

立法會
Legislative Council

LC Paper No. CB(2)2696/11-12
(These minutes have been seen
by the Administration)

Ref : CB2/PL/MP

Panel on Manpower

Minutes of meeting
held on Wednesday, 20 June 2012, at 8:30 am
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 Tommy CHEUNG Yu-yan, SBS, JP
Hon Frederick FUNG Kin-kee, SBS, JP
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
- Members absent** : Hon IP Kwok-him, GBS, JP
Hon LEUNG Kwok-hung

**Public Officers
attending** : Item IV

Mr CHEUK Wing-hing, JP
Commissioner for Labour

Mr Charles HUI Pak-kwan
Assistant Commissioner for Labour (Labour
Relations)

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

Dr Raymond LEUNG Lai-man, JP
Occupational Health Consultant
Labour Department

**Attendance
By invitation** : Item V

Hong Kong Construction Industry Employees General Union

Mr FUNG Kin-cho
Deputy Director, Rights & Benefits Committee

Motor Transport Workers General Union

Mr TANG Ka-piu
Deputy Secretary

Motor Transport Workers General Union
(New Lantao Bus Branch)

Mr LAM Po-keung
Branch Director

Motor Transport Workers General Union
(Public Light Bus Branch)

Mr CHAN Fung-yuen
Branch Director

Motor Transport Workers General Union
(Long Win Bus Branch)

Mr CHEUNG Tsz-kei
Branch Director

Motor Transport Workers General Union
(Truck Practitioners Branch)

Mr YUEN Cheung-fung
Branch Director

Motor Transport Workers General Union
(Taxi Driver Branch)

Mr LOW Shih-cheng
Branch Deputy Director

Motor Transport Workers General Union
(City Bus Branch)

Mr KUNG Sui-tong
Vice Director

Motor Transport Workers General Union
(Kowloon Motor Bus Branch)

Ms CHENG Wai-kwan
Branch Director

New World First Bus Company Staff Union

Mr CHUNG Chung-fai
Chairperson

Citybus Limited Employees Union

Mr TANG Sin-hing
Chairperson

Long Win Bus Staff Union

Mr YUEN Ka-fai
Chairperson

The K.M.B. Staff Union

Mr SZE Man-wai
Chairperson

Container Truck Drivers Union

Mr YU Kwok-on
Chairperson

Concrete Industry Workers Union

Mr WONG Kam-chung
Chairperson

Hong Kong Dumper Truck Drivers Association

Mr CHAN Sam-choi
General Secretary

Construction Site Workers General Union

Mr MAK Tak-ching
Organizing Secretary

Clerk in attendance : Ms Alice LEUNG
Chief Council Secretary (2) 1

Staff in attendance : Miss Josephine SO
Senior Council Secretary (2) 7

Ms Kiwi NG
Legislative Assistant (2) 1

Action

I. Confirmation of minutes of previous meeting
(LC Paper No. CB(2)2351/11-12)

The minutes of the meeting held on 12 April 2012 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)2353/11-12(01) and (02))

3. The Chairman reminded members that the next regular meeting of the Panel was originally scheduled for Monday, 9 July 2012, at 4:30 pm. To avoid clashing with the anticipated continuation of Council meeting on the same day, he suggested that the meeting be rescheduled to Wednesday, 11 July 2012, at 8:30 am. Members agreed.

4. Members noted that the Administration proposed to discuss the issue of "Occupational safety performance in Hong Kong in 2011" at the next meeting.

5. Mr WONG Kwok-hing suggested to also discuss the issue of "Standard working hours" at the next meeting. In response to the Chairman's enquiry about the Administration's readiness to discuss this item at the next meeting, Commissioner for Labour ("C for L") said that the policy study on standard working hours was about to complete. The Administration was finalizing the study report.

6. Members agreed to discuss the following two items at the Panel meeting in July 2012 -

Action

- (a) Occupational safety performance in Hong Kong in 2011; and
- (b) Standard working hours.

7. Responding to the Chairman's further enquiry, C for L said that the review on the definition of "continuous contract" under the Employment Ordinance (Cap. 57) was expected to be completed within 2012.

IV. Study on Legislating for the Provision of Paternity Leave in Hong Kong

(LC Paper Nos. CB(2)2353/11-12(03) to (05))

8. C for L briefed members on the findings of the Administration's study on legislating for the provision of paternity leave by employers in Hong Kong to their male employees, as set out in the Administration's paper.

9. Mr WONG Kwok-hing noted that starting from 1 April 2012, all full-time government employees, including civil servants, non-civil service contract staff and political appointees, who had no less than 40 weeks' continuous service immediately before the expected or actual date of childbirth would be eligible for paternity leave. Under this new family-friendly measure, eligible employees would enjoy five working days of paternity leave on full pay on each occasion of childbirth. Eligible employees whose children's expected due date or actual date of birth fell on or after 1 April 2012 could benefit from this new measure. While welcoming the Administration's decision to provide paid paternity leave to male government employees, he expressed concern that the non-application of this family-friendly measure to statutory or public organizations and government subvented organizations was unfair to employees working in these organizations.

10. Echoing Mr WONG Kwok-hing's view, Mr CHEUNG Kwok-che said that the benefit of paternity leave should also be made applicable to employees of service contractors of government departments.

11. In response, C for L advised that -

- (a) the provision of paternity leave by the Government as an employer to its eligible male employees was an initiative introduced by the Civil Service Bureau ("CSB"). He was

Action

aware that some Members had conveyed their views on the issue to CSB on other occasions;

- (b) concerning members' requests in relation to subvented welfare organizations, he would relay members' views and concerns about the provision of paternity leave in subvented welfare organizations to officers responsible for welfare affairs in the Labour and Welfare Bureau ("LWB"); and
- (c) employees employed under government service contracts were not government employees. Apart from financial implications, whether paternity leave, being one of the employee benefits under the conditions of service for government employees, should be applied to this group of employees concerned a matter of principle.

12. Expressing dissatisfaction with the Administration's response, Mr WONG Kwok-hing said that according to his understanding, the Chief Executive-elect was supportive of the proposal to legislate for the implementation of paid paternity leave in Hong Kong. He considered that the current term Government should have a stance on the matter rather than shirking its responsibility by claiming that employer members of the Labour Advisory Board ("LAB") had reservations about the implementation of paternity leave by legislative means.

13. In response, C for L said that it was the Government's established policy to progressively improve employees' rights and benefits in a way which was in line with Hong Kong's overall socio-economic development and needs. To this end, the Administration needed to assess carefully the possible impact of legislating for paternity leave on employers and the economy as a whole in order to strike a reasonable balance between the interests of employees and the affordability of employers. While the Administration would continue to pursue the subject with a view to reaching a consensus in LAB, employer members' worries over the proposal were not without reason and should be addressed. As the statutory minimum wage ("SMW") had been implemented for only one year and its effects on the business sector had yet to be clearly ascertained, employers were concerned with the introduction of new initiatives on employees' benefits within such a short span of time. There were also concerns that providing for paternity leave would mean extending an employer's statutory obligation to his employee to also his family member or a person related to him. Legislating for this kind of leave might lead to requests for other benefits of a similar nature, thus

Action

aggravating the financial burden of employers. Some members of LAB therefore requested the Administration to gather more information on the implementation of paternity leave in other jurisdictions to facilitate LAB members' consideration of the matter.

Clerk

14. Mr WONG Kwok-hing considered that CSB should be requested to provide a written response on whether consideration would be given to extend the said family-friendly measure to statutory or public bodies and government subvented organizations and if not, the reason for not doing so. The Chairman instructed the Clerk to write to CSB requesting it to respond to Mr WONG's concerns in writing.

(Post-meeting note: The Administration's response was circulated to members vide LC Paper No. CB(2)2504/11-12 on 3 July 2012.)

15. Expressing similar concerns, the Deputy Chairman queried the sincerity of the Administration in taking the matter forward. She said that she did not see any difficulty for employers in the private sector in implementing paternity leave, given that the granting of paternity leave was already implemented in the Government. It was her understanding that there was already a consensus in the community on making paternity leave a statutory requirement for all employers. In her view, the absence of a consensus on the matter in LAB was an excuse used by the Administration for not taking forward the proposal. She urged the Administration to legislate for the provision of paternity leave without further delay.

16. In response, C for L made the following points -

- (a) the Administration considered that the matter of statutory paternity leave merited further pursuit and would actively follow up on it;
- (b) it was a well established practice for the Government to consult both the employer and employee sectors in formulating labour policies. LAB had, for this purpose, been providing an effective channel for exchange of opinions, rational discussion and consensus-building by employers and employees. In the recent instances of legislating for SMW, the extension of the coverage of ex-gratia payment from the Protection of Wages on Insolvency Fund and the upward adjustment to the levels of compensation under various employees' compensation ordinances, LAB employer and

Action

employee members indeed had come to a consensual view on the subjects before the Administration embarked on the legislative work; and

- (c) in view of the concerns expressed by some LAB employer members when last consulted on the subject of paternity leave, the Administration would collect further information on the implementation of paternity leave in other jurisdictions as requested by LAB members before reverting to LAB in the fourth quarter of 2012.

17. Mr LEUNG Yiu-chung expressed grave disappointment that the Administration had not responded proactively to the public aspiration for statutory paternity leave. He said that the issue had been debated for a long time. The slow progress of the Administration in implementing paternity leave for male employees by way of legislation was against its family-friendly employment policies. In his view, the various issues that might emerge if paternity leave was to be made a statutory benefit for male employees in Hong Kong, as referred to in the Administration's paper, were neither significant nor substantial. The Administration should make clear its stance and should not procrastinate on the matter any further.

18. Mr IP Wai-ming echoed Mr LEUNG Yiu-chung's view, adding that the Administration was bound to encounter difficulties when new legislation was implemented, but they should not be the hurdles for the enactment of legislation.

19. In response, C for L stressed that the Administration was inclined to legislate for the provision of paternity leave in Hong Kong. Nevertheless, in order to address employers' worries and ensure the smooth implementation of the policy, it was imperative to examine and tackle the various policy, legal, moral and implementation issues that might emerge if paternity leave was to be made a statutory benefit for all male employees in Hong Kong. So far, the discussion within LAB was progressing smoothly. The Administration was confident that given time, a consensus could be reached.

20. Mr CHEUNG Kwok-che said that according to the findings of some overseas studies, the possibility of women suffering from postnatal depression after giving birth to babies was high. To avoid family tragedy, it was necessarily effective if husbands could stay at home to provide their wives with care and support. In the light of this, granting paternity

Action

leave to male employees was a proposal worth pursuing. In urging the Administration to make paternity leave compulsory by means of legislation, he asked about the possible impact of compulsory paternity leave on private sector operation and the economy as a whole.

21. In response, C for L advised that in 2010, the number of Hong Kong's working fathers with babies born in Hong Kong was around 49 200 (about 3% of total male employees). In view of the low birth rate of Hong Kong residents, the incidence of employees taking paternity leave was estimated to be relatively low. As regards the financial implications of providing paternity leave, it was assessed that provided that the number of days of paternity leave to be granted on each occasion of childbirth was relatively modest, the overall staff cost for employers in providing paternity leave to male employees would unlikely be significant. The cost of granting three to five days of paternity leave was estimated to range from \$140 million to \$240 million per annum, representing around 0.02% to 0.04% of the total wage bill.

22. In reply to Mr CHEUNG Kwok-che's enquiry about the duration and mode of leave-taking regarding the paternity leave newly introduced by CSB, C for L advised that eligible male government employees could enjoy five days of paid absence which could be taken at units of half a day.

23. Dr PAN Pey-chyou noted from the Administration's paper that after years of publicity by the Government in promoting family-friendly measures in the workplace, only one-third of the respondent member establishments of the 18 Human Resources Managers Clubs ("HRMC") offered their male employees paid paternity leave voluntarily. In his view, the Administration should not rely on enterprises alone to shoulder their social responsibilities. The most effective way to implement family-friendly employment practices among public and private organizations was the introduction of statutory paternity leave. The Administration should not drag on the matter any further.

24. C for L stressed that the Administration had no intention to drag on the matter and was inclined to take forward the proposal of legislating for paternity leave in Hong Kong. He said that the Labour Department ("LD") would conduct an updated survey with member establishments of the 18 HRMC to better understand the prevailing situation regarding the provision of paternity leave in the private sector, and at the same time, collect information on the provision of paternity leave in other jurisdictions as requested by LAB. If the Administration had the

Action

intention to go slow on the matter, it would not have taken the matter forward before the completion of the survey.

25. Mr Tommy CHEUNG opined that even without legislation, the provision of paternity leave for government employees had already created pressure on private enterprises to offer similar benefits to their employees. He was concerned about the cost impact of introducing legislation on paternity leave on employers. He hoped that the Administration could estimate the increase in labour cost under different scenarios where the number of days of paternity leave varied. The assessment results should be provided to LAB employer and employee members to facilitate their consideration of the impacts of legislating for the provision of paternity leave in Hong Kong.

26. In response, C for L referred to paragraph 13 of the Administration's paper wherein the following information had been provided -

- (a) the total number of Hong Kong's working fathers with babies born in Hong Kong in 2010; and
- (b) an estimate on the possible increase in the overall staff cost if paternity leave was to be made a statutory benefit for male employees.

He advised that to better understand whether and how the provision of paternity leave would impact on the operation of private enterprises, in particular those with a high proportion of male employees such as the construction and transportation industries, the Administration would consult the views of relevant industry-based tripartite committees.

27. Mr CHAN Kin-por said that he was in principle supportive of the proposal to legislate for the provision of paternity leave in Hong Kong. He was of the view that the Administration should adopt a progressive approach in taking forward the proposal, lest it might unduly impose additional financial burden on employers. It would be useful if the Administration could draw reference from overseas experience in legislating the provision of paternity leave.

28. C for L affirmed that the Administration would collect more information on the practices of other economies to facilitate further deliberation on the matter.

Action

29. The Chairman said that the Hong Kong Confederation of Trade Unions strongly supported the provision of paid paternity leave for all male employees in Hong Kong. The estimated increase in wage cost in the range of 0.02% to 0.04%, arising from the introduction of paternity leave, was considered mild and should be within the affordability of employers. Given the lead time required for deliberating whether the provision of paternity leave should be made mandatory for all employers and the need to consult LAB and the Panel again in end 2012, he considered that the Administration should in parallel commence the drafting of the new legislation, so that it could be introduced into the Council right at the start of the next legislative session.

30. C for L responded that as an established rule, law drafting would not commence before all the relevant policy issues had been sorted out. Nonetheless, he assured members that the Administration would make every effort to take forward the matter so that legislative work could proceed the soonest possible.

V. Measures to improve the occupational safety and health performance of the construction industry and professional drivers

(LC Paper Nos. CB(2)2353/11-12(06)&(07), CB(2)2397/11-12(01) and CB(2)2413/11-12(01) to (16))

Views of deputations

31. At the invitation of the Chairman, the following 17 deputations presented their views on the subject, details of which were set out in their submissions -

- (a) Hong Kong Construction Industry Employees General Union (LC Paper No. CB(2)2397/11-12(01));
- (b) Motor Transport Workers General Union (LC Paper No. CB(2)2413/11-12(01));
- (c) Motor Transport Workers General Union (New Lantao Bus Branch) (LC Paper No. CB(2)2413/11-12(02));
- (d) Motor Transport Workers General Union (Public Light Bus Branch) (LC Paper No. CB(2)2413/11-12(03));

Action

- (e) Motor Transport Workers General Union (Long Win Bus Branch) (LC Paper No. CB(2)2413/11-12(04));
- (f) Motor Transport Workers General Union (Truck Practitioners Branch) (LC Paper No. CB(2)2413/11-12(05));
- (g) Motor Transport Workers General Union (Taxi Driver Branch) (LC Paper No. CB(2)2413/11-12(06));
- (h) Motor Transport Workers General Union (City Bus Branch) (LC Paper No. CB(2)2413/11-12(07));
- (i) Motor Transport Workers General Union (Kowloon Motor Bus Branch) (LC Paper No. CB(2)2413/11-12(08));
- (j) New World First Bus Company Staff Union (LC Paper No. CB(2)2413/11-12(09));
- (k) Citybus Limited Employees Union (LC Paper No. CB(2)2413/11-12(10));
- (l) Long Win Bus Staff Union (LC Paper No. CB(2)2413/11-12(11));
- (m) The K.M.B. Staff Union (LC Paper No. CB(2)2413/11-12(12));
- (n) Container Truck Drivers Union (LC Paper No. CB(2)2413/11-12(13));
- (o) Concrete Industry Workers Union (LC Paper No. CB(2)2413/11-12(14));
- (p) Hong Kong Dumper Truck Drivers Association (LC Paper No. CB(2)2413/11-12(15)); and
- (q) Construction Site Workers General Union (LC Paper No. CB(2)2413/11-12(16)).

The Administration's response

32. In response to deputations' views and concerns over the occupational safety and health performance of construction workers,

Action

Deputy Commissioner for Labour (Occupational Safety and Health)
("DC for L (OSH)") made the following points -

- (a) LD held a Construction Safety Forum in March 2012 to consider, in conjunction with industry stakeholders, measures to enhance the occupational safety of the construction sector. Participants of the Forum came to a consensus on eight improvement measures to enhance construction safety. One of the eight measures was the launch of the "OSH Star Enterprise - Pilot Scheme on RMAA Safety Accreditation" on 1 June 2012 jointly by LD and the Occupational Safety and Health Council ("OSHC") for the industry, which aimed at improving the occupational safety performance of small and medium sized enterprises engaged in repair, maintenance, alteration and addition ("RMAA") works through technical support and financial incentive;
- (b) the Administration was concerned that in the past three years, there were 20 fatal industrial accidents in RMAA works, in which about 60% were caused by fall of workers from height, with seven cases involving workers falling from bamboo scaffolds;
- (c) under the Pilot Scheme, OSHC would conduct safety audit to assess whether an enterprise qualified for the safety accreditation. On passing the safety audit assessment, enterprises would be accredited as "OSH Star Enterprise". Those that had demonstrated good OSH performance and continuous improvement for more than one year after accreditation might apply for re-assessment by OSHC. By passing the re-assessment, enterprises would be upgraded as "OSH Gold Star Enterprise". Enterprises with OSH accreditation could enjoy up to 50% premium discount when procuring employees' compensation insurance for their employees under the Employees' Compensation Insurance Residual Scheme. Moreover, the "no claim record" requirement would be shortened from five years to two years or completely waived if enterprises were accredited as "OSH Gold Star Enterprise";
- (d) with the coordination of LD, the Hong Kong Construction Association ("HKCA") and some contractors launched, in

Action

the summer of 2011, a pilot scheme at 15 construction sites to flexibly adjust the rest periods and lunch break of bar-benders to abate the risk of heat stroke while working in hot weather. In the summer of 2012, HKCA would continue to implement the scheme, with the number of participating construction sites doubling to 30. Apart from the lunch break, the rest periods would be increased from the general practice of one 30-minute rest break to a maximum of three 15-minute rest breaks; and

- (e) in November 2011, HKCA rolled out a scheme to arrange health checks for construction workers at a nominal charge. So far, over 4 000 construction workers had participated in the scheme. HKCA and the Hong Kong General Building Contractors Association would launch in July 2012 a programme named "Caring of new construction workers" under which greater care and training would be provided to workers who were new to a construction site.

33. As regards the concerns raised by deputations concerning the occupational safety and health of professional drivers, DC for L (OSH) responded with the following points -

- (a) under the existing legislative regulatory framework, the Road Traffic Ordinance (Cap. 374) ("RTO") covered road safety issues concerning all drivers, including professional drivers, in respect of the design and maintenance of vehicles and roads, drivers' driving skills and attitude, the use of vehicle security devices and the behaviour of other road users. In view of the scope of the provisions of RTO, the Occupational Safety and Health Ordinance (Cap. 509) ("OSHO") did not cover the driver's seat of a vehicle. Nevertheless, OSHO safeguarded employed drivers' occupational safety and health while they were carrying out non-driving work, especially when their employers could reduce their risk of injury in a reasonably practicable manner in situations under their employers' control. Furthermore, employed drivers would be subject to the same statutory employment protection under the Employment Ordinance (Cap. 57) ("EO"). Those employed drivers suffering from occupational injuries were eligible for and could claim compensation prescribed under the Employees' Compensation Ordinance (Cap. 282) ("ECO");

Action

- (b) the current provisions under EO and ECO did not cover self-employed persons. If employment-related legislation were to be amended to include self-employed persons, it would be a major departure from the policy objectives of the legislation and would also have far-reaching implications on a wide range of areas;
- (c) during the summer of 2011, LD received 26 notifications from employers on work injury cases which were suspected to be related to heat stroke. In 22 out of these 26 cases, the employers admitted liability and the employees concerned received relevant compensation. Among these 26 cases, four cases involved professional drivers driving non-air-conditioned vehicles under very hot weather. The occupational safety and health of professional drivers had been the Government's main work focus. LD had analyzed the occupational health problems of professional drivers and found that heat stress was one of the main potential hazards to drivers. While proper vehicle design and maintenance on a regular basis could solve the thermal stress problem, the risk had been greatly reduced with all non-air-conditioned buses ceasing operation in May 2012. Having regard to the implementation of Motor Vehicle Idling (Fixed Penalty) Ordinance (Cap. 611), LD would step up publicity and promotional efforts in the prevention of heat stroke of professional drivers;
- (d) LD would follow up with the management of the relevant bus companies on views and concerns expressed by staff unions concerned in respect of the operation of bus wheelchair ramps and the air quality and working environment in bus depots;
- (e) LD attached great importance to the occupational safety and health conditions in container terminals, container yards and container depots and was committed to enhancing the safety performance of the container handling industry through enforcement, education and promotion. In view of the upcoming hot weather and typhoon season, LD would urge duty-holders to take precautionary measures against heat stroke and to make effective and suitable arrangements to

Action

ensure the safety and health of workers at times of inclement weather conditions, such as typhoon; and

- (f) the Administration noted the requests by some deputations for the Transport Department ("TD") to step up the supervision of franchised bus companies regarding TD's guidelines on the working hour/rest time arrangement for bus captains, to enhance the amenity facilities at bus termini and to arrange regular meetings with employee unions. LD would relay their views and suggestions to TD for follow-up and would render its advice on occupational safety and health matters to TD, where appropriate.

Discussions

Protection for professional drivers

34. Mr IP Wai-ming expressed disappointment with the Administration's continued refusal to extend the scope of OSHO to cover the driving work of professional drivers. Pointing out the importance of enhancing the protection for professional drivers from the perspective of occupational safety and health, he urged the Administration to reconsider the feasibility of including professional drivers as one of the types of employees covered by OSHO. Noting the proposal of some deputations for the Administration's establishment of a central compensation fund to protect self-employed persons, he asked whether the Administration would take forward this proposal.

35. In response, DC for L (OSH) reiterated that the safety of drivers performing driving work were related to a number of factors including the design and maintenance of vehicles and roads, driving skills and attitude of drivers, use of safety equipment such as seat-belts provided in the vehicles, and the use of roads by other users. Control of these aspects of land transport vehicles and behaviour of drivers, among other requirements, was stipulated in the road traffic legislation administered by TD, such as RTO. As various pieces of legislation were already in place for protecting the safety of drivers and members of the public on road, and given the difficulty faced by employers of professional drivers in ensuring the safety of drivers while the latter were driving, the Administration considered it unnecessary and inappropriate to extend the coverage of OSHO to the driving work of professional drivers. Nevertheless, when professional drivers performed non-driving work

Action

assigned by their employers, their safety and health were protected by OSHO.

36. The Chairman said that he gathered from the discussions that OSHO only excluded the driving skills and attitude of drivers. Seeking confirmation on whether his understanding was correct, he asked whether employers should be responsible for ensuring that the driver's seat of a vehicle was spacious enough to accommodate the driver.

37. In response, DC for L (OSH) advised that the construction and maintenance of vehicles, including their safety after alteration and the requirements on driver's accommodation, was governed by the Road Traffic (Construction and Maintenance of Vehicles) Regulations (Cap. 374 sub. leg. A). Citing the thermal stress problem associated with non-air-conditioned buses as an example, he stressed that the occupational safety and health problem of professional drivers should be addressed at root during the design and construction of the vehicle.

Admin

38. At the request of the Chairman, DC for L (OSH) undertook to provide the Panel with information on the legislative regime on the protection of professional drivers in the United Kingdom.

(Post-meeting note: The Administration's response was issued to members vide LC Paper No. CB(2)2606/11-12 on 17 July 2012.)

39. The Deputy Chairman said that she did not see any reason why OSHO did not cover the driver's seat of a vehicle, while professional drivers spent most of their working time in the driving seat. She considered that the Panel should further discuss the matter in the future.

40. Mr CHUNG Chung-fai of New World First Bus Company Staff Union said that it was difficult to define "drivers' driving attitude" and its correlation with the occupational safety and health problems of professional drivers.

41. Mr TANG Ka-piu of Motor Transport Workers General Union said that the Administration should review the scope of OSHO and consider extending its coverage to include the driving work of professional drivers.

42. Mr LAM Po-keung of Motor Transport Workers General Union (New Lantao Bus Branch) hoped that LD would take note of the mental stress borne by professional drivers and provide them with appropriate assistance.

Action

43. Mr LOW Shih-cheng of Motor Transport Workers General Union (Taxi Driver Branch) reiterated the need for the Administration to set up a central compensation fund to protect self-employed persons.

44. In response to the Chairman's enquiry, Occupational Health Consultant of LD ("OHC/LD") said that employed drivers suffering from occupational diseases prescribed under ECO, such as tenosynovitis of the hand or forearm, were eligible for and could claim compensation under ECO.

Work in hot weather

45. The Deputy Chairman expressed grave concern about the inadequate protection for construction workers and professional drivers when working in hot weather. She pointed out that the safety and health problems faced by construction workers and professional drivers were different and hence, their needs differed. In her view, the Administration should review the relevant guidelines and the safety and health legislation for different industries, instead of giving similar advice to employees engaging in different types of outdoor work, so as to enhance the protection for workers, including construction workers and professional drivers, when working in very hot weather.

46. In response, DC for L (OSH) advised that -

- (a) following LD's several rounds of discussion with the relevant franchised bus company, the last batch of non-air-conditioned buses was retired from service on 8 May 2012;
- (b) to prevent heat stroke at work, LD had stepped up inspections and enforcement actions. In the summer of 2011, around 16 800 inspections were conducted to workplaces where workers faced a higher risk of heat stroke, with 400-odd warnings and 14 suspension notices ("SNs")/improvement notices ("INs") issued and seven prosecutions instituted; and
- (c) LD would take out immediate enforcement actions if employers were found violating the relevant legal requirements, such as failure to provide employees with drinking water. In a recent court case, an employer was fined \$20,000 for failing to ensure a safe and healthy

Action

working environment, which would have a deterrence effect on employers.

47. In response to the Deputy Chairman's enquiry, OHC/LD said that LD would launch a series of activities with "Change for Health" as the main theme to disseminate occupational safety and health messages among professional drivers, including the prevention of heat stroke at work. On 30 May 2012, LD held a kick-off ceremony to mark the commencement of this two-year promotion campaign at the Hong Kong International Airport, in which a representative from the Physical Fitness Association of Hong Kong demonstrated stretching exercise and a representative from the Department of Health talked about main issues in healthy living. On the enforcement front, officers of LD inspected outdoor workplaces with a higher risk of heat stroke during summer every year, such as construction sites, outdoor cleansing workplaces and bus termini, to ensure duty-holders' compliance with the statutory requirements.

Admin

48. The Deputy Chairman requested the Administration to provide after the meeting statistics on warnings and SNs/INs issued, as well as prosecutions instituted in 2011 against employers for failure to ensure their employees' safety and health at work, with a breakdown by industry, nature of offences involved and the level of penalty imposed, if any.

(Post-meeting note: The Administration's response was issued to members vide LC Paper No. CB(2)2606/11-12 on 17 July 2012.)

Occupational safety of the construction sector

49. Mr CHAN Kin-por noted from paragraph 4 of the Administration's paper that in a special operation conducted in February 2012, LD had inspected some 830 workplaces and issued about 40 SNs and 160 INs, and was considering 210 cases for prosecution. He considered the figures alarming and sought information about the nature of breaches identified during those inspections.

50. DC for L (OSH) responded that since 2011, LD regularly wrote to construction contractors to keep them posted of accidents which frequently occurred in the last few months at construction worksites and their causes. LD would take the opportunity to notify contractors in advance of its plan to conduct special enforcement campaigns. When officers of LD conducted special enforcement campaigns, they would, upon discovery of unsafe conditions that might cause imminent risks of

Action

death or bodily injury, issue INs/SNs or take prosecution actions without warning in advance. This was the reason why the numbers of INs/SNs issued and prosecution actions taken were higher than the figures in the past.

51. In reply to Mr CHAN Kin-por's further enquiry about the "OSH Star Enterprise - Pilot Scheme on RMAA Safety Accreditation", DC for L (OSH) said that since the launch of the Scheme on 1 June 2012, nine applications had been received for the safety audit/accreditation. LD would continue to publicize and promote the Scheme through its established network with the industry, and review the Scheme after its operation for some time. Members' suggestion of extending the Scheme to cover other high risk industries would be considered during the review.

52. There being no other business, the meeting ended at 11:00 am.

Council Business Division 2
Legislative Council Secretariat
21 August 2012