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Panel on Manpower

**Updated background brief prepared by the Legislative Council Secretariat
for the meeting on 20 June 2017**

Occupational safety performance in Hong Kong

Purpose

This paper gives an account of the past discussions by the Panel on Manpower ("the Panel") on Hong Kong's occupational safety performance since the Fourth Legislative Council ("LegCo").

Background

2. According to the Administration, the number of occupational injuries (including industrial and non-industrial accidents)¹ in the first half of 2016 was 17 283, representing a rise of 0.9% over 17 127 in the same period of 2015. The injury rate per 1 000 employees was 11.6 in the first half of 2016, up by 0.3% when compared with 11.5 in the same period of 2015. The number of industrial accidents² for all sectors in the first half of 2016 was 5 057, down by 5.2% when compared with 5 334 in the same period of 2015; while the accident rate per 1 000 workers decreased by 6.8% from 17.1 to 16.0. Apart from the construction industry, injuries in other industries were mostly of minor nature, mainly involving accidents of "slip, trip or fall on the same level" and "improper manual lifting or carrying".

¹ Occupational injuries (including industrial and non-industrial accidents) refer to injury cases in workplaces reported under the Employees' Compensation Ordinance (Cap. 282), resulting in death or incapacity for work of over three days.

² Industrial accidents refer to injuries and deaths arising from industrial activities in industrial undertakings as defined under the Factories and Industrial Undertakings Ordinance (Cap. 59).

Deliberations of the Panel

Safety performance of the construction industry

Site safety of public works projects

3. Members noted with grave concern that since the commencement of the Hong Kong-Zhuhai-Macao Bridge ("HZMB") project in 2011, the Labour Department ("LD") had recorded 275 industrial accidents and nine fatal accidents. Some members queried whether such accidents had occurred because employers/contractors sought to catch up with works progress at the expense of safe work practices and the Administration's monitoring measures failed to achieve its purpose. Members took a strong view that the Administration should conduct investigation into the causes of such accidents as well as draw up preventive measures and take specific enforcement actions against unsafe work practices.

4. According to the Administration, LD had been closely monitoring the occupational safety of the HZMB local projects. Notwithstanding that the Highways Department ("HyD") had set up an Independent Investigation Task Force to investigate the possible causes of the fatal accident occurred on 29 March 2017 and to develop improvement measures on site safety, LD would conduct thorough investigation to examine the causes of the accident and the legal liabilities of duty holders. LD would also urge the contractor concerned to make improvement and take enforcement actions as appropriate. Members were also advised that given the commencement of various mega infrastructure projects in recent years, including the construction of HZMB, LD established a dedicated office in 2011, which was specifically tasked with inspecting these projects and conducting related law enforcement work. Since the commencement of the works project in 2011 till the first quarter of 2017, LD conducted a total of 1 384 inspections and issued 51 suspension notices and 230 improvement notices with 329 prosecutions initiated/taken. The number of days of works suspension resulted from the issuance of the suspension notices was 712 days.

5. As regards the work safety of sea-based construction works, the Administration advised that LD from time to time organized safety seminars on work-over-water safety for the industry, including safety briefings co-organized with the Marine Department ("MD") for the frontline construction workers engaged in the HZMB projects. LD had also published the "Code of Practice for Safety and Health at Work (Land-based Construction over Water - Prevention of Fall)" and jointly published with MD the "Safety Guide for Construction Work over/near Water" to raise safety awareness on works over water, and reminded employers/contractors concerned of their responsibilities to provide relevant sea-based works safety training for the construction workers.

Safety of working at height

6. Noting that most of the construction fatal accidents were related to fall of persons from height, members were concerned about the effectiveness of measures adopted by the Administration to reduce risks associated with working at height. The Administration advised that while LD would continue to combat work-at-height hazards through enforcement and publicity efforts, LD had started to step up engagement with the property management companies and further enhance the promotion work to the Owners' Corporations to raise their awareness on the common hazards associated with repair and maintenance works, including work-at-height safety. To reduce the risk of head injury arising from falling from height, LD also stepped up publicity efforts to promote the use of safety helmets with chin straps, including promotion through relevant trade associations and workers' unions, to further safeguard work safety of work-at-height. In addition, the Buildings Department would formulate guidelines to enhance the safety of building exterior works through building design.

7. The Administration further advised that LD, in collaboration with the Occupational Safety and Health Council ("OSHC"), continued to promote the "OSH Star Enterprise Safety Accreditation Scheme" for the repair, maintenance, alteration and addition ("RMAA") industry. The Scheme covered the provision of safety training, subsidies for the purchase of fall arresting devices and safety audits for small and medium-sized RMAA contractors, and the offer of premium discounts up to 50% to those bamboo scaffolding contractors accredited under the Scheme through collaboration with the insurance sector.

8. On some members' suggestion of replacing the use of truss-out bamboo scaffolds ("TOS") with suspended working platform or other alternative safety devices, the Administration explained that it might not be technically feasible to use suspended working platform for maintenance work of external walls in many buildings due to their physical constraints. Nevertheless, LD and OSHC were actively exploring ways to address the safety concern for workers engaged in external wall work of buildings so as to prevent occurrence of accidents, such as use of prefabricated TOS. To address the sector-specific problem, LD had, in collaboration with the Construction Industry Council ("CIC"), issued guidelines and code of practice on the use of bamboo scaffolds for work-at-height and carrying out works at the external walls. Besides, LD had issued advisory letters to construction contractors and sub-contractors urging them to adopt adequate safety measures while working on, erecting and dismantling TOS.

On-site safety officers

9. Concern was raised about whether registered safety officers ("RSOs"), who were employed by construction contractors, would be proactive in reporting their employers' non-compliance with occupational safety and health ("OSH") requirements. There was a view that the Administration should make it mandatory for construction contractors to engage RSOs through an intermediary agency so as to ensure their independent role.

10. According to the Administration, RSOs were reminded of the importance of taking proactive steps to ensure that their employers/clients were fully aware of the potential adverse implications and consequences of refusing to accept or neglecting their advice. Should there be sufficient evidence that an RSO had failed to perform his duties, LD would activate the registration suspension/cancellation process for the safety officer concerned under the registration system for RSOs. The Administration was of the view that the requirement of engaging RSOs by contractors had achieved the desired outcome for the former to render assistance to contractors in establishing safety management systems to prevent accidents. The Administration added that under the law, duty-holders of construction projects were not prohibited from engaging RSOs through an intermediary agency.

Level of penalty

11. Most members called for the imposition of heavier penalty on convicted cases related to fatal industrial accidents in the construction industry so as to increase the deterrent effect against non-compliance with the OSH legislation. Some members pointed out that after the occurrence of an accident, HyD would only record in its reports if the contractors concerned were found to have violation of statutory or contractual requirements. They considered that the penalties were too lenient to achieve any deterrence effect. These members suggested that more weightings should be given to the safety performance of individual contractors in assessing their future tenders for public works contracts. At the special meeting on 12 April 2017 when the occupational safety concerning the construction of the HZMB project was discussed, the Panel passed a motion urging the Government to increase the penalties by forbidding the companies concerned to tender in government contracts for one year after the occurrence of a fatal accident, and to introduce legislative amendments to subject those consultants and contractors who were found to be negligent in their safety performance to criminal liability so as to further enhance the deterrence effect.

12. In its written response to the abovementioned motion passed by the Panel, the Administration advised that the contractor's and consultant's past safety performance would be a consideration factor for future tender evaluation and

might affect the contractor's eligibility for tendering. In order to raise the deterrent effect of court penalties, LD had been adopting different approaches to seek heavier penalties for duty holders. For instance, LD had submitted comprehensive information to the court for reference in sentencing, in particular the serious consequences arising from the accidents in question. Depending on the circumstances of individual cases, LD would request the Department of Justice ("DoJ") to consider filing a review or an appeal to the court in respect of the conviction and the penalty when necessary. The fines imposed by the court on convicted cases related to fatal industrial accidents in the construction industry had increased in recent years when compared with the past. LD would, in consultation with DoJ, review provisions in relation to penalty under the OSH legislation, and amend the law if necessary to further enhance the deterrent effect of the penalty.

Safety training for construction workers

13. Some members considered that training on occupational safety should be provided for new entrants to the construction industry, in particular ethnic minorities ("EMs") who might encounter communication problem at work. The Administration pointed out that 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. The Administration further advised that LD had prepared promotional leaflets and posters with simple and easy-to-understand pictorial aids which were printed in various ethnic languages as well as organized outreaching seminars in collaboration with relevant labour unions at construction sites to deliver OSH message to EMs.

Industrial accidents in the food and beverage services sector

14. Some members expressed concern about the effectiveness of the publicity and educational efforts put in place by the Administration in addressing industrial accidents in the food and beverage services sector. According to the Administration, with a view to consolidating its efforts in publicity and promotion, education, training, research and sponsorship schemes for the catering industry, OSHC established the Catering Safety and Health Steering Committee in 2015 to further promote and enhance the work safety standards of the industry. In addition, OSHC continued to implement the "OSH Star Enterprises Catering OSH Enhancement Pilot Scheme" to further improve the work safety of the catering industry practitioners, and to encourage the industry to raise tidiness and cleanliness standards at workplaces. Members were also advised that LD would conduct special enforcement operations targeting at OSH of the catering industry.

Safety measures for container handling industry

15. Given the vast area of the container terminals and its round-the-clock mode of operation, some members considered it difficult for LD's labour inspectors to assess the occupational safety performance of the container handling industry. They enquired about the measures in place to prevent serious industrial accidents of container handling activities.

16. The Administration advised that it had examined critically the circumstances and causes of the accidents involving container handling activities, which were mainly systemic issues related to operation and maintenance of container handling plant and machineries. These included risk assessment and communications among different responsible persons undertaking container handling in the work process. LD had communicated with the industry stakeholders and container terminal operators concerned and urged them to make necessary improvements so as to ensure safe operation in container terminals. Besides, LD officers would conduct surprise inspections to workplaces of different industries outside office hours where necessary to monitor employers' compliance with the labour legislation.

Road works safety

17. Members expressed grave concern about the safety of workers engaged in road works and enquired about the specific measures taken by the Administration to safeguard occupational safety of workers working on road/at roadside. Some members took the view that the principal contractor should also be held responsible for safeguarding the occupational safety of road workers, and that various bureaux/government departments should work collaboratively in formulating safety plans prior to commencement of the road works, so as to safeguard the occupational safety of road workers.

18. According to the Administration, LD had enhanced various measures with regard to OSH of road/roadside workers, including enhancing publicity to remind the industry to take appropriate measures to ensure the work safety of workers, and stepping up surprise inspections to road/roadside work in terms of frequency and intensity. An inter-departmental working group comprising members from HyD, the Transport Department, the Police and LD was comprehensively reviewing the Code of Practice for the Lighting, Signing and Guarding of Road Works to further enhance the safety protection measures for carrying out road works.

Occupational safety under hot or inclement weather

19. Members were gravely concerned about OSH of employees working outdoor during hot summer and typhoon season, particularly heat stroke cases

occurred in outdoor working environments. There was a suggestion that the general duty of an employer should include suspension of work under extremely hot weather in order to ensure the safety of workers.

20. The Administration advised that LD had published a guide on the prevention of heat stroke at work in a hot environment and practical methods for abating the risk of heat stroke. Duty holders were advised to arrange appropriate rest breaks for employees during hot periods, set up temporary sunshade wherever possible and provide cool potable water for employees at all times during work. The arrangement of an additional rest break had been implemented in all construction sites for workers during the summer months, i.e. a 15-minute rest break in the morning in addition to the 30-minute rest break in the afternoon to prevent heat stroke at work as recommended by CIC under the "Guidelines on Site Safety Measures for Working in Hot Weather" issued in 2013.

21. The Administration further advised that LD had enhanced the protection of employees from heat stroke by conducting large-scale inspections to workplaces during the hot months over the past years. Specifically, LD had adopted a two-tier inspection mode whereby occupational safety officers ("OSOs"), who were provided with a checklist for heat stress assessment at workplaces, conducted inspections to workplaces of high-risk to heat stroke such as construction sites, container yards and outdoor cleansing workplaces, and assessed the risk of heat stress. OSOs would take immediate enforcement actions against inadequate preventive measures for heat stroke, including initiating prosecution or issuing warnings and improvement notices. They would refer doubtful cases to LD's occupational hygienists for in-depth study with the aid of appropriate equipment. According to the Administration, LD conducted more than 28 600 inspections targeting industries with higher risk of heat stroke in April to September 2016, with more than 90 warnings and one improvement notice issued as well as one prosecution initiated.

Relevant papers

22. A list of the relevant papers on the LegCo website is in the **Appendix**.

**Relevant papers on
Occupational safety performance in Hong Kong**

Committee	Date of meeting	Paper
Panel on Manpower	21.1.2009 (Item III)	<u>Agenda</u> <u>Minutes</u>
Panel on Manpower	16.7.2009 (Item II)	<u>Agenda</u> <u>Minutes</u>
Panel on Manpower	22.10.2009 (Item III)	<u>Agenda</u> <u>Minutes</u>
Panel on Manpower	21.1.2010 (Item III)	<u>Agenda</u> <u>Minutes</u>
Legislative Council	5.5.2010	<u>Motion on "Medical check-ups for professional drivers"</u>
Legislative Council	12.5.2010	<u>Motion on "Protecting the safety and health of employees at work in inclement weather"</u>
Legislative Council	19.5.2010	<u>Motion on "Reviewing occupational safety and health and employees' compensation system"</u>
Panel on Manpower	20.5.2010 (Item IV)	<u>Agenda</u> <u>Minutes</u>
Legislative Council	2.6.2010	<u>Official Record of Proceedings (Question 8)</u>
Panel on Manpower	20.1.2011 (Item IV)	<u>Agenda</u> <u>Minutes</u>

Committee	Date of meeting	Paper
Panel on Manpower	17.6.2011 (Item IV)	<u>Agenda</u> <u>Minutes</u>
Legislative Council	6.7.2011	<u>Official Record of Proceedings</u> <u>(Question 2)</u>
Legislative Council	19.10.2011	<u>Official Record of Proceedings</u> <u>(Question 7)</u>
Legislative Council	14.12.2011	<u>Official Record of Proceedings</u> <u>(Question 1)</u>
Legislative Council	11.1.2012	<u>Official Record of Proceedings</u> <u>(Question 10)</u>
Legislative Council	28.3.2012	<u>Official Record of Proceedings</u> <u>(Question 11)</u>
Panel on Manpower	20.6.2012 (Item V)	<u>Agenda</u> <u>Minutes</u>
Panel on Manpower	11.7.2012 (Item IV)	<u>Agenda</u> <u>Minutes</u>
Panel on Manpower	18.12.2012 (Item IV)	<u>Agenda</u> <u>Minutes</u>
Panel on Manpower	25.1.2013 (Item V)	<u>Agenda</u> <u>Minutes</u>
Panel on Manpower	16.4.2013 (Item V)	<u>Agenda</u> <u>Minutes</u>
Panel on Manpower	19.11.2013 (Item V)	<u>Agenda</u> <u>Minutes</u>
Panel on Manpower	17.12.2013 (Item V)	<u>Agenda</u> <u>Minutes</u>

Committee	Date of meeting	Paper
Legislative Council	18.12.2013	Official Record of Proceedings (Question 13)
Legislative Council	8.1.2014	Official Record of Proceedings (Question 21 and 22)
Panel on Manpower	15.4.2014 (Item IV)	Agenda Minutes LC Paper No. CB(2)1836/13-14(01)
Legislative Council	16.4.2014	Official Record of Proceedings (Question 6)
Legislative Council	30.4.2014	Official Record of Proceedings (Question 2)
Legislative Council	11.6.2014	Official Record of Proceedings (Question 1)
Panel on Manpower	17.6.2014 (Item V)	Agenda Minutes
Panel on Manpower	18.11.2014 (Item IV)	Agenda Minutes
Panel on Manpower	17.3.2015 (Item IV)	Agenda Minutes
Panel on Manpower	16.6.2015 (Item IV)	Agenda Minutes
Panel on Manpower	14.7.2015 (Item II)	Agenda Minutes
Panel on Manpower	17.11.2015 (Item IV)	Agenda Minutes
Legislative Council	3.2.2016	Official Record of Proceedings (Question 15)

Committee	Date of meeting	Paper
Panel on Manpower	15.3.2016 (Item V)	Agenda Minutes
Panel on Manpower	21.6.2016 (Item III)	Agenda Minutes
Panel on Manpower	15.11.2016 (Item V)	Agenda Minutes LC Paper No. CB(2)866/16-17(01)
Legislative Council	16.11.2016	Official Record of Proceedings (Question 19)
Legislative Council	30.11.2016	Official Record of Proceedings (Question 1)
Legislative Council	11.1.2017	Official Record of Proceedings (Question 4)
Panel on Manpower	23.1.2017 (Item III)	Agenda Minutes
Panel on Manpower (Special meeting)	12.4.2017 (Item I)	Agenda LC Paper No. CB(2)1357/16-17(05)
Panel on Manpower	16.5.2017 (Item V)	Agenda

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