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Panel on Manpower

**Updated background brief prepared by the
Legislative Council Secretariat for the meeting on 21 April 2020**

**Occupational diseases and occupational health performance
in Hong Kong**

Purpose

This paper summarizes the past discussions by the Panel on Manpower ("the Panel") on occupational diseases and occupational health performance in Hong Kong since the Fourth Legislative Council ("LegCo").

Background

2. According to the International Labour Organization ("ILO"), occupational diseases are diseases having specific or strong relationship with occupations, generally with only one causal agent. The Employees' Compensation Ordinance (Cap. 282) ("ECO"), the Occupational Deafness (Compensation) Ordinance (Cap. 469) ("ODCO") and the Pneumoconiosis and Mesothelioma (Compensation) Ordinance (Cap. 360) ("PMCO") prescribe a total of 52 occupational diseases, which are also specified in the Second Schedule to the Occupational Safety and Health Ordinance (Cap. 509) ("OSHO") as notifiable occupational diseases. Medical practitioners are required to notify the Commissioner for Labour of cases of these occupational diseases.

3. According to the Administration, the number of confirmed cases of occupational disease was 400 in 2018. The common occupational diseases included occupational deafness, tenosynovitis of the hand or forearm and silicosis.

Deliberations of the Panel

List of compensable occupational diseases

4. Some members pointed out that as the service industry had become the mainstay in Hong Kong and the manufacturing sector was shrinking in recent decades, the Administration should review the scope and coverage of the list of compensable occupational diseases in the Second Schedule to ECO in view of the socio-economic changes. Some members took the view that musculoskeletal disorders, such as back pain, shoulder-neck pain, adhesive capsulitis, tennis elbow and osteoarthritis of knees, which were common work-related diseases among domestic helpers, information technology practitioners and employees working in the airport, should be prescribed as occupational diseases if they were resulted from the employers' failure to provide proper training and equipment for workers to perform their duties. Expressing the view that mental health of employees was equally important to their physical health, some members considered that emotional disorders arising from work pressure should be categorized as an occupational disease as well.

5. The Administration advised that the Labour Department ("LD") would review the list of compensable occupational diseases from time to time and had updated the list in the light of international standards. Since 1991, there had been addition of 13 new occupational diseases and expansion of the coverage of three occupational diseases. The Administration further advised that Hong Kong would follow international practices and make reference to the criteria adopted by ILO in determining whether a disease should be prescribed as an occupational disease. Prescription of a disease as an occupational disease was based on the criteria of whether workers engaged in a certain occupation in Hong Kong had a significant and recognized risk of contracting the disease; and whether a causal relationship between the disease and the occupation could be reasonably presumed or established in individual cases.

6. The Administration explained that the 52 occupational diseases specified in the relevant Ordinances were diseases having specific or strong relationship with occupations, and generally with only one causal agent. Musculoskeletal disorders, on the other hand, were diseases with multiple causal agents. Nonetheless, six musculoskeletal diseases, including tenosynovitis of the hand or forearm, had already been prescribed as occupational diseases. Other musculoskeletal disorders such as low back pain and shoulder-neck pain resulting from the interaction of multiple risk factors were commonly found in the general population and not limited to workers engaged in certain occupations. As these disorders could not satisfy the criteria for prescribing as occupational diseases, they were classified as work-related diseases instead.

The Administration further advised that emotional disorders did not satisfy the criteria for prescribing as occupational diseases as they could be caused by reasons other than work.

7. Some members expressed concern whether the Administration would consider lowering the threshold for prescribing a disease as an occupational disease such that an employee suffered from work-related disease or injury could apply for compensation under ECO. The Administration explained that once a disease was prescribed as an occupational disease, workers suffering from the disease could claim compensation if they were engaged in the designated occupations. Therefore, the causation criterion was particularly important in differentiating occupational diseases from work-related diseases. The Administration further advised that even if a disease was not prescribed as an occupational disease, an employee was protected by ECO and could apply for compensation under section 36(1) of ECO.

Occupational deafness

8. Noting that there was a significant increase in the number of confirmed cases of occupational deafness from 177 in 2017 to 275 in 2018, some members were concerned about the Administration's effort in preventing employees from contracting such disease.

9. The Administration explained that occupational deafness was permanent hearing loss arising from at least five to 10 years of exposure to noisy environment at work in specified occupations. Given that the 275 confirmed cases of occupational diseases in 2018 had worked in noisy occupations for 15 years on average, the increase in the number of confirmed cases of occupational deafness did not necessarily indicate the worsening of working environment in recent years. Moreover, the Occupational Deafness Compensation Board had strengthened its publicity and educational efforts in respect of preventing occupational deafness and promoting rights and benefits of persons suffering from the disease in recent years. This could also be the cause of increase in the number of applications for compensation.

Occupational health situation

Sudden death of employees at work

10. Some members expressed concern that sudden death of employees caused by overexertion at work was not covered in the list of 52 prescribed occupational diseases in the relevant ordinances. Noting that some neighbouring places had prescribed sudden death at workplace caused by

cardiovascular diseases and cerebrovascular diseases ("CCVDs") as compensable diseases and drawn up relevant guidelines, these members enquired about the progress of LD's study on the workplace death cases with same causes and whether the Administration would consider introducing legislation to include workplace death cases in the list of compensable occupational diseases. Some members were concerned that in many cases of sudden death of employees who were caused by overexertion at work, family members of these deceased employees were not entitled to employees' compensation under the existing labour laws because the death was not caused by work accidents.

11. According to the Administration, the causes of sudden death not attributed to work accidents during the course of the employment were complex, and might involve a multitude of factors including personal health condition. In its reply to a written question raised at the Council meeting of 29 May 2019, the Administration advised that there was no internationally-accepted definition of "death from overexertion" and there was little experience among overseas jurisdictions in defining "death from overexertion" in terms of employees' compensation. LD had commissioned the Occupational Safety and Health Council ("OSHC") to conduct a study on employees' sudden death at work to understand the relationship between work situations and the death cases with focus on those caused by CCVDs. The study would analyze whether there was any possible relationship between the employees' death and their working condition as well as other personal factors, e.g. whether the working condition could have directly caused the death or whether there could be other relevant circumstances at the same time. The study commenced in the first quarter of 2018 and was expected to be completed in about three years. LD would consider if there was a clear basis to include "death from overexertion" as an occupational disease under ECO subject to OSHC's study outcome and developments in the international arena. The Administration further advised that if an employee died (including the case of sudden death) as a result of an accident arising out of and in the course of the employment, the existing ECO already required the employer to take up the liability to pay employees' compensation in accordance with the Ordinance.

Occupational health of professional drivers

12. Some members expressed concern about the long working hours of bus captains and called on LD to proactively make reference to the regulations and practices of other overseas cities in respect of rest time arrangement for bus captains and provide advice to the Transport Department in the review of the Guidelines on Bus Captain Working Hours, Rest Times and Meal Breaks. These members also expressed concern about LD's work in ensuring the

occupational health of aged professional drivers.

13. The Administration advised that LD had been promoting the awareness of employers and employees in various trades and industries on rest break arrangements at work to reduce the health risks. LD interviewed employees, including professional drivers, during workplace inspections to verify whether they had been provided with appropriate rest breaks. Specifically, LD conducted a number of visits to large public transport interchanges on employees' occupational safety and health ("OSH") and distributed OSH materials to remind professional drivers to pay attention to OSH. The Administration further advised that LD had analyzed the occupational health problems of professional drivers and found that one of the main potential hazards was related to their living habits. LD would continue to make use of various channels to disseminate to professional drivers the messages of healthy living style.

Prevention of health hazards due to prolonged standing at work

14. Some members considered that strain and varicose veins of the lower limbs arising from standing for a prolonged period of time while at work, in particular those of employees in the catering and retail sectors, should be classified as an occupational disease. These members expressed disappointment at the Administration's refusal to do so, notwithstanding the increasing number of new cases of lower limb illnesses seeking clinical consultations at the two occupational health clinics ("OHCs"). They enquired about LD's plan in place to encourage employers to adopt preventive measures to safeguard OSH of employees whose work involved prolonged standing.

15. The Administration advised that in light of the fact that the work of many employees in the retail and catering industries involved prolonged standing, LD had further intensified the promotional visits to these industries. In addition to conducting inspections at the shops of the major chain corporations of these two industries, LD also sent letters to retail and catering companies to call on the management to take preventive measures to protect OSH of employees whose work involved prolonged standing.

16. The Administration further advised that to further safeguard employees against the health risks of standing at work, LD was preparing a set of new guidelines. In addition to setting out the possible health hazards which might be caused by standing at work and the preventive measures, the new guidelines would also emphasize that employers had to, so far as reasonably practicable, provide suitable work chairs or chairs for occasional resting at the working locations to the employees who stood at work. Should there be non-compliant

cases of the new guidelines, if sufficient evidence was obtained, LD would consider taking out prosecution against employers concerned under the general duties provisions in OSHO i.e. an employer was required to provide a safe working environment to his employees, so far as reasonably practicable. The "Guidance Notes on Standing at Work and Service Counter Design" was subsequently issued in December 2018. Members were also advised that since the issuance of the Guidance Notes, LD had conducted workplace inspections targeting at the industries of retail, catering, property management and hotel to check compliance. In general, employers' compliance with the Guidance Notes was satisfactory.

Clinical consultation service of occupational health clinics

17. Members noted with concern that there were only two OHCs located in Kwun Tong and Fanling serving all employees in Hong Kong, which was inconvenient for employees residing in other districts to travel afar for seeking clinical consultation. They considered that the Administration should set up more OHCs so as to meet the service needs. Some members were concerned about the establishment of the medical staff, usage and effectiveness of OHCs and called on the Administration to consider conducting a comprehensive review on the operation of OHCs and make necessary improvement.

18. The Administration responded that the two OHCs were located in proximity to various public transport means and were considered to be easily accessible from most areas. The medical staff of the Occupational Medicine Division (Clinical Services) of LD were responsible for conducting clinical consultations in the Kwun Tong and Fanling OHCs on a roster basis. They provided diagnosis and treatment in these two OHCs. According to the statistics kept by LD on the usage of OHCs, the average waiting time for new cases was around one to two weeks, which was considered acceptable. The Administration assured members that it would closely monitor the usage of OHCs, and would make appropriate adjustments if necessary.

Relevant papers

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

Relevant papers on occupational health and diseases in Hong Kong

| Committee | Date of meeting | Paper |
|---------------------|-------------------------|--|
| Legislative Council | 29.10.2008 | <u>Official Record of Proceedings (Question 1)</u> |
| Legislative Council | 1.4.2009 | <u>Official Record of Proceedings (Question 2)</u> |
| Panel on Manpower | 21.5.2009 (Item III) | <u>Agenda</u> <u>Minutes</u> |
| Panel on Manpower | 23.2.2010 (Item IV) | <u>Agenda</u> <u>Minutes</u> |
| Legislative Council | 6.7.2011 | <u>Official Record of Proceedings (Question 2)</u> |
| Panel on Manpower | 12.7.2011 (Item III) | <u>Agenda</u> <u>Minutes</u> |
| Legislative Council | 19.10.2011 | <u>Official Record of Proceedings (Question 7)</u> |
| Panel on Manpower | 12.4.2012 (Item IV) | <u>Agenda</u> <u>Minutes</u> |
| Panel on Manpower | 17.12.2013 (Item V) | <u>Agenda</u> <u>Minutes</u> |
| Panel on Manpower | 17.6.2014 (Item V) | <u>Agenda</u> <u>Minutes</u> |
| Panel on Manpower | 14.7.2015 (Item II) | <u>Agenda</u> <u>Minutes</u> |
| Panel on Manpower | 15.3.2016 (Item V) | <u>Agenda</u> <u>Minutes</u> |
| Panel on Manpower | 18.7.2017 (Item IV) | <u>Agenda</u> <u>Minutes</u> |

| Committee | Date of meeting | Paper |
|---------------------|------------------------|--|
| Panel on Manpower | 27.4.2018 (Item IV) | <u>Agenda</u> <u>Minutes</u> <u>LC Paper No. CB(2)1990/17-18(01)</u> |
| Legislative Council | 29.5.2019 | <u>Official Record of Proceedings</u> <u>(Question 1)</u> |
| Panel on Manpower | 19.11.2019 (Item V) | <u>Agenda</u> <u>Minutes</u> |

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