enhance the rights and benefits of non-"4-18" employees.

17. In response, C for L and AC for L (LR) made the following points -

- (a) among the 25 600 SDWH employees who did not expect to work in their present jobs continuously for four weeks or more, a higher proportion of them were engaged in the construction sector in which due to the special characteristics of construction works, workers with a skill were usually engaged on a short-term basis and would leave the work site after that part of the works had been completed;
- (b) the survey revealed that it was mostly due to personal reasons, including "having to take care of housework or household members at home", "in educational pursuit", "health problem or old age" and "having no financial need", that the majority of the non-"4-18" employees working less than 18 hours per week had not worked longer hours;
- (c) "continuous contract" was the basis for determining an employee's eligibility for various employment rights and benefits under EO. Any amendment to this statutory definition would have far-reaching implications on the labour market as a whole; and
- (d) removing or lowering the "4-18" threshold for the purpose of extending employment benefits to employees currently not engaged under a continuous contract under EO would have cost implications for employers, in particular those of SMEs. The retail, catering and construction industries usually had a

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greater demand for part-time or short-term staff. There might be an impact on employers in these sectors if they needed to contain the additional staffing cost, hence affecting their flexibility in hiring part-time workforce to meet fluctuations in the demand for their goods and services. Removing the threshold might adversely affect the employment opportunities of those who preferred to work shorter hours. Given the wide implications on employers and employees, any proposal to relax the "4-18" threshold for continuous employment had to be considered carefully in this light. It would be prudent and necessary for the Administration to conduct an in-depth and thorough study on the subject before arriving at any recommendation.

18. Mr WONG Sing-chi asked whether the Administration would proactively investigate into complaints as referred to by some members to prevent employers of targetted companies, such as the Jockey Club, the Hong Kong Disneyland and large supermarket establishments, from circumventing the legal requirement by adopting odd pattern of hours of work in the employment of part-time staff.

19. C for L responded that if the pattern of hours of work was determined having regard to operational considerations and consensus between the employers and the employees without violating the law, there would be no strong cause for making intervention.

20. AC for L (LR) said that although employees not engaged under a continuous contract were not entitled to certain employment benefits under EO, the recent survey had revealed that some SDWH employees were granted some of these benefits by their employers. Among the 148 300 SDWH employees, 20.4% were granted statutory holiday pay, 24.6% enjoyed paid annual leave and 4.7% were granted end-of-year payment. The Administration would continue to encourage employers to expand the benefits of their non-"4-18" employees on a voluntary basis.

21. Responding to Mr IP Wai-ming's enquiry as to whether the Administration had undertaken any analyses on the employment and demographic profiles of those 16 200 employees who had worked continuously for their employers for four weeks or more and usually worked at least 18 hours per week but not continuously in the present job at the time of enumeration, CLO(LR) advised that it was the first time that C&SD captured data on such type of employees. While comparison could not be made between the findings of the surveys conducted in 2006

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and 2009, the Administration noted that these 16 200 SDWH employees accounted for 0.6% of the total number of employees working in the non-government sector. Among these, 33.0% were engaged in the construction sector, 32.0% in the retail, accommodation and food services sector, 11.6% in the public administration, social and personal services sector and 11.1% in the transportation, storage, postal and courier services, information and communications sector. In view of Mr IP's concern over the profiles of these 16 200 employees, the Administration would provide the Panel with more information in this respect after the meeting.

22. Mr WONG Kwok-hing and Mr IP Wai-ming shared the view that the Administration should give serious consideration to relaxing the "4-18" threshold and extending the right and benefits of continuous contract employees under EO to SDWH employees on a pro-rata basis.

23. Mr LEUNG Kwok-hung suggested that the Administration should conduct a special topic survey on enterprises doing business in Hong Kong in order to assess the potential impact of a relaxed "4-18" threshold on SMEs. He held the view that if the survey findings suggested that any change in this regard would have serious adverse impact on SMEs, consideration could be given to granting an exemption to SMEs, based on their company size, from complying with the requirement to provide SDWH employees with various employment benefits under EO.

24. C for L responded that a further survey among SMEs, might not be necessarily required as such views could be collected from SME associations. Regarding the suggestion of removing or relaxing the "4-18" threshold, C for L stressed that the issue was complex, given its far-reaching implications on the labour market, the business environment and the overall interest of the community. Equally controversial was the proposal of granting exemption to SMEs, since it might raise questions of discrimination. This notwithstanding, the Administration maintained an open mind on the suggestion of extending the right and benefits of "4-18" employees under EO to SDWH employees on a pro-rata basis.

25. Responding to Dr PAN Pey-chyou's enquiry about the length of service and usual hours of work per week in the present job for all the 148 300 SDWH employees, C for L advised that the information was provided in Table 2b of the Report.

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26. Dr PAN Pey-chyou was concerned that the implementation of SMW might have a negative impact on the employment opportunities of SDWH employees. He suggested that the Administration should conduct a survey and collect relevant data to find out the possible impact of SMW in this respect.

27. AC for L (LR) responded that the Labour Department ("LD") had commissioned C&SD to collect statistical data to facilitate the impact assessment of the implementation of SMW. In view of members' concern over the read-across implications of SMW on employment opportunities of SDWH employees, the Administration would as far as possible make reference to those data during its review of the definition of continuous contract under EO.

28. The Chairman said that to his knowledge, many hotels and restaurants used to engage more workers, in particular part-time workers, during peak seasons to provide service at banquets and dinners. These people were normally non-"4-18" employees who worked continuously for their employers for four weeks or more and usually worked at least 18 hours per week (but not continuously) in the present job.

29. Concluding the discussion, the Chairman asked the Administration to take note of the views and concerns expressed by members regarding the need to introduce amendment to EO to enhance the rights and benefits of non-"4-18" employees. He requested the Administration to revert to the Panel on the subject and submit proposals for enhancing employment protection and benefits for non-"4-18" employees within the 2011-2012 legislative session.

V. Construction Safety - regulatory framework in Hong Kong and performance in the first half of 2011

(LC Paper Nos. CB(2)285/11-12(02), CB(2)286/11-12(04) and CB(2)320/11-12(01))

30. Members noted a submission dated 16 November 2011 from Hong Kong Workers' Health Centre, which was tabled at the meeting.

(Post-meeting note: The submission tabled at the meeting was circulated to members vide LC Paper No. CB(2)346/11-12 on 18 November 2011.)

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31. Deputy Commissioner for Labour (Occupational Safety and Health) ("DC for L (OSH)") briefed members on the safety performance of Hong Kong's construction industry in the first half of 2011, the regulatory framework as well as the strategies taken by the Administration to forestall accidents in the industry, as detailed in the Administration's paper.

32. Regarding the number of fatal accidents in the construction industry, DC for L (OSH) updated members that there were 19 such cases as at mid November 2011, of which 12 cases took place in new works sites and seven in repair, maintenance, alteration and addition ("RMAA") works sites.

33. Mr WONG Kwok-hing said that construction workers were subject to greater risk of heat stroke. He was surprised to note that the analyses on industrial accidents in the construction industry by types of accidents, as provided in Annex 1 to the Administration's paper, did not include the numbers of injuries and fatalities arising from heat stroke at work. He also expressed concern about the spate of industrial accidents involving workers undertaking lift shaft works or working in sewage and confined spaces such as drainage pipe or ditch. He hoped that the table in Annex 1 would incorporate in future information about accidents that related to these areas. He called on the Administration to draw up measures to enhance work safety on construction sites.

34. In response, DC for L (OSH) and Assistant Commissioner for Labour (Occupational Safety) ("AC for L (OS)") advised that -

- (a) as at 3 November 2011, LD had recorded 32 occupational injury cases that were suspected to be related to heat stroke as notified by employers during May to September 2011. In respect of occupational distribution, nine cases involved cleansing workers, three involved construction site workers, four involved professional drivers, and the remaining 16 involved different occupations such as security, maintenance and goods transportation;
- (b) a case relating to work in sewage and confined spaces was grouped under the type of the accident "drowning"; and
- (c) the statistics in Annex 1 covered injuries and deaths, by cause of accident, arising from lift works.

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35. AC for L (OS) added that all along, LD compiled and analyzed industrial accidents by industry section and the cause of the accident. In view of the concern raised by Mr WONG Kwok-hing, the Administration would provide members after the meeting with more comprehensive data on cases respectively involving workers suffering from heat stroke at work and undertaking lift works.

36. Referring to the written submission from the Association for the Rights of Industrial Accident Victims ("ARIAV"), Mr CHAN Kin-por sought the Administration's response to the issues/proposals raised therein, in particular ARIAV's suggestions of improving the ratio of safety officers and safety supervisors to construction workers on construction sites, stepping up enforcement actions against construction firms/contractors with a consistently poor safety performance record, and strengthening LD's capacity and capability so that it could continue with its rigorous enforcement efforts and conduct more inspections of construction sites.

37. DC for L (OSH) responded that -

- (a) safety and health at work was a shared responsibility of all parties concerned, including employers, contractors, relevant professionals, workers and the Government. In the light of this, LD would continue to promote occupational safety at work through a multifarious strategy of law enforcement, promotion and publicity, as well as education and training;
- (b) on the enforcement front, in addition to planned inspections of construction sites, LD had so far launched five territory-wide operations in 2011 focusing on new works safety, RMAA works safety, temporary platforms or gangways and electrical safety, to deter unsafe work practices. Noting the increase in industrial fatalities in the construction industry caused by "falls of persons from height", "struck by falling objects", "unsafe lifting operations" and "electrocution", LD would launch further special enforcement operations targetting the safety of new works and RMAA works towards the end of 2011;
- (c) on promotion and publicity, LD organized, in conjunction with the Occupational Safety and Health Council ("OSHC") and other stakeholders, a seminar cum workshop in September 2011 for contractors and relevant parties to share

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their experiences and practices in enhancing occupational safety of large scale infrastructure projects. LD also launched safety seminars and talks with a view to inculcating work-at-height safety awareness, knowledge and skills among contractors and workers; and

- (d) apart from jointly organizing safety publicity activities, LD worked in close collaboration with OSHC in launching a number of sponsorship schemes to provide financial support to SMEs to purchase the necessary safety equipment, such as the fall arresting equipment.

38. The Chairman said that for construction sites and industrial establishments where there was no self-regulation, enforcement was important in ensuring their compliance with safety and health legislation. In his view, the Administration should strengthen the functions of safety committees in identifying, recommending and keeping under review measures to improve the safety and health of the workers in the relevant industrial undertakings.

39. DC for L (OSH) responded that LD conducted surprise workplace inspections, including planned inspections to construction sites, and special enforcement campaigns targeting specific high risk activities. Under its risk-based inspection system, LD officers would take a basket of factors, such as potential site hazards, scale of works, nature of activities or processes in progress and safety performance records, into account in determining the frequency of inspections to a particular establishment/construction site. With regard to RMAA works, LD had established a referral mechanism with its partners, including the Housing Department ("HD"), Hong Kong Housing Society, the Urban Renewal Authority and property management companies. Where breaches of the law or imminent risks were identified, LD would take immediate enforcement actions, including the issue of improvement notices ("INs") and suspension notices ("SNs"). Prosecution would be initiated, if a breach of safety legislation had significant potential for harm, regardless of whether it had caused an injury.

40. Responding to Mr CHAN Kin-por's enquiry about the measures taken by the Administration to promote the safety and health awareness of employers and employees in the construction industry, DC for L (OSH) said that LD had all along been working closely with the Construction Industry Council ("CIC") in publishing practical safety guidelines for the industry on safety matters.

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41. Referring to paragraph 21 of the Administration's paper, the Deputy Chairman considered the figures in relation to warnings, INs and SNs issued and prosecutions taken out in the first three quarters of 2011 alarming, as there was a tremendous increase in those numbers over the same period in 2010. She queried whether such an increase should be construed as a direct result of LD's stepped up patrols and inspections on construction and RMAA works sites. In her view, the substantial increase in the issue of warnings, INs and SNs had reflected the extent of the problem of non-compliance and the inadequacy of existing legislation in deterring unsafe work practices. She asked whether the Administration would adopt measures with stronger deterrent effect to make sure contractors and sub-contractors would observe safety legislation and take necessary preventive measures to protect the safety of construction workers.

42. In response, DC for L (OSH) made the following points -

- (a) LD was concerned about the increase in the number of industrial accidents in the construction industry in 2011. To ensure contractors' and workers' compliance with relevant safety legislation, LD had stepped up enforcement efforts in the past year or so;
- (b) the increase in the issue of warnings, INs and SNs could be attributed to a number of factors, including LD's stepped up enforcement efforts and the rebound of the local economy in the period which led to a corresponding growth in the numbers of infrastructure projects, RMAA works as well as workers engaged in building and construction works; and
- (c) the Administration was well aware that the commencement of a number of major infrastructure projects, against the backdrop of a booming construction industry, would pose a challenge in the years ahead. Hence, the Administration would continue with its unrelenting efforts to inculcate a safety culture in Hong Kong's workplaces through a multifarious strategy of legislation and enforcement, publicity and promotion, as well as education and training.

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43. The Deputy Chairman noted that in the first three quarters of 2011, LD had initiated 895 prosecutions against breaches of safety legislation, of which 502 were related to unsafe work-at-height activities. Enquiring about the number of cases convicted out of those 502 prosecutions and the heaviest and lightest penalty imposed on those convictions, she also sought information on the nature and gravity of the offences involved.

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44. AC for L (OS) replied that during the period under discussion, the heaviest penalty imposed by the Court on convicted cases involving non-compliance with work-at-height safety was \$200,000 and the average level of fine was in the range of \$14,000 to \$15,000. He undertook to provide members with more detailed information after the meeting on the average and highest fine imposed by the Court under work-at-height safety regulations.

(Members agreed to extend the meeting by 15 minutes.)

45. Mr IP Wai-ming expressed deep concern about the sharp increase in the number of industrial accidents and fatalities in the first three quarters of 2011 in the construction industry. He held the view that heavier penalty should be imposed on repeated offenders, in order to achieve greater deterrent effect. Expressing concern on whether the existing regulatory framework governing occupational safety and health in the construction sector could provide a sufficient deterrence against unsafe work practices, he asked the Administration to provide a breakdown of the warnings, INs and SNs issued on the basis of construction sites and contractors/sub-contractors involved. Noting that LD would, in the light of the challenges ahead, step up inspections and special enforcement campaigns focusing on high-risk activities in the major infrastructure projects, he asked whether LD had sufficient manpower to discharge its duties. He considered that LD should step up cooperation with the Development Bureau ("DB") and relevant departments to ensure proper attention to safety issues for the infrastructure projects.

46. DC for L (OSH) responded that -

- (a) it would be difficult for LD to compile statistics on warnings issued based on construction sites or contractors and sub-contractors involved. Unlike INs and SNs which would be issued against any activity at the workplace which created, or was likely to create, an imminent risk of death or serious

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bodily injury to workers, warnings would be issued against any relatively minor irregularity identified, hence the large number of warnings issued;

- (b) in the first three quarters of 2011, LD had conducted 42 252 inspections to construction sites and, as a result, issued 10 156 warnings and 722 SNs and INs;
- (c) in the follow-up visits made after the surprise or planned inspections to construction sites, LD would ensure that irregularities were rectified and imminent risks of death and serious bodily injury were removed before the relevant SNs could be lifted. Hence, contractors had great incentive to remove imminent risks of death or serious bodily injury as soon as possible, or else they could not resume the relevant work processes;
- (d) with the commencement of major infrastructure projects, LD would further enhance cooperation with various stakeholders, including contractors, project management teams and relevant government departments or project clients, to closely monitor the safety and health performance of the infrastructure projects. A dedicated team in LD would participate in regular site safety management meetings and safety walks of these projects, and take rigorous enforcement actions to ensure that safe systems of work were in place. Besides, it would offer advice to relevant works departments/project clients at the planning stage to ensure due consideration of safety and health requirements from the design stage to subsequent stage of project implementation and delivery; and
- (e) LD would redeploy its existing resources to meet the additional manpower required for launching enforcement campaigns on major infrastructural projects. LD would closely monitor the progress of these projects and would bid for additional resources, if necessary.

47. The Chairman held the view that contractors with poor safety records should have less chance of being awarded works contracts in future. He suggested that such information should be provided to the relevant bureaux and departments for their consideration during tender assessment.

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48. AC for L (OS) responded that all along, LD worked closely with DB and HD in monitoring performance of public works contractors through project and site supervision. DB and HD would definitely take into account the past performance of contractors in evaluating tenders and awarding contracts.

49. The Chairman was also concerned about the work safety performance of contractors undertaking private development projects. He considered that property developers should be made aware of contractors with poor construction safety performance so that such a factor could be taken into account in the selection of contractors. The Chairman suggested that the Panel should write to CIC, suggesting that consideration should be given for establishing a platform for property developers to be made aware of construction contractors with poor performance in construction safety. Members agreed.

(Post-meeting note: The letter was sent to CIC on 25 November 2011.)

50. There being no other business, meeting ended at 4:46 pm.

Council Business Division 2
Legislative Council Secretariat
18 January 2012