

LCQ10: System for promoting occupational safety and health

Following is a question by the Hon Kwok Wai-keung and a written reply by the Secretary for Labour and Welfare, Dr Law Chi-kwong, in the Legislative Council today (October 20):

Question:

Under the Factories and Industrial Undertakings (Safety Management) Regulation (Cap. 59AF), a proprietor or contractor of an industrial undertaking which engages in a specified business and reaches a specified scale is required to establish not less than one safety committee (SC) having the function of identifying, recommending and keeping under review the measures to improve the occupational safety and health (OSH) of the workers in the relevant industrial undertaking. On the other hand, the Occupational Safety and Health Council is a statutory body for promoting safety and health at work in Hong Kong, and the Construction Industry Council's scope of work includes enhancing safety at construction sites. In this connection, will the Government inform this Council:

(1) whether it knows the total number of enterprises in Hong Kong which have established an SC, with a breakdown by the nature of business in which such enterprises engage, as well as the operating situations of the relevant SCs; if such information is unavailable, of the reasons for that;

(2) in respect of those small and medium enterprises which are not required under Cap. 59AF to establish an SC, of the measures taken by the Government in the past three years to incentivise them to establish an SC voluntarily, and the effectiveness of such measures;

(3) as some front-line workers have relayed that although it is stipulated under Cap. 59AF that not less than half the members of an SC should represent workers in the relevant industrial undertaking, in reality representatives of the management make up the majority of the memberships of quite a number of SCs, resulting in workers' representatives facing obstacles when raising OSH issues, whether the Government will amend the Regulation to provide specific requirements on the number and the capacity of members of an SC, as well as step up the monitoring of the enforcement of such requirements; and

(4) whether it will review the representation of front-line workers on the governing bodies of the aforesaid and other statutory bodies which are involved in promoting OSH, and enable more representatives of trade unions and front-line workers to join such governing bodies, so as to enhance such bodies' understanding of the OSH situations of workers?

Reply:

President,

Having consulted the Development Bureau (DEVB) and the Occupational Safety and Health Council (OSHC), my reply to the Hon Kwok Wai-keung's question is as follows:

(1) and (3) Pursuant to the Factories and Industrial Undertakings (Safety Management) Regulation (Cap. 59AF) (SMR), the proprietor of an industrial undertaking (IU)/a contractor reaching the designated scale shall formulate, implement and maintain a safety management system (SMS) for the operation of the IU, with a view to safeguarding the occupational safety and health (OSH) of employees. The SMR stipulates that an SMS shall include setting up of an safety committee (SC) for identifying, recommending and keeping under review OSH measures. It also stipulates that not less than half of the members of the SC shall represent workers, and that the SC shall meet at least once every three months with records of its meetings properly kept.

According to the information of the Labour Department (LD) as at September 30, 2021, the breakdown of the number of SCs by types of IUs is provided as follows:

	IUs	No. of SCs
1	Construction work	1 770
2	Shipyard	6
3	Factory	218
4	Generation, transformation and transmission of electricity	8
5	Generation and transmission of town gas, or liquefied petroleum gas	5
6	Container handling	22
	Total	2 029

To facilitate the proprietor/contractor to implement a sustainable and effective SMS, including setting up of SC, the LD has formulated a "Code of Practice on Safety Management" (COP) which elaborates in detail the purpose of setting up an SC and the principles of its composition. The COP indicates that members of an SC should have wide representation to allow the SC to adequately embrace the interests of all workers, grasp the necessary expertise to formulate practicable measures, and be able to consider and implement OSH improvement measures.

The SMR stipulates that the proprietor/contractor concerned shall appoint a registered safety auditor to audit the implementation of various aspects (including the SC) of the SMS of the relevant IU according to schedule, and submit a report to the LD. The LD will scrutinise these reports and conduct random inspections of respective IUs. The LD is aware that all the above-mentioned IUs have established and operated SCs in accordance with the requirements of the SMR. Regarding the composition of the SCs, we have also sampled a certain number of audit reports for thorough scrutiny and noted that members of all SCs included frontline employees.

Taking into account the diversified types of IUs and the fact that establishments run different businesses and have different modes of operation, the LD considers it necessary to allow some degree of flexibility in the composition of SCs so that proprietors/contractors can form their SCs that meet their actual needs, and it may not be appropriate to regulate specifically the membership and size of SCs. Given that the existing COP has already stipulated that the composition of the SC should cover the interests of all workers, the LD will continue to carry out the above-mentioned scrutiny and inspection work to ensure the effective functioning of SCs.

(2) The LD considers that close collaboration between employers and employees (regardless of the size of the organisations) is essential in establishing a safe and healthy workplace, while establishing an SC is not the only way to strengthen collaboration. The LD has been encouraging both employers and employees through different initiatives to strengthen co-ordination and communication with employees on OSH protection by adopting appropriate means that suit their actual circumstances. For example, the LD invites organisations to subscribe to the "Occupational Safety Charter" (OSC) and to promise to work with employees to protect their OSH. As at September 2021, a total of 1 228 organisations have subscribed to the OSC. In addition, the LD, in collaboration with the OSHC, has organised the annual "Outstanding OSH Employee Award" since 2009 to praise employees who have actively made suggestions on OSH improvement and to encourage employers to actively communicate with employees for enhancing the OSH culture of the organisations. Responses from employers and employees have been keen. Moreover, we have recently revised the relevant publication, specifying how employers should engage employees in conducting the risk assessments for OSH in workplaces to ensure due consideration of employees' thoughts.

(4) The OSHC and the Construction Industry Council (CIC) are key statutory organisations responsible for promoting OSH. According to the Occupational Safety and Health Council Ordinance (Cap. 398), members of the OSHC, not being public officers, shall represent the interests of employers, employees, professionals or academics. In each term, there are about one third of the non-official OSHC members who are representing employees, including those from different major workers' unions. In addition, the OSHC has also established ten industry-based safety and health committees (IBSH) to implement OSH promotion activities and to compile and revise OSH guidelines for different industries. Half of the members of the IBSH are representatives from major workers' unions/employees' groups of the related industries. The LD considers that front-line workers have already acquired good representation in the OSHC and its IBSH. The LD and the OSHC will continue to review the composition of the OSHC and its committees from time to time to ensure that employees' opinions are effectively reflected.

Besides, as for the composition of the CIC, the DEVB expressed that, pursuant to the Construction Industry Council Ordinance (Cap. 587), the CIC consists of a chairman and 24 members representing various sectors of the construction industry including employers, professionals or consultants, training or academic institutions, contractors, workers (representatives from trade unions), independent persons and Government officials. In addition, the

Committee on Construction Safety (Com-CSY) has been established under the CIC responsible for reviewing and monitoring the safety performance of the construction industry and recommending necessary improvement measures. Members of the Com-CSY come from the aforementioned sectors of the construction industry, including representatives from trade unions. Having regard to the actual circumstances, we will continue to timely review the number of representatives from various sectors in the CIC and its committees with an aim to meeting the needs of the construction industry.