

立法會
Legislative Council

LC Paper No. CB(2)1650/12-13
(These minutes have been seen
by the Administration)

Ref : CB2/PL/MP

Panel on Manpower

Minutes of meeting
held on Tuesday, 16 April 2013, 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 Frederick FUNG Kin-kee, 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
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** : Dr Hon LEUNG Ka-lau
Hon Kenneth LEUNG

Public Officers attending : Item IV

Ms Agnes LO Kit-mui
Assistant Commissioner for Census and Statistics
(General)

Ms Marion CHAN Shui-yu
Senior Statistician
Census and Statistics Department

Mr Desmond HOU Ka-chun
Principal Economist
Financial Secretary's Office

Miss Mabel LI Po-yi
Assistant Commissioner for Labour (Development)

Item V

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

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

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

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

Staff in attendance : Ms Rita LAI
Senior Council Secretary (2) 1

Ms Mina CHAN
Council Secretary (2) 1

Miss Lulu YEUNG
Clerical Assistant (2) 1

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I. Confirmation of minutes of previous meeting
(LC Paper No. CB(2)910/12-13)

The minutes of the meeting held on 25 January 2013 were confirmed.

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

2. Members noted that the following papers had been issued since the last meeting -

- (a) letter dated 14 March 2013 from Hong Kong Private Nursing Home Owners Association on manpower situation in residential care homes for the elderly; and
- (b) letter dated 20 March 2013 from Mr TANG Ka-piu regarding arrangements for employees who were required to perform on-call or standby duties.

III. Date of next meeting and items for discussion
(LC Paper Nos. CB(2)948/12-13(01) and (02))

Regular meeting in May 2013

3. Members agreed that the following items proposed by the Administration be discussed at the next regular meeting at 4:30 pm on 21 May 2013 -

- (a) Enforcement of labour legislation by the Labour Administration Branch of the Labour Department ("LD"); and
- (b) Cultivating good people management and family-friendly culture in employment.

(Post-meeting note: The Panel meeting originally scheduled for 21 May 2013 had been re-scheduled to Tuesday, 28 May 2013.)

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4. For item 3(a) above, members agreed that the Administration should provide members with an update on the implementation and enforcement of the statutory minimum wage ("SMW"), especially the arrangements for meal breaks and rest days for employees of Government service contractors in the light of the revision of the SMW rate with effect from 1 May 2013. Expressing concern about the impact of long working hours on employees' work-life balance, members agreed that the Administration should be requested to provide information on the work plan of the Standard Working Hours Committee under the discussion of item 3(b) above.

5. Members further agreed that the Administration should be requested to provide a response to Mr TANG Ka-piu's letter referred to in paragraph 2(b) above.

(Post-meeting note: The Administration's response to Mr TANG's letter was issued to members vide LC Paper No. CB(2)1248/12-13 on 30 May 2013.)

Regular meeting in June 2013

6. Referring to the Panel's list of outstanding items for discussion, the Chairman advised that Mr Albert HO had earlier proposed to discuss issues relating to the monitoring of employment agencies for foreign domestic helpers. He proposed to discuss the matter at the regular meeting in June 2013. Members agreed.

IV. Major findings of the 2012 Annual Earnings and Hours Survey
(LC Paper Nos. CB(2)848/12-13(01) and CB(2)948/12-13(03))

7. With the aid of powerpoint presentation, Assistant Commissioner for Census and Statistics (General) ("AC/C&S") highlighted to members the major findings in the 2012 Report ("the Report") on Annual Earnings and Hours Survey ("AEHS").

(Post-meeting note: The softcopy of the powerpoint presentation materials was issued to members vide LC Paper No. CB(2)994/12-13(01) on 17 April 2013.)

8. Members noted the background brief entitled "Annual Earnings and Hours Survey" prepared by the Legislative Council ("LegCo") Secretariat.

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Disparity of income between male and female employees

9. Dr CHIANG Lai-wan noted from the Report that the median hourly wage of female employees was \$49.7 while that for male employees was \$60.0. She asked about the reasons for such a difference in the wage levels.

10. AC/C&S responded that the median hourly wage of male employees was higher than that of female employees mainly because the proportion of male employees who had completed tertiary education and were engaged in higher-paid occupations such as managers, administrators, professionals and associate professionals was higher than the corresponding proportion of female employees. AC/C&S added that similar findings were also observed in previous reports on AEHS.

11. In reply to the Chairman's follow-up enquiry, AC/C&S advised that an analysis of the hourly wage level and distribution by occupational group and sex was shown in Table 16 of the Report. It was observed that the hourly wage of male employees was generally higher than that of female employees in most occupational groups, except the occupational group of clerks.

12. Mr LEUNG Kwok-hung pointed out that female workers were usually paid at a lower wage level, even though they were asked to perform similar work as their male counterparts. He expressed concern about discrimination against female employees, in particular in the low-pay industries. He enquired whether the Administration would consider fostering gender equality at work and implementing the principle of equal pay for equal work through legislation. Assistant Commissioner for Labour (Development) ("AC for L(D)") said that discrimination against employees on the basis of sex was regulated under the Sex Discrimination Ordinance (Cap. 480).

Employment benefits / Implementation of SMW rate

13. Dr CHIANG Lai-wan was concerned whether rest days and meal breaks were counted as working hours and were remunerated. AC for L(D) said that as stipulated under the Employment Ordinance (Cap. 57) ("EO"), an employee employed under a continuous contract was entitled to not less than one rest day in every period of seven days. Whether rest days and/or meal breaks were with pay or otherwise was employment terms to be agreed between employers and employees. If a

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meal break fell under the circumstances of hours worked in the Minimum Wage Ordinance (Cap. 608) ("MWO") or was agreed by the employer and the employee as hours worked, it would be included in computing SMW. AC/C&S advised that the proportion of full-time employees who were not provided with both paid rest days and paid meal breaks had decreased from 16.3% in 2011 to 15.9% in the 2012 AEHS.

14. In response to the Chairman's enquiry regarding the proportion of full-time employees who were provided with paid rest days, AC/C&S said that in the 2012 AEHS, 47.8% of full-time employees were provided with both paid rest days and paid meal breaks, and 25.6% were provided with paid rest days only. The remaining 26.7% were not provided with paid rest days.

15. Mr LEUNG Kwok-hung said that to his knowledge, the take-home pay of some low-income workers had decreased after the implementation of SMW from May 2011. This was because some employers had altered the paid meal break arrangements by excluding meal breaks from calculating working hours in order to offset the increase in the wage bill. He enquired about the Administration's stance on the issue.

16. AC for L(D) said that the arrangements for meal breaks had been discussed at length during the scrutiny by the Bills Committee on the Minimum Wage Bill and neither the enacted MWO nor EO prescribed that meal breaks should be paid or not. Employers and employees could agree on their employment terms on meal breaks having regard to their individual needs and circumstances.

17. Mr KWOK Wai-keung noted from Table 13 of the Report that there were only some 90 000 employees whose hourly wage was \$28 during the reference period of May to June 2012. He pointed out that with the persistent rise in wages, the market minimum wage level was higher than the SMW rate, and thereby the number of employees covered by the initial SMW rate of \$28 had decreased remarkably at the time of enumeration. He was concerned about the time lag between the data collection/analysis of AEHS and Minimum Wage Commission ("MWC")'s deliberation of the revised SMW rate with reference to the AEHS findings in 2012. Mr KWOK sought information on the estimated number of employees covered by the revised SMW rate.

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18. AC for L(D) said that the 2012 AEHS results were not yet available when MWC reviewed the SMW rate. As stated in the report of MWC, taking into account the trend of pay rise up to mid-2012, it was estimated that the recommended SMW rate of \$30 would cover about 223 100 employees. According to the 2012 AEHS, there were 210 300 employees with hourly wage less than \$30. Since there would inevitably be a time lag between the date of recommending the SMW rate and the date of its implementation, MWC took into account short-term economic and labour market outlook and its Basket of Indicators also included more frequently released indicators to monitor closely the latest situation after the implementation of SMW.

19. The Chairman considered that consequent upon the time lag of data collection and the persistent rise in inflation and wages over the past year, the actual number of employees receiving the revised SMW rate would be less than that estimated by MWC. To address the problem of time lag between data collection and implementation of the revised SMW rate as well as to avoid employees' purchasing power being eroded by inflation, the Chairman took the view that the Administration should review and adjust the SMW rate on an annual basis. Moreover, the compilation of statistics from AEHS should be expedited so that the findings of AEHS could be released earlier, thereby advancing the implementation of future SMW rate. Specifically, the Chairman asked whether the Administration would consider taking into account the 2012 AEHS findings and commence reviewing the SMW rate such that the next SMW rate could take effect from 1 May 2014.

20. AC/C&S said that the Administration would strive to expedite the compilation of AEHS. She, however, appealed to members' understanding that given the large scale of AEHS, with a sample size of about 10 000 business undertakings and 60 000 employees, considerable time was required to collect the raw data and to analyse and compile the statistical results. In the past survey rounds, the Census and Statistics Department ("C&SD") released the survey results around eight and a half months after the end of the survey reference period, which was comparable with that required by official statistical agencies in statistically advanced economies such as the United Kingdom and Australia. As regards review of the SMW rate, AC for L(D) said that MWO required the SMW rate to be reviewed at least once in every two years. The Administration would monitor the implementation of the revised SMW rate and the prevailing socio-economic and employment conditions.

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21. Mr LEUNG Kwok-hung held the view that the Administration should conduct the review of SMW rate on a yearly basis with a view to maintaining the purchasing power of grassroots workers from being eroded by inflation.

22. Mr KWOK Wai-keung and Mr WONG Kwok-hing said that the Hong Kong Federation of Trade Unions had all along called on the Administration to review and adjust the SMW rate on an annual basis so as to maintain the purchasing power of the low-income workers especially at times of high inflation. Mr WONG then drew members' attention to the findings of the Annual Supermarket Price Survey released by the Consumer Council on 15 April 2013 and highlighted that the wage level of low-income workers lagged far behind the rising inflationary prices of food and daily necessities of 6.8% in 2012 when compared with 2011.

23. In response to members' concerns, AC for L(D) said that there was substantial improvement in the earnings of grassroots employees following the implementation of SMW on 1 May 2011. The figures from June to August 2011 revealed that the average monthly employment earnings of low-income (i.e. the lowest decile group) full-time employees (excluding government employees and live-in domestic workers) registered a year-on-year increase of 14.4% (or an increase of 6% after discounting inflation). The latest figures from November 2012 to January 2013 revealed that the average monthly employment earnings of this group of employees registered a further increase of 7.5% (or an increase of 3.3% after discounting inflation). The Administration would continue to monitor the implementation of SMW as the revised SMW rate would take effect from 1 May 2013. AC/C&S added that the Composite Consumer Price Index ("CPI") from May to June 2012 had gone up by 3.9% as compared with the same period in 2011, whereas the CPI(A), as a measure of inflation for households in the relatively low expenditure ranges, had risen by 3.6%.

24. In response to comments from Mr LEUNG Kwok-hung and question raised by the Chairman, AC/C&S said that a CPI specifically compiled for the lowest income group receiving hourly wage at the SMW rate was not available.

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Working hours

25. With reference to Table 23(a) of the Report, Mr KWOK Wai-keung and Mr WONG Kwok-hing expressed grave concern that the median weekly working hours in some specific industries, including restaurants, estate management and elderly homes, exceeded 50 hours. Both members considered that the long working hours coupled with the meager wage or obnoxious nature of duties had made it difficult to attract new entrants to join these industries. Instead of addressing the labour shortage problem by importation of labour under the Supplementary Labour Scheme, Mr KWOK took the view that the Administration should conduct an in-depth study with a view to better understanding the recruitment difficulties faced by these industries and drawing up specific measures to attract new entrants from local market.

26. Mr KWOK Wai-keung added that according to the information of the Hong Kong Federation of Trade Unions, the weekly working hours of employees in the information and communications industry as well as financing and insurance industry ranged from 50 to 60 hours without overtime work compensation, as opposed to the AEHS findings that the weekly working hours of these industries were in the region of 40 to 44 hours. He expressed reservations as to whether the 2012 AEHS findings could accurately reflect the working hours situation in specific industries.

27. Responding to members' concerns, AC/C&S explained that the working hours statistics published in the Report followed the definition of hours worked under MWO and covered contractual/agreed working hours and overtime hours worked at the direction of employers. Overtime hours not worked under the direction of employers, for which records or data were not available from the employers, were therefore not covered.

28. Mr KWOK Wai-keung maintained the view that the statistics on overtime working hours compiled from the 2012 AEHS underestimated the overtime work situation as overtime hours not recognised by employers were not covered. He was particularly concerned about the phenomenon of long working hours without compensation arrangement in the banking and information technology industries. He called on the Administration to improve the methodology in data collection such that raw data on working hours would also be obtained from employees. He reiterated that the Administration should conduct an in-depth study to better understand the phenomenon of long working hours in these industries. Mr KWOK also expressed dissatisfaction that the Standard

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Working Hours ("SWH") Committee would take three years to deliberate on the policy direction of SWH and identify the way forward, given that all relevant data was available in the Report of the Policy Study on SWH ("SWH Report"). He called on the Administration to expedite the study on the subject of SWH.

29. AC/C&S advised that limitations of working hours statistics compiled from AEHS for the study on SWH were noted by the Administration. Therefore, in the SWH Report, working hours data from both AEHS and the General Household Survey ("GHS") (with the latter collecting information from households) were used to achieve a more comprehensive analysis of employees' total working hours. As shown from the SWH Report, the average total weekly working hours and the average weekly compensated working hours for all employees in 2011 were 47 hours and 46 hours respectively, indicating that the weekly uncompensated overtime hours was about one hour for all employees on average. AC/C&S added that the SWH Committee would follow up the issues raised in the SWH Report and the related working hours issues, and C&SD would provide statistical support for the SWH Committee as necessary.

30. In response to Mr LEUNG Kwok-hung's further enquiry about the compilation of working hours statistics as published in the SWH Report, AC/C&S advised that contractual hours, overtime hours with pay and net overtime hours to be compensated by time-off in lieu were obtained from the 2011 AEHS, while uncompensated overtime hours were collected from an ad hoc supplementary enquiry conducted via GHS in August to October 2011.

V. Work safety in the construction industry
(LC Paper Nos. CB(2)948/12-13(04) and (05))

31. At the invitation of the Chairman, Deputy Commissioner for Labour (Occupational Safety and Health) ("DC for L (OSH)") briefed members on the measures to enhance the work safety performance in the construction industry as detailed in the Administration's paper.

32. Members noted the background brief entitled "Work safety in the construction industry" prepared by the LegCo Secretariat.

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Safety performance of the construction industry

33. Mr LEUNG Yiu-chung pointed out that while the number of accidents in the construction industry had declined from some 6 000 in 2002 to some 3 000 in 2011, the number of fatal construction accidents had not declined correspondingly. He also noted with concern that the number of suspension notices ("SNs") / improvement notices ("INs") issued and the prosecutions initiated against construction contractors by LD had increased in 2012. Mr LEUNG asked about the reasons for the phenomenon.

34. DC for L (OSH) advised that since the second half of 2011, LD had introduced new precautionary measures to enhance work safety performance in the construction industry. Specifically, advisory letters were sent to construction contractors every three or four months to remind them of the need to comply with relevant safety legislation and to take effective safety precautionary measures. LD had also taken more stringent enforcement action without giving prior warning against breaches of the occupational safety and health ("OSH") legislation.

Measures to enhance OSH in the construction industry

Work-at-height safety

35. Mr CHAN Kin-por was concerned about the effectiveness of relevant labour legislation in safeguarding OSH of construction workers. Mr CHAN noted with concern that despite LD had put more effort in combating work-at-height hazards in 2012, as demonstrated by an increase of 70% in the issuance of SNs and INs and an increase of 32% in initiating prosecutions as compared with 2011, the number of fatal accidents in the construction industry involved work-at-height remained high in recent years. He enquired about the specific measures taken by the Administration to prevent accidents related to work-at-height.

36. Expressing similar concerns, Mr Frederick FUNG sought information on the major types of accidents related to fall of person from height. Mr LEUNG Kwok-hung considered that user-friendly working platform should be provided to workers to encourage them to adopt appropriate safety device while working at height.

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37. Responding to members, DC for L (OSH) said that the Administration was concerned that more than half of the construction fatal accidents were related to fall of person from height. Of these accidents, about 20% involved workers falling from bamboo scaffolds and 20% falling from A-shaped ladders. It was also noticed that in around one-third fall-from-height fatal accidents, workers had fallen from places of work of less than two to three metres high. LD had stepped up inspections and enforcement actions in ensuring compliance with the OSH legislation as well as enhanced publicity and promotion on awareness of OSH in the construction industry. DC for L (OSH) advised that to address the sector-specific problem, LD in collaboration with the Occupational Safety and Health Council ("OSHC") had launched the "OSH Star Enterprise - Pilot Scheme on RMAA (Repair, Maintenance, Alteration and Addition works) Safety Accreditation" ("the Pilot Scheme") for the renovation and maintenance industry with focus on the high-risk bamboo scaffolding sector. RMAA contractors were encouraged to enhance work-at-height safety by taking practicable safety measures and improve working environment to reduce occupational injuries. Apart from providing free training and subsidy to purchase fall arresting devices and related equipment, accredited contractors could enjoy premium discount when procuring employees' compensation insurance under the Employees' Compensation Insurance Residual Scheme. As regards falling from places of work of less than two to three metres high, LD in collaboration with OSHC would organise a "Work-at-Height Safety Forum" to explore with the industry measures to enhance work-at-height safety. In addition, a new sponsorship scheme would be launched for small-and-medium-sized enterprises ("SMEs") to purchase mobile working platforms to further enhance work-at-height safety.

38. Mr CHAN Kin-por further enquired about the participation rate of the Pilot Scheme and the financial incentives offered to accredited contractors. DC for L (OSH) responded that about 60 SMEs had enrolled in the Pilot Scheme since its launch in June 2012. As in November 2012, four scaffolding companies had been accredited as star enterprises and their savings in premium ranged from \$300,000 to \$600,000 each year. It was expected that four more companies would be accredited as star enterprises in April 2013.

39. Noting that a serious industrial accident related to fall of person from height had occurred in a construction site in the Science Park in late March 2013, Mr POON Siu-ping enquired about the measures taken by the Administration to prevent the recurrence of similar accidents.

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Assistant Commissioner for Labour (Occupational Safety) said that the accident involved falling of workers arising from the collapse of temporary support structures. In respect of the safe use of temporary support structures, LD had issued relevant guidelines and reminded duty-holders of compliance with the relevant safety regulations. Appropriate actions would be taken upon completion of the investigation into the accident.

Electrical works safety

40. Mr Frederick FUNG and Mr LEUNG Kwok-hung were concerned that seven fatal accidents involving electrocution in the construction industry were recorded in 2012. DC for L (OSH) advised that in the light of the seven fatal accidents, LD, the industry stakeholders and OSHC had jointly organized a series of electrical works safety promotional activities. Publications on electrical works safety were distributed to stakeholders through electrical and mechanical trade associations and workers' unions, and safety alerts had been issued to around 90 000 registered electrical workers/contractors. Furthermore, LD had stepped up inspections and enforcement actions on contravention of electrical safety regulations and conducted a joint blitz operation with the Electrical and Mechanical Services Department ("EMSD"). Notably, over 100 SNs/INs (increased by four times compared with 2011) were issued and 35 prosecutions (increased by over 100% compared with 2011) were initiated. Through concerted efforts of the industry stakeholders and the Administration, the trend of electrocution accidents was curbed by the end of 2012. DC for L (OSH) added that electrical works safety remained to be LD's concern in 2013. The Administration would keep up its efforts on this front.

41. Mr TANG Ka-piu said that according to the study by the Construction Industry Council ("CIC"), a number of construction fatal accidents in 2012 were caused by electrocution in carrying out interior finishing works without proper protective devices. Mr TANG raised queries as to whether project deadlines had been met at the expense of safe work practices.

42. DC for L (OSH) noticed that in many electrocution accidents workers had been performing electrical works at suspended ceiling or under humid weather. LD would conduct inspections targeting electrical works safety and conduct joint blitz operation with EMSD. LD would also launch a large-scale promotional programme in the upcoming summer to raise the alertness of electrical contractors and workers.

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Prevention of heat stroke

43. Expressing concern about cases of sudden death of construction workers arising from heat stroke at work, Mr TANG Ka-piu enquired about the Administration's plan on heat stroke prevention in the construction sites in the forthcoming summer months.

44. Occupational Health Consultant of LD responded that LD would step up inspections to construction sites and launch a series of publicity programmes from April to September 2013. These included organizing health talks, distributing relevant guidelines and heat stress assessment checklists, broadcasting videos on mobile advertising media, and conducting promotional visits to worksites to introduce practical measures for preventing workers from heat stroke. Specifically, an additional rest break for bar-benders in the morning would be implemented in all construction sites this summer to reduce the risk of heat stroke to these workers.

45. Occupational Health Consultant of LD added that OSHC had commissioned a university to study the effectiveness of personal cooling vests in reducing the risk of workers suffering heat stroke at work. Given that the field tests conducted in 2012 indicated that cooling vests were suitable for work in the construction industry, LD would collaborate with OSHC to launch a pilot scheme to explore the feasibility of wider use of cooling vests on construction sites in future. In response to the Chairman's enquiry about the implementation plan, DC for L (OSH) advised that the management and application of cooling vests on construction sites would have to be tested out under the pilot scheme before they could be considered for wider use in the construction industry.

46. The Chairman enquired whether consideration would be given to extending the arrangement of providing an additional rest break to bar-benders to all other construction workers. While acknowledging that bar-benders were mostly required to work under the sun, DC for L (OSH) said that CIC was actively considering implementing the arrangement of additional rest breaks to all construction site workers during the summer months.

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Application of public sector safety measures

47. Noting that a lower accident rate was recorded in the public housing projects managed by the Housing Authority ("HA"), Mr POON Siu-ping enquired whether the Administration would consider applying the safety measures of HA to the construction industry at large.

48. DC for L (OSH) said that the accident rate in respect of public works projects, including the public housing projects under HA, had all along been lower than the overall accident rates in the construction industry. He then elaborated the merit and demerit system in place to control the safety performance of the 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. Another key initiative was the introduction of "Pay for Safety Scheme" by the Development Bureau ("DevB") since 1990s to separate the safety provisions from the competitive bidding through the inclusion of a set of independent and pre-priced safety items in the tender documents. DC for L (OSH) added that CIC had already issued guidelines on pay for safety for the reference of the construction sector at end of 2012. LD would follow up with CIC in respect of implementing the public sector experience, which was considered to be effective in monitoring the safety performance of contractors, in the private construction sector.

49. The Chairman said that to his knowledge, contractors of HA's housing construction projects were under great pressure to accelerate their work progress to meet the tight schedule. He expressed grave concern about the risk of pushing up the industrial accident rate as a result of the pressure to meet deadlines for project completion.

50. DC for L (OSH) said that to his understanding, HA was exploring a number of support measures, such as the use of prefabricated building method, to reduce the risk of on-site construction works.

Level of penalties for offences

51. Mr POON Siu-ping said that to his knowledge, the fine for non-compliance of the OSH Ordinance ("OSHO") was on average in the region of \$10,000. To enhance the deterrence of the legislation, Mr POON enquired whether the Administration would review the penalty

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levels for offences under OSHO. Mr CHAN Kin-por expressed a similar concern and enquired whether the Administration would consider imposing a heavier penalty for non-compliance with OSH requirements in order to achieve greater deterrence.

52. DC for L (OSH) said that breaching OSHO would be liable to a maximum fine of \$500,000 and an imprisonment of 12 months. In consultation with the Department of Justice, LD would provide the court with relevant information, such as practicability of putting in place safety measures, dire consequence of negligence on the part of the employer and the deterrent effect of prevailing fine level, to assist the court in considering appropriate sentences after conviction.

On-site safety officers

53. Pointing out that on-site safety officers were employees of construction contractors, Mr POON Siu-ping expressed reservations that the former would be proactive in reporting their employers' non-compliance with OSH requirements. Mr POON asked whether the Administration would consider conducting a review of the role and responsibilities of on-site safety officers.

54. Mr LEUNG Kwok-hung raised a similar concern. He held the view that to enhance the independent role of on-site safety officers, they should be engaged by construction contractors through an intermediary agency. The Administration should consider amending the relevant legislation to this effect.

55. DC for L (OSH) said that construction contractors were required by law to employ registered safety officers ("RSOs") to take care of OSH matters on construction sites and provide professional advice to the contractors concerned. DC for L (OSH) further said that concern about the role of RSOs had been raised at the Construction Safety Forum jointly organized by LD and OSHC in March 2012. Noting that a code of conduct for safety practitioners was being prepared by the professional federation, LD would discuss with the stakeholders the viability of introducing penalty for breaching the code of practice.

Training on occupational safety

56. Mr KWOK Wai-keung expressed concern that the increasing number of construction projects had exerted great pressure on the resources and manpower in the industry, and consequently resulted in a

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substantial number of industrial accidents in the construction industry. In his view, the Administration should further raise the work safety standards in the construction industry. Mr KWOK asked about the training provided to the newcomers to the construction industry and the measures to be taken by the Administration to enhance their OSH awareness. He also sought information on the number of construction site workers with less than two years' experience who were involved in the 2 345 accidents in the construction industry as recorded in the first three quarters of 2012.

57. DC for L (OSH) said that with the commencement of a number of mega infrastructure projects, the construction workforce had been on the rise. In anticipation of the continued growth in the construction industry in the coming years, LD, in collaboration with the Hong Kong Construction Association and the Hong Kong General Building Contractors Association, launched in July 2012 the "Caring Programme for New Construction Workers". Under this programme, workers who newly joined the industry were identified with the label "P" (i.e. Probationer) and workers who were new to a construction site with the label "N" (i.e. Newcomer). Contractors would assign mentors to take care of the workers who newly joined the industry for a period of not less than three months. If the workers new to a site had already possessed experience in construction work, they would be required to carry the "N" labels for two weeks and to receive special briefing on hazards to be avoided. In addition, construction workers were required to receive safety training and complete the Mandatory Basic Safety Training course (Construction Work) (commonly known as the "Green Card" course) before commencing work. DC for L (OSH) said that he did not have information on the number of injured workers who had less experience on construction sites and advised that workers new to a construction site did not necessarily mean that they were new entrants to the construction industry.

58. Mr TANG Ka-piu pointed out that most of new entrants to the construction industry were South Asians, he was concerned about the communication problem encountered by these workers while at work. He asked about the specific measures in place to raise their OSH awareness.

59. DC for L (OSH) said that the Administration was aware of the language barrier faced by some South Asian construction workers. To enhance the OSH awareness of these workers, clear and easy to understand pictorial aids were used in the promotional leaflets which were also printed in different ethnic languages.

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60. Mr KWOK Wai-keung raised concern whether the considerable number of industrial accidents in the construction industry was due to the arrangement of allowing contractors to recruit construction workers first and then provide them with training afterwards under the Contractor Cooperative Training Scheme ("CCTS"). DC for L (OSH) advised that CCTS was launched by CIC in collaboration with individual contractors in order to cope with the imminent demand of manpower shortage in the construction industry. To his knowledge, mentors had been assigned to provide on-site training and OSH knowledge according to a specified ratio of mentor to newcomers.

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

Liability issues

61. In reply to Mr LEUNG Yiu-chung's enquiry about the liability of the principal contractors and sub-contractors in respect of industrial accidents, DC for L (OSH) advised that both the principal contractors and sub-contractors of construction projects would be liable to prosecution if there was sufficient evidence to substantiate their non-compliance with the OSH legislation and safe work practices.

62. The Chairman noted with concern that while the accident rate per thousand workers in the construction industry recorded a decline in the past decade, the number of fatalities recorded an increase in 2011 and 2012 as compared with that in 2010. He queried whether the number of reported cases of occupational injuries and industrial accidents as provided in the Administration's paper were underestimated as he was aware of some complaints of trade unions that some industrial accidents had not been reported to LD. In this connection, he enquired whether the Administration would consider introducing legislative amendments to the effect that the principal contractor should report to LD on all industrial accidents took place on construction sites and take out employees' compensation insurance; and would be liable to prosecution for non-compliance with such requirements.

63. DC for L (OSH) pointed out that the decline in the number of accident rate in the construction industry was largely attributed to the increase in the construction workforce with the commencement of a number of mega infrastructure projects. He said that employers were obliged to take out employees' compensation insurance to cover their liabilities under the law and to report work injuries. The Administration

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had brought to CIC's attention the allegation of some contractors seeking to deter reporting of accidents by sub-contractors through high administration charges. To his knowledge, CIC had issued guidelines to construction contractors on the principle of cost recovery if administration fees were to be charged.

64. The Chairman requested the Administration to relay the following to CIC -

- (a) extending the arrangement of providing an additional rest break to bar-benders in the morning to all other workers on construction sites during the summer months; and
- (b) the principal contractors of construction works projects should be required to report to LD on all occupational injuries and industrial accidents at workplaces.

65. There being no other business, the meeting ended at 6:45 pm.

Council Business Division 2
Legislative Council Secretariat
25 July 2013