

立法會
Legislative Council

LC Paper No. CB(2)606/12-13
(These minutes have been seen
by the Administration)

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Panel on Manpower

Minutes of meeting
held on Tuesday, 18 December 2012, at 4:30 pm
in Conference Room 3 of the Legislative Council Complex

- Members present** : Hon LEE Cheuk-yan (Chairman)
Hon WONG Kwok-kin, BBS (Deputy Chairman)
Hon Albert HO Chun-yan
Hon LEUNG Yiu-chung
Hon Tommy CHEUNG Yu-yan, SBS, JP
Hon CHAN Kin-por, BBS, JP
Hon CHEUNG Kwok-che
Hon IP Kwok-him, GBS, JP
Hon LEUNG Kwok-hung
Hon Michael TIEN Puk-sun, BBS, JP
Hon CHAN Chi-chuen
Hon LEUNG Che-cheung, BBS, MH, JP
Hon Kenneth LEUNG
Dr Hon KWOK Ka-ki
Hon KWOK Wai-keung
Hon SIN Chung-kai, SBS, JP
Hon POON Siu-ping, BBS, MH
Hon TANG Ka-piu
Dr Hon CHIANG Lai-wan, JP
- Member attending** : Hon WONG Kwok-hing, MH
- Members absent** : Hon Frederick FUNG Kin-kee, SBS, JP
Dr Hon LEUNG Ka-lau

**Public Officers
attending** : Item III

Mr Matthew CHEUNG Kin-chung, GBS, JP
Secretary for Labour and Welfare

Miss Annie TAM Kam-lan, JP
Permanent Secretary for Labour and Welfare

Mr CHEUK Wing-hing, JP
Commissioner for Labour

Mr Nicholas CHAN Chun-tak
Assistant Commissioner for Labour
(Policy Support)

Ms Reddy NG Wai-lan, JP
Principal Economist (4)
Financial Secretary's Office

Item IV

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

Mr Jimmy CHAN Pai-ming
Principal Assistant Secretary (Works)
Development Bureau

Mr LI Chi-leung
Assistant Commissioner for Labour
(Occupational Safety)

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

**Clerk in
attendance** : Miss Betty MA
Chief Council Secretary (2) 1

Staff in attendance : Ms Ivy CHENG
Research Officer (2) 2

Ms Rita LAI
Senior Council Secretary (2) 1

Ms Mina CHAN
Council Secretary (2) 1

Ms Kiwi NG
Legislative Assistant (2) 1

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

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

II. Date of next meeting and items for discussion
(LC Paper Nos. CB(2)341/12-13(01) to (03))

Regular meeting in January 2013

2. Members agreed that the next regular meeting originally scheduled for Tuesday, 15 January 2013 would be rescheduled for Friday, 25 January 2013 at 9:30 am to receive briefings by the Secretary for Labour and Welfare ("SLW") and the Secretary for Education on the relevant policy initiatives in the Chief Executive ("CE")'s 2013 Policy Address in respect of manpower and qualifications framework respectively. Members further agreed to discuss a proposal on legislating for paternity leave as proposed by the Administration at the January meeting.

Manpower situation in residential care services for the elderly

3. Referring to the letter dated 28 November 2012 from Mr Michael TIEN proposing the Panel to hold a joint meeting with the Panel on Welfare Services to discuss issues relating to the manpower shortage problem in the residential care services for the elderly, the Chairman informed members that with the agreement of the Chairman of the Panel on Welfare Services, a joint meeting of the two Panels would be arranged in this regard. Members would be informed of the meeting arrangements in due course.

III. Policy study on standard working hours

(LC Paper Nos. CB(2)341/12-13(07) and IN06/12-13)

4. At the invitation of the Chairman, SLW briefed members on the findings of the policy study on standard working hours ("SWH") and the way forward, details of which were set out in the Administration's paper and the Report of the Policy Study on Standard Working Hours ("the Report"). He then elaborated on the experience of other selected places in regulating working hours, the economic implications and impact assessment of implementing SWH in Hong Kong and a number of key issues that needed to be discussed in depth before deciding on the way forward. SLW added that the Administration was taking steps to set up a Special Committee to follow up on the study on SWH, and the preparatory work would be completed within the first quarter of 2013.

5. Members also noted the information note on "Standard working hours" prepared by the Research Division of the Legislative Council ("LegCo") Secretariat.

6. Referring to paragraphs 16 and 17 of the Administration's paper in relation to the setting up of a Special Committee on SWH and a dedicated team in the Labour Department ("LD") to support the work of the Special Committee, the Chairman drew members' attention to the Administration's proposal to create one supernumerary post of Chief Labour Officer ("CLO") at D1 level for a period of three years to lead the proposed team and its plan to submit the relevant staffing proposal to the Establishment Subcommittee for consideration.

7. Mr WONG Kwok-hing said that the Hong Kong Federation of Trade Unions ("FTU") had been urging for legislating for SWH over the years. It welcomed the Administration's policy study on the subject and was supportive of the Administration's proposal to create a CLO post to kick start the work of the Special Committee as soon as practicable. Mr WONG was gravely concerned about the timeframe for the Special Committee to complete its study on SWH. Citing the experience of the Hongkong Tramways Limited in altering the overtime pay rate unilaterally from 1.5 times to 1.25 times, Mr WONG took a strong view that there was a pressing need for the introduction of SWH to safeguard the rights of employees. In his view, the Special Committee should complete its study within the tenure of the current Government, and make available a preliminary report on its work within the first and half years of operation.

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8. SLW said that the Administration was taking steps to form the Special Committee, with a view to completing the preparatory work of the Special Committee within the first quarter of 2013. Since the subject of SWH was far more complicated and controversial than the introduction of statutory minimum wage ("SMW"), it was imperative that the community should deliberate the far-reaching implications on the social and economic aspects before coming to a view on the important subject. The Administration would revert to the Panel from time to time on the progress of the study.

9. Mr TANG Ka-piu expressed support for the creation of the CLO post in LD. Noting that the preparatory work of the Special Committee was underway, Mr TANG enquired about the attributes required of the committee members. In his view, the Special Committee should first deal with the phenomenon of relatively long working hours in Hong Kong and compensation for overtime work. Mr TANG added that with reference to the unsuccessful experience of the voluntary Wage Protection Movement, he considered it necessary to introduce a mandate regime for SWH. Given that the Administration had made it clear from the outset that it would prepare for the legislation for a minimum wage in certain sectors if the Wage Protection Movement failed to deliver satisfactory results, Mr TANG asked whether the Administration would model on the arrangements in following up on the study on SWH in order not to unduly delay the introduction of the relevant legislation.

10. SLW said that apart from Government officials, the Special Committee would comprise representatives of labour unions and employers' associations as well as academics and community leaders. It would follow up the study on SWH and provide an effective platform for different sectors of the community to communicate on the subject. SLW further said that the Administration acknowledged the concerns in the community over the long working hours situation in Hong Kong. As to whether the issue of long working hours would be addressed by legislative means, SLW stressed that the Administration kept an open mind on the matter which would be further studied by the Special Committee. While it would be for the Special Committee to draw up its own work plan, the experience of the Wage Protection Movement would provide useful reference for the Special Committee in its study on SWH.

11. Mr POON Siu-ping said that the Federation of Hong Kong and Kowloon Labour Unions expressed disappointment at the Administration's lack of stance on legislating for SWH. Mr POON noted from Chapter 10 of the Report concerning the impact of SWH on

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businesses, the estimated increase in total wage bill to employers ranged from some \$8.0 billion to \$55.2 billion per annum. He considered it misleading as the assessment had omitted the part on the positive social impacts of SWH, such as enhancing occupational safety and health and promoting family harmony of employees. Moreover, as shown from paragraph 9.36 of the Report, employees in small and medium enterprises ("SMEs") on average worked 45.8 hours per week which was slightly shorter than the overall average of 47.0 hours. In his view, the impact of SWH policy on SMEs would be minimal.

12. Expressing similar views, Mr CHEUNG Kwok-che and Mr KWOK Wai-keung considered that the Report had over emphasized the cost impact on doing business. Mr KWOK held the view that the Report should have also quantified the impact of long working hours on employees' health and work-life balance.

13. SLW replied that unlike conducting quantitative assessment on cost impact on the potential increase in labour costs to firms under the SWH policy, it would be no easy task to quantify the social cost of SWH. Notwithstanding this, the Administration had presented different views and concerns on the subject of SWH for the reference of the public. For instance, it had set out both the pros and cons for implementing working hours regimes in the leaflet on the overview of the policy study on SWH.

(Post-meeting note: The abovementioned leaflet was tabled at the meeting and circulated to members vide LC Paper No. CB(2)388/12-13 on 19 December 2012.)

14. Principal Economist (4) of the Financial Secretary's Office ("Principal Economist (4)") added that analysis by establishment size showed that the average number of working hours for SMEs was slightly shorter than the overall average in all establishments. However, it was noteworthy that apart from working hours, the estimated cost impact would inevitably be affected by a number of variables, such as the prevailing wage levels and overtime pay rates. Depending on the policy design and the parameters involved, the cost impact on doing business would vary significantly. Hence, an assessment in the form of 27 scenario studies were conducted for illustrating the variation of cost impact assessment on doing business under different policy designs, with a view to identifying the important elements for future policy deliberations.

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15. In response to Mr CHEUNG Kwok-che's enquiry on the objectives of the Special Committee, SLW stressed that the Special Committee as announced in the CE's election manifesto would actively follow up on the policy study on SWH. As explained earlier, the proposed CLO post would provide support for the work of the Special Committee.

16. Acknowledging the controversy of the introduction of working hours regulation, Mr IP Kwok-him asked whether and how the Administration and the Special Committee would work towards reaching a consensus in the community in respect of the meaning of working hours and the need for establishing an SWH regime by legislative means.

17. SLW said that the Administration was following up on the setting up of the Special Committee, with a view to completing the preparatory work within the first quarter of 2013. Comprising Government officials, representatives of labour unions and employers' associations, academics and community leaders, the Special Committee would follow up on the study of SWH based on the evidence collected. It would examine issues relating to long working hours and overtime work arrangements. The Special Committee would also organise consultations and launch public awareness and education programme on key issues to be considered before coming to a view on the subject of SWH.

18. Mr IP Kwok-him enquired, in the light of the experience of overseas jurisdictions in introducing an SWH regime, about the expected time needed for the Special Committee to study and deliberate on the policy direction for SWH. SLW said that LD had examined the working hours regimes in 12 selected places, and the observations were detailed in the Report.

19. Mr KWOK Wai-keung expressed grave concern that the open stance of the Administration was in fact a tactic to delay legislating for SWH. In his view, the Special Committee should focus its work on addressing the phenomenon of long working hours by legislative means, instead of studying whether a SWH regime should be established by legislative means.

20. SLW stressed that the Administration acknowledged the concerns in the community over the working hours situation in Hong Kong and was actively following up on how the issue was to be addressed. He pointed out that the findings of the policy study on SWH would lay an objective foundation for in-depth discussion on the subject, shed light on the future policy direction and facilitate the Administration in identifying the way forward.

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21. Noting that the study conducted by LD had identified six long-working-hours sectors ("LWHS"), Mr KWOK Wai-keung asked why the banking and accounting sectors were not identified as LWHS, as these sectors were notorious for working long hours.

22. Referring to the findings of a survey conducted by the Professional Commons in 2012 on the working hours for employees of the accounting sector, Mr Kenneth LEUNG advised members that the average weekly working hours of accountants ranged from 50 to 60 hours. In his view, the statistics shown in the Report had not fully reflected the actual long working hours situation of the sector.

23. Principal Economist (4) advised that the Report had analysed the working hours situation in terms of sectoral and occupational distribution, as well as other socio-economic attributes such as gender, age and education, and the statistical analysis was detailed in Appendix 4 of the Report. Specifically, Table A4.9 of the Report on the distribution of estimated total weekly working hours by socio-economic attribute (full-time employees) showed that the median weekly total working hours for all employees in 2011 was estimated at 48 hours and those for employees working in the financing and insurance sector and clerks were slightly shorter, at 44.7 and 44.3 respectively, whilst those for full-time employees in LWHS as a whole was estimated to be 54 hours. Principal Economist (4) added that the Report had examined the phenomenon of relatively long working hours in Hong Kong from a macroeconomic perspective, which was the first concerted effort by the Government to conduct a thorough study on SWH. While the Census and Statistics Department had collected statistics on the latest working hours situation of employees in various sectors, the data collected might not cater for the analysis of certain finer breakdown by industries and/or occupations. Consideration could be given to analyzing the working hours situation of specific industries or occupations in the further study on SWH, if considered appropriate.

24. Mr Kenneth LEUNG appealed to the Administration to include representatives of professionals, including engineers, accountants and doctors, in the Special Committee to better reflect the long working hours situation of these occupation to facilitate an in-depth study on the subject. SLW assured members that while it was not possible to include representatives from all trades and occupations, the Special Committee would fully solicit views from the community and different sectors during its deliberation on the subject of SWH.

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25. Mr SIN Chung-kai said that the Democratic Party was in support of the proposed creation of a supernumerary CLO post in LD to provide support for the work of the Special Committee. Mr SIN enquired about the lead time required for drafting of legislation in the event that the community had reached a consensus on establishing a statutory SWH regime. In his view, the Administration should provide all relevant information to facilitate the Special Committee to draw up its specific work plan and timeframe for taking forward and completing the study on SWH.

26. SLW said that the Administration was mindful of the complexity and controversy of the subject of SWH. As legislating for SWH would have far-reaching consequences on the society, it was imperative that the community should deliberate the relevant issues, such as the scope of exemptions from working hours limits, thoroughly before coming to a view on the important subject. As mentioned earlier, the Administration was taking steps to set up the Special Committee to follow up on the study with the preparatory work completed in the first quarter of 2013. The Administration would provide secretariat support to the Special Committee as appropriate in the deliberation of policy direction, with a view to meeting the aspirations of different sectors.

27. Mr LEUNG Che-cheung said that Members had since 2000 moved motions urging the Government to, among other things, legislate for regulating employees' working hours. He urged the Administration to make periodic progress reports to the Panel on its study on the subject of SWH and the Special Committee to provide the Panel with an interim report on its deliberation and recommendations.

28. SLW advised that the operation of the Special Committee would be highly transparent. The Administration would from time to time revert to the Panel on the progress of the study as appropriate.

29. Pointing out that false self-employment had increased following the implementation of SMW, Mr LEUNG Che-cheung was concerned that similar situation would occur after introducing an SWH regime. He considered it necessary to plug the loopholes during the deliberation on legislating for SWH. SLW advised that the Administration was mindful of the possible impact of legislating for SWH on the labour market structure, e.g. fragmentation of jobs and an increase in part-time or casual jobs. Therefore, it was considered that the community at large should first assess whether such a development was desirable.

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30. Noting the possible cost impact of SWH on doing business, Mr LEUNG Che-cheung asked whether the Administration had made reference to other overseas SWH jurisdictions and considered establishing an SWH regime in phases.

31. SLW said that of the working hours regimes being studied by LD, Korea's regime was introduced by phases. Although the experience in other places provided useful reference in the discussion of Hong Kong's working hours policy, the best way forward for Hong Kong should be decided with full regard to our own unique social and economic circumstances.

32. Mr CHAN Chi-chuen took the view that the need to reach a consensus as to whether establishing a comprehensive SWH regime by legislative means was an excuse used by the Administration for not taking forward the matter.

33. Mr LEUNG Kwok-hung held the view that it was incumbent upon the Administration to honour the CE's election manifesto and to follow up on the policy study on SWH, with a view to legislating for SWH. He enquired whether the consensus of the Labour Advisory Board was a prerequisite for establishing an SWH regime.

34. SLW advised that as with any labour policy initiative, it had been an established practice to build a consensus among employers, employees and the community at large. In the light of the experience in the implementation of SMW, it was anticipated that consensus building for SWH would be a lengthy process because of its complex nature and the controversies involved were far more complicated than those in deliberating the introduction of SMW. The Administration considered it imperative to critically examine the affordability of the community and strike a balance between the interests of employers and employees before taking a view on the subject. The Special Committee would be tasked to follow up on the study of the subject of SWH.

35. Mr CHAN Chi-chuen asked about the interim measures in place to tackle the problem of long working hours in the six LWHS before the community had reached a consensus on legislating for SWH. SLW pointed out that as shown from the Report, most employees in the six LWHS were lower-skilled workers with lower educational attainment and were engaged in labour-intensive service sectors, and had their overtime work compensated. On the other hand, workers with higher skills such as

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professionals had shorter contractual working hours, but many of them worked overtime without compensation which considerably prolonged their total working hours. The Administration was confident that the phenomenon of relatively long working hours in Hong Kong and overtime work arrangements would be areas to be studied by the Special Committee.

36. Mr Michael TIEN was of the view that the experience in other places which introduced some form of statutory working hours limits showed that the implementation of a working hours regime was not the most effective way to safeguard the interests of employees, given that certain jobs and occupations or industries were exempted from the working hours regimes. In his view, the concerns over work-life balance should more appropriately be addressed by specifying the maximum working hours instead of SWH. As for the overtime pay rates, the Administration should consider improving the Employment Ordinance ("EO") to put it beyond doubt that the employers must stipulate expressly the components of working hours and the overtime pay rates in the employment contracts.

37. SLW said that it had been rightly pointed out that the study on SWH involved a myriad of interrelated social and economic issues which were highly complex and controversial. SLW added that EO did not prescribe the working hours limits, nor the compensation for overtime. It had been the practice for the employers and employees to agree mutually on individual employment terms, and the employers were obliged to comply with the agreement. SLW added that the Administration was confident that the Special Committee would study and discuss the various issues of concern thoroughly and objectively in the deliberation of the policy direction on SWH.

38. Mr CHAN Kin-por recognised that employers expressed stronger reservation towards the introduction of SWH in Hong Kong than the introduction of SMW. Apart from the potential increase in the wage bill, employers were particularly concerned about the need and flexibility to maintain adequate manpower to accomplish urgent and important tasks if working hours limits were set. Moreover, as shown from the experience in other SHW regimes, employers might adopt different strategies to offset higher labour costs, such as splitting full-time posts into part-time or casual jobs or creating more high-rank posts which were exempted from the SWH regime. Mr CHAN was of the view that full support of employers was crucial to the implementation of an SWH regime. In the light of the complexity of the nature of SWH, Mr CHAN called on the

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Administration to introduce appropriate measures to fully address the concerns of the employers and deliberate relevant issues thoroughly before taking forward the matter.

39. SLW assured members that the Administration fully recognised the need to examine the subject of SWH in-depth by the Government, employees, employers and the community at large before deciding on the way forward.

40. The Chairman was of the view that the Administration failed to honour CE's pledge made in his election manifesto to establish a SWH regime in Hong Kong. Instead of taking forward the legislative proposal on SWH, the Administration now tasked the Special Committee to follow up on the study on SWH and only aimed to find the way forward within the current term of Government.

41. SLW said that CE had stated in his election manifesto to set up a Special Committee to follow up on the study on SWH, and the committee would examine issues relating to employees' overtime work conditions and arrangements as well as legislative proposals on SWH. The Administration was sincere in following up on the study on SWH and was confident that the Special Committee would duly follow up on the study and examine thoroughly all relevant issues and concerns. He stressed that it was important for the community to reach a consensus on the SWH regime should it be mandated in Hong Kong.

42. The Chairman said that he and the Labour Party and the Confederation of Trade Unions would object to the proposed creation of the supernumerary CLO post if the Special Committee was not tasked to take forward the legislative proposal on SWH, irrespective of whether a consensus was reached on the subject, as announced in CE's election manifesto.

43. Mr LEUNG Yiu-chung expressed concern that the Special Committee would take unduly long time to study SWH. He took a strong view that the Special Committee should draw up a concrete timetable and work plan at its first meeting.

44. SLW said that as the Special Committee had not yet been formed, the Administration should and would not pre-empt its work. He emphasised that the work of the Special Committee, which would comprise representatives of labour unions, would be highly transparent. Members' views on the subject would also be conveyed to the Special Committee.

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45. The Chairman concluded that members supported in principle the submission by the Administration of the proposal to create a supernumerary CLO post to the Establishment Subcommittee for consideration.

IV. Hong Kong's occupational safety performance in the first half of 2012

(LC Paper Nos. CB(2)341/12-13(04) to (06), CB(2)366/12-13(01) and CB(2)376/12-13(01))

46. At the invitation of the Chairman, Deputy Commissioner for Labour (Occupational Safety and Health) ("DC for L (OSH)") briefed members on Hong Kong's occupational safety performance in the first half of 2012 as detailed in the Administration's paper.

47. Members also noted the background brief entitled "Occupational safety performance in Hong Kong" prepared by the LegCo Secretariat.

Members agreed to extend the meeting for 15 minutes.

Occupational safety of professional drivers

48. The Chairman drew members' attention to the letter dated 5 December 2012 from Mr TANG Ka-piu requesting the Administration to provide statistics on occupational injury cases concerning professional drivers and the Administration's response.

49. Mr WONG Kwok-hing expressed concern about the occupational safety and health ("OSH") of professional drivers and the increasing number of serious traffic accidents involving professional drivers in recent years. Noting that LD did not collect statistics on employees' compensation cases by occupation, Mr WONG considered that the Administration should keep separate statistics for professional drivers. Mr SIN Chung-kai shared his view.

50. DC for L (OSH) responded that currently LD only kept a breakdown of statistics on employees' compensation cases in accordance with the Hong Kong Standard Industrial Classification and did not keep statistics by occupation. As professional drivers were found in various industries, LD was unable to provide information and data analysis on professional drivers who had received employees' compensation. Nevertheless, Mr WONG's suggestion was noted.

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51. Mr WONG Kwok-hing noted with concern that the ventilation system of some public buses was switched off so as to reduce fuel consumption, and thereby resulted in poor air quality of buses and imposed potential health risks to the drivers. He asked whether the Administration was aware of the phenomenon and whether the relevant department would conduct inspection to monitor the air quality of public buses in service.

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52. DC for L (OSH) said that the air quality of public buses was not subject to OSH inspection. The Administration would provide further information as to whether inspections had been conducted by relevant departments to assess the air quality of public buses in service.

53. Mr LEUNG Kwok-hung pointed out that poor ventilation in public buses would cause potential health hazards to passengers and OSH risks for the bus drivers. He held the view that heavy penalty should be imposed on public bus operators for failing to safeguard the OSH of professional drivers.

54. Mr SIN Chung-kai raised concern about the OSH risks of professional drivers arising from occurrence of several serious traffic accidents recently. He enquired about the measures taken by LD to enhance the OSH of professional drivers. In his view, LD should encourage the operators of public buses and coaches to incorporate OSH measures in their respective working guides for professional drivers.

55. DC for L (OSH) said that similar concern was raised at an earlier meeting of the Panel on Transport in connection with the discussion on a serious traffic accident that happened in November 2012. As undertaken at the aforesaid meeting, the Administration would revisit the coverage of the Occupational Safety and Health Ordinance (Cap. 509) in the light of members' request for extending its coverage to professional drivers' driving work. DC for L (OSH) said that LD collaborated with the Occupational Safety and Health Council ("OSHC") and relevant workers' unions to promote OSH message and launch publicity campaigns on healthy lifestyle for professional drivers, including self-employed drivers. It also planned to collaborate with individual bus companies to organise healthy lifestyle promotional activities for their employed drivers.

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Safety performance of the construction industry

56. Mr POON Siu-ping expressed concern that while the overall number of occupational injuries and industrial accidents had decreased slightly over the years, there was an upward trend in the number of accidents in the construction industry. He was gravely concerned about the industrial accidents that occurred during the construction of the Hong Kong-Zhuhai-Macau Bridge project. Mr POON referred to the pre-warning system introduced by the Development Bureau ("DevB") for monitoring the safety performance of contractors as mentioned in Annex 4 of the Administration's paper and enquired about the effectiveness of the system.

57. Principal Assistant Secretary (Works)/DevB ("PAS(W)") said that works departments and their site supervisory staff had all along been closely monitoring the safety performance of contractors of public works projects through various means. For instance, at the commencement of public works contracts, contractors were required to draw up safety plans to implement safety measures and control safety risks in a systematic manner. Recently, to further enhance the control of public works contractors on site safety, DevB had introduced a series of additional measures including a pre-warning system whereby directorate officers of work departments would interview senior management of their public works contractors and request them to submit improvement plans whenever there was an upward trend in the number of accidents in individual contracts. PAS(W) further said that every works department had set up a dedicated committee to examine and review the safety performance of their public works contractors regularly. Besides, regular meetings between works departments and their contractors would be held to discuss site safety matters and share relevant experience. PAS(W) added that DevB had since 2010 introduced a new contractual provision in public works contracts requiring all frontline supervisors to attend the "Construction Safety Supervisor Course" to ensure that they had acquired and equipped with sufficient safety knowledge.

58. Regarding the effectiveness of the safety measures in place, PAS(W) pointed out that the accident rate per 1 000 site workers in public works projects had reduced from 51 in 1998 to nine in 2012 (up to October), which was all along lower than the overall accident rates of the construction sector.

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59. Noting that the number of occupational injuries in 2011 was more than 40 000 cases, Dr KWOK Ka-ki considered it on the high side having regard to the shrinking manufacturing industry in Hong Kong. He also expressed grave concern about the considerable number of fatal accidents that occurred in construction sites and asked about the penalty for contractors for non-compliance with the OSH requirements.

60. PAS(W) elaborated the merit and demerit system in place to control the safety performance of public works contractors. He advised that past performance and accident rates of contractors would be taken into account under the current tender assessment system for public works contracts. Contractors having low accident rates might have higher chance in winning a public works tender. In addition, a dedicated enquiry panel under DevB would look into serious industrial accidents involving its listed contractors and consider taking appropriate regulating actions, such as suspension of contractors concerned from tendering for public works projects for a maximum period of 12 months. In the past five years, 46 contractors had been voluntarily suspended from tendering for public works contracts.

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61. Dr KWOK Ka-ki and the Chairman requested the Administration to provide information on the details of the merit and demerit system for public works contractors, in particular the weighting on accident rates when evaluating the tenderers' past performance under the tender assessment system.

Occupational safety under hot or inclement weather

62. Mr POON Siu-ping expressed concern about employees' OSH under hot or inclement weather. He called on the Administration to keep separate statistics on occupational injuries arising from working under hot or inclement weather, which would provide useful reference for drawing up appropriate preventive measures.

63. DC for L (OSH) advised that LD had since 2010 stepped up site inspection in the hot months, and some 28 000 and 30 000 site inspections to workplaces in this regard were conducted during the summer of 2011 and 2012 respectively. It was noted that in 2011, cases of heat stroke mostly occurred while at work in construction sites, driving public buses, and performing outdoor cleaning. The number of reported cases of heat stroke at work decreased from 25 cases in 2011 to 16 cases in 2012. This was attributable to the taking of preventive measures,

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including providing shelter and enhancing ventilation at the workplace. DC for L (OSH) advised that under a pilot scheme launched at 15 construction sites in the summer of 2011, a 15-minute rest break for bar-benders was provided in the mornings. The number of participating sites doubled to 30 in 2012. It was understood from the bar-bending trade and workers' union that the arrangement would be stipulated in writing.

Employees' compensation insurance policies/unreported cases of occupational injuries and industrial accidents

64. Mr LEUNG Yiu-chung was concerned that the number of reported cases of occupational injuries and industrial accidents as provided in the Administration's paper were underestimated. To his knowledge, some employers were rejected or charged with very high premiums for taking out labour insurance policies by insurance companies. Hence, quite a number of employers had not reported to LD on cases of occupational injuries and industrial accidents so as to keep the premium at an affordable level. Consequently, injured workers were unable to receive employees' compensation. Mr LEUNG asked how the Administration would address the problems of high premiums or difficulties in taking out employees' insurance encountered by these employers.

65. DC for L (OSH) advised that injury cases in workplaces resulting in death or incapacity for work should be reported to LD. He said that employers were obliged to take out employees' compensation insurance to cover their liabilities under the law and to report work injuries. Non-compliance of such requirements by the employers was liable to a fine and imprisonment term. DC for L (OSH) said that apart from enforcing the relevant statutory requirements, the Administration had brought to the Construction Industry Council's attention the allegation of some contractors seeking to deter reporting of accidents through high administration charges. Moreover, in light of the difficulty of the scaffolding industry in procuring employees' compensation insurance, LD and OSHC jointly launched the "Occupational Safety and Health Star Enterprise-Pilot Scheme on RMAA Safety Accreditation" in June 2012, under which those accredited as star enterprises could enjoy up to 50% premium discount when procuring employees' compensation insurance from the Employees' Compensation Insurance Residual Scheme. As in November 2012, four scaffolding companies had been accredited, and their savings in premium ranged from \$300,000 to \$600,000.

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66. Mr LEUNG Yiu-chung cast doubt about the effectiveness of the pilot scheme in addressing the difficulties of employers in the construction and catering sectors in taking out employees' compensation insurance. In his view, the Administration should in the long run consider setting up a central employees' compensation fund to replace the current arrangement of employers having to take out labour insurance policies with insurance companies.

67. Mr Tommy CHEUNG said that as shown from the downward trend of the number of industrial accidents in the food and beverage services sector, the sector had taken effective preventive measures to enhance employees' OSH. However, the premiums for employees' insurance for the sector had been increased by five- to six-fold following the implementation of SMW.

68. The Chairman was of the view that having regard to the reduction in the number of industrial accidents in the food and beverage services sector from 3 413 in the first half of 2011 to 3 063 in the first half of 2012, it was beyond reasoning for the insurance companies to increase the premiums for employees' insurance for the sector. He urged LD to liaise with the Office of the Commissioner of Insurance to examine the matter. The Chairman called on the Administration to increase the penalty for non-compliance of the requirements to report industrial accidents so as to increase the deterrence effect on the employers.

69. PAS(W) advised that the number of prosecution by LD would be taken into account in assessing the performance of individual contractors under the merit and demerit system for contractors. DC for L (OSH) reiterated that under the existing law, employers were required to report cases of occupational injuries, fatal or non-fatal, arising from work accidents to LD. At the request of the Chairman, the Administration agreed to provide information on the number of prosecution instituted against employers for not reporting cases of occupational injuries and industrial accidents at workplaces.

Admin

70. The Chairman said that the Panel might consider holding a joint meeting with the Panel on Financial Affairs to discuss issues relating to problems of some employers in taking out employees' compensation insurance.

Action

Other issues

71. Mr LEUNG Kwok-hung expressed grave concern about employees' repetitive strain injuries, which were not reported under the category of occupational injuries, arising from having worked for a prolonged period of time. He noted with concern that staff members of the telebet department of the Hong Kong Jockey Club had repeatedly complained against the overstretched manpower situation which had posed serious OSH risks to the staff concerned. It was even reported that a few staff members died while at work. He urged LD to actively follow up the cases.

72. DC for L (OSH) said that the Police would conduct an investigation into each unnatural death case, and a coroner's inquiry would be conducted if so warranted. Should an employee sustain injury or die from accidents happening at the workplace, LD would conduct site inspection to the workplace concerned.

73. There being no other business, the meeting ended at 6:55 pm.

Council Business Division 2
Legislative Council Secretariat
6 February 2013