

## LCQ14: Protection for employees contracting Coronavirus Disease 2019

Following is a question by the Dr Hon Pierre Chan and a written reply by the Secretary for Labour and Welfare, Dr Law Chi-kwong, in the Legislative Council today (April 29):

Question:

Since the outbreak of the Coronavirus Disease 2019 (COVID-19) epidemic in Hong Kong in January this year, some labour groups have been urging the Government to amend the law to include COVID-19 as one of the occupational diseases specified in the Second Schedule to the Employees' Compensation Ordinance (Cap 282), so as to ensure that employees will be compensated for incapacity or death resulting from COVID-19. The Government indicated on February 10 that it had commenced a study on the proposal to amend the law, but that the law could be amended only when definite medical and epidemiological conclusion on the virus was available and, in such process, it was necessary to discuss the details with the various stakeholders. The Government also pointed out that if an employee contracted COVID-19 arising out of and in the course of his/her employment, he/she should inform the employer immediately so that the employer could notify the Labour Department (LD). In this connection, will the Government inform this Council:

(1) Of the work progress, since February 10 of this year, of its study on the aforesaid legislative exercise, including:

(i) The stakeholders it has met and those it has scheduled to meet, and set out in a table the names of such stakeholders, the meeting dates, the views collected, as well as the reasons for not having scheduled meetings with stakeholders (if applicable);

(ii) Whether it has drawn up a preliminary list of relevant trades which it intends to include in the Second Schedule to Cap 282; if so, of the details; if not, the reasons for that; and

(iii) The legislative timetable;

(2) Of the progress and the latest outcome of the medical and epidemiological studies conducted on COVID-19; and

(3) Of the number of cases received by LD so far in which the employers took the initiative to notify LD that their employees had contracted COVID-19 arising out of and in the course of their employment; how LD ensures that all employers will take the initiative to notify LD of such type of cases?

Reply:

President,

According to the definition of the International Labour Organization (ILO), occupational disease refers to a disease which has a causal

relationship with specific exposure in the working environment or work activity, and the incidence rate of the disease among the exposed workers is significantly higher than that in the rest of the population, so that the occupational origin of the disease in an exposed worker can be reasonably presumed.

In considering whether a particular disease should be prescribed as a statutory occupational disease, LD makes reference to the ILO criteria and adopts an evidence-based approach to assess objectively whether a definite causal relationship exists between a disease and a certain type of work, and whether the disease occurs among the exposed workers at a significantly higher rate than in the general population. This includes perusing relevant medical evidence and epidemiological information in order to make necessary assessment and recommendation.

My reply to the questions raised by the Dr Hon Pierre Chan is as follows:

(1) and (2) In prescribing a new occupational disease, the Labour Department (LD) has to clearly specify in the legislation what industries and processes in which the employees are engaged have definite risks posed by the disease and list out such prescribed industries or processes. Moreover, employees who have contracted the disease must have been employed in these industries or processes within a specified period. Employers have to compensate employees infected with an occupational disease during work in accordance with the law.

COVID-19 has been spreading quickly over the world. The World Health Organization (WHO) officially declared COVID-19 a pandemic on March 11, 2020. Based on the WHO Situation Report on April 20, there was a total of 2 314 621 confirmed cases globally, with 72 846 cases newly confirmed on the preceding day. The population worldwide is generally at risk of the infection. For an infectious disease that can transmit widely in the community, exposure to its infectious agent may not only occur in particular workplaces but generally in the community as well. In Hong Kong, as at April 21, a total of 1 029 cases have been confirmed. The infection of a vast majority of these cases was community-acquired.

As the outbreak situation of COVID-19 is still evolving and keeps changing in Hong Kong and globally, the primary task of LD is to keep a close watch on relevant medical and epidemiological data, especially the number of cases originated from work and their industry distribution, as well as the extent and risk of community infection, in order to make appropriate recommendations.

(3) According to the Employees' Compensation Ordinance (ECO), an employer must notify the Commissioner for Labour of any accident or prescribed occupational disease within a notice period. Although COVID-19 is currently not a compensable occupational disease prescribed under ECO, Section 36 of ECO stipulates that an employee contracting a disease not prescribed as an occupational disease may still claim compensation from the employer under ECO if it is an injury or death by accident arising out of and in the course of employment, and the employer is in general liable to pay compensation under

ECO.

As at April 17, LD has received a total of 21 cases with employees suspected to have contracted COVID-19 as reported by the employers under ECO.

LD has been proactively following up with employees' compensation claims with employees suspected to have contracted COVID-19 in employment based on the published information of the Centre for Health Protection of the Department of Health. LD also passes a bilingual note on employees' right and protection under ECO, as well as contact means of LD, to all confirmed COVID-19 patients through hospitals. If an employee contracts or suspects having contracted COVID-19 by accident arising out of and in the course of employment, the employee should inform the employer as soon as possible so that the employer can report the injury to LD. If the employee has doubt as to whether the employer has reported the injury to LD, the employee should approach the Employees' Compensation Division of LD for assistance direct.

---

## **LCQ3: Regulations made in respect of Coronavirus Disease 2019**

Following is a question by the Hon Alice Mak and a written reply by the Secretary for Food and Health, Professor Sophia Chan, in the Legislative Council today (April 29):

Question:

To curb the spread of the Coronavirus Disease 2019 in Hong Kong, the Government made the Compulsory Quarantine of Certain Persons Arriving at Hong Kong Regulation (Cap. 599C) and the Compulsory Quarantine of Persons Arriving at Hong Kong from Foreign Places Regulation (Cap. 599E) on February 7 and March 18 this year respectively. Such regulations provide that all persons (except for exempted persons) who have stayed on the Mainland (the scope of application of the former) and in all places outside China (the scope of application of the latter) for any period during the 14 days preceding arrival at Hong Kong, regardless of nationality and travel documents used, are subject to compulsory quarantine for 14 days. In addition, the Prevention and Control of Disease (Disclosure of Information) Regulation (Cap. 599D) made on February 7 this year empowers a health officer to require any person to furnish or disclose information relevant to the handling of a state of the public health emergency, such as travel history. Regarding the implementation of such regulations, will the Government inform this Council:

(1) of the respective to-date numbers of persons who were suspected and convicted of having contravened the aforesaid regulations, with a breakdown by type of offence; the follow-up actions taken by the relevant government

departments in respect of those persons suspected of contravening the regulations;

(2) of the respective numbers of quarantine orders issued since the aforesaid two compulsory quarantine regulations came into operation, as well as the respective numbers of persons who are currently subject to quarantine at home and at quarantine centres;

(3) given that the public is gravely concerned about the state of compliance with the quarantine orders, whether the Government will consider raising the penalties for breaching quarantine orders and speeding up the prosecution work to enhance the deterrent effect; and

(4) given that some compulsory quarantine measures did not come into force until several days after they were announced by the Government, resulting in a large number of persons advancing their trips and entering Hong Kong before the measures came into force so as to avoid being subject to compulsory quarantine, and some of whom were subsequently tested positive for the coronavirus, and such a situation has posed potential threats to the public health, whether the Government will review the relevant arrangements to plug the loopholes?

Reply:

President,

According to the Compulsory Quarantine of Certain Persons Arriving at Hong Kong Regulation (Cap. 599C), starting from February 8, 2020, except for exempted persons, all persons having stayed in the Mainland for any period during the 14 days preceding arrival in Hong Kong will be subject to compulsory quarantine for 14 days, regardless of nationality and travel documents used. Since March 25, 2020, the compulsory 14-day quarantine arrangement has been extended to all persons arriving from or having stayed in Macao and Taiwan in the past 14 days prior to arrival in Hong Kong, in addition to those arriving from the Mainland. Furthermore, according to the Compulsory Quarantine of Persons Arriving at Hong Kong from Foreign Places Regulation (Cap. 599E), starting from March 19, 2020, except for exempted persons, all persons arriving at Hong Kong from places outside China will be subject to compulsory quarantine for 14 days.

My consolidated reply to the various parts of the question raised by the Hon Alice Mak is as follows:

As at April 27, 2020, in accordance with Cap. 599C and Cap. 599E, the Department of Health (DH) had respectively issued 98 344 quarantine orders to persons arriving at Hong Kong from the Mainland, Taiwan and Macao, and 65 381 quarantine orders to persons arriving at Hong Kong from overseas.

In accordance with the requirements under Section 8 of Cap. 599C and Cap. 599E, a person placed under quarantine in accordance with Section 3 must not leave the place of quarantine if the relevant person has not been given

permission by an authorised officer. The Government has implemented various measures to monitor whether persons placed under quarantine abide by the law, including conducting surprise checks, placing calls to the relevant persons, sharing of real-time location via communication software and using electronic wristbands/ monitoring wristbands paired with mobile app, with a view to ensuring that the persons placed under quarantine are staying at their dwelling places.

Implementing compulsory quarantine arrangement is a crucial element of the measures for the prevention and control of the epidemic. The relevant departments have strengthened monitoring and inspections. As at April 27, 2020, officers from disciplinary forces had conducted surprise visits on over 14 000 persons under quarantine. The call centre of the DH had placed over 190 000 telephone calls to persons under quarantine to conduct surprise checks. The relevant departments had also distributed over 75 000 electronic wristbands/ monitoring wristbands, shared real-time location via communication software with over 80 000 persons under compulsory quarantine, and made about 180 000 calls (including video calls) to ensure that persons under quarantine are staying at their dwelling places.

During the monitoring process, if abnormal situations are observed or persons who have breached the quarantine order are found, the relevant departments will suitably follow up. The Government adopts a "zero tolerance" policy towards those who violate the quarantine order, and they are subject to immediate prosecution without warning starting from March 22, 2020. Offenders are subject to a maximum fine of \$25,000 and imprisonment for six months. As at April 27, 2020, four individuals who violated quarantine orders were respectively sentenced to imprisonment ranging from 10 days to three months by magistrates' courts. Besides, a total of 56 individuals left their dwelling places before expiry of the quarantine orders without reasonable explanation and permission given by an authorised officer, and were stopped by staff of the Immigration Department at border control points. The DH and Police will continue investigations on the cases concerned and gather more evidence for consideration by the Department of Justice for making prosecutions.

When implementing compulsory quarantine measures, the Government needs to take into consideration that Hong Kong is an international transport hub with close ties with other countries and regions in various aspects. There are also tens of thousands of local students studying abroad. In view of the above, to avoid confusion, the Government considers that it would be more practical to provide a grace period for residents to get prepared after announcement of the compulsory quarantine arrangement.

---

## Rating and Valuation Department to resume normal services

The Rating and Valuation Department announced today (April 29) that it will resume normal operation of public services from May 4, with its enquiry counters opening from 8.15am to 6pm from Mondays to Fridays (public holidays excluded).

To achieve social distancing, crowd control measures may be implemented at the enquiry counters when necessary. Members of the public may experience longer waiting times and are therefore encouraged to use the department's 24-hour electronic services ([www.rvd.gov.hk](http://www.rvd.gov.hk)) to submit forms or obtain information as far as possible. Public enquiries may also be made to the department by email ([enquiries@rvd.gov.hk](mailto:enquiries@rvd.gov.hk)), by fax (2152 0138) or by phone (2152 0111 / 2152 2152).

---

## LCQ4: Public housing sewerage system

Following is a question by the Hon Kwok Wai-keung and a written reply by the Secretary for Transport and Housing, Mr Frank Chan Fan, in the Legislative Council today (April 29):

Question:

Earlier on, several tenants of Hong Mei House of Cheung Hong Estate and Heng Tai House of Fu Heng Estate were infected with the Coronavirus Disease 2019 one after another, and the causes for their infection might be related to the improper modification of the ventilating pipes of the foul water stacks in public housing units and design problems of the sewerage systems. As the authorities have so far not yet implemented any large-scale inspection and repair programme for the sewerage systems of the various public housing estates, some public housing tenants are worried about being infected with the disease and an outbreak of the epidemic in the community. In this connection, will the Government inform this Council:

(1) whether it has finished the inspection of the sewerage systems of the two aforesaid estates; of the number of units in respect of which follow-up works are needed; as the authorities have pointed out that the height difference between the rooftop parapets of adjacent units in Heng Tai House may be conducive to the occurrence of air turbulence in the re-entrant of top floors, and such air turbulence may bring the virus in the rooftop ventilating pipes of the foul water stacks into the residential units, whether the authorities have conducted relevant improvement works;

(2) whether the authorities will conduct inspections and repairs for the sewerage systems (including rooftop ventilating pipes) of all those public housing estates having the same block type (i.e. Trident blocks) as the aforesaid estates, and discuss with the owners' corporations of those Tenants Purchase Scheme (TPS) estates with Trident blocks to expeditiously conduct the relevant inspections and repairs;

(3) whether the authorities will consider conducting inspections and repairs expeditiously for the various components of the sewerage systems (including U-traps and ventilating pipes) in the common parts and within individual units of all public housing (including subsidised sale housing) estates/courts, so as to minimise public health risks; if so, of the details; if not, the measures in place to deal with the relevant health risks; and

(4) as some owners of TPS estates have pointed out that such estates are poorly repaired and maintained over the years because of unclear management and repair responsibilities, whether the authorities will take up more repair responsibilities for TPS estates and expedite the relevant repair works, so that health risks will not arise as a result of poor repair and maintenance of such estates?

Reply:

President,

In response to the hygiene risks arising from COVID-19, the Hong Kong Housing Authority (HA) has established a mechanism to inspect the drainage system of the buildings of HA (including public rental housing (PRH) estates). When HA receives notification from the Centre for Health Protection (CHP) that there is a confirmed case in a PRH estate or Tenants Purchase Scheme (TPS) estate, HA will inspect the drainage system of all PRH units (including PRH units in TPS estates) that use the same soil pipe and vent pipe with the unit with a confirmed case and arrange repairs to the drain/vent pipe during the inspection as appropriate.

In terms of property management, all TPS estates are, same as other private properties in general, subject to the control of the Building Management Ordinance (BMO) (Cap. 344), relevant land leases and Deeds of Mutual Covenant (DMCs) regardless of the percentage of ownership shares held by HA. The day-to-day estate management matters are discussed and resolved at meetings of management committees or general meetings convened by Owners' Corporations (OCs) pursuant to the provisions of BMO and DMCs. At present, all TPS estates have already formed their OCs. The OCs and their appointed property management companies are obliged to fulfil their responsibilities in repairing common areas and facilities in accordance with the terms of DMCs, so as to maintain the facilities in good condition and with proper repair. As the owner of the unsold PRH units in TPS estates, HA will be responsible for the repair and maintenance of the fixtures and fittings in those units.

My reply to the questions raised by the Hon Kwok Wai-keung is as

follows:

(1) Cheung Hong Estate is a PRH estate. HA has already followed the aforementioned mechanism and deployed staff proactively to inspect the 34 units that use the same soil pipe and vent pipe with the unit with confirmed case. Several tenants were found to have altered their water closet pans and/or vent pipes without prior approval. Inspection staff have already carried out repairs works to these drain/vent pipes at once during the inspection as appropriate.

Fu Heng Estate is a TPS estate. As per the request by the CHP and under the delegated authority from the Building Authority, the Independent Checking Unit (ICU) that works directly under the Office of the Permanent Secretary for Transport and Housing (Housing) has inspected 68 units that use the same soil pipe and vent pipe with the units with confirmed cases and their adjoining units at Heng Tai House, Fu Heng Estate (including 15 PRH units not yet sold by HA). Follow up actions on defective vent pipes are required for 51 units. ICU has issued statutory orders under the Buildings Ordinance (BO) to the owner(s) of 44 units which have not completed the rectification, requiring them to arrange qualified contractors to inspect and rectify the defects to comply with the requirements of the BO. So far, 25 units have completed the rectification. For the 15 unsold PRH units, the tenants of seven units have altered their water closet pans and/ or vent pipe without consent. HA has completed the rectification works of six units. Rectification works of the remaining unit will be carried out within May 2020.

For the phenomenon of "wake effect" which might have occurred at Heng Tai House, Fu Heng Estate, the Government has set up an inter-departmental expert group to follow up. The expert group is still studying and following up the test results of the environmental samples collected at Heng Tai House earlier and other relevant information and environmental factors in order to find out all possible ways of the spread of the virus, and to make relevant recommendations for improvement.

(2) and (3) There is no design problem of the drainage system (including the vent pipes inside the toilets and at roof levels) in buildings of HA. These buildings were designed according to the Standard Block design adopted for public housing at the time of development, and met the construction standard, the relevant requirements, and the environmental, health and safety requirements at the time. However, hygiene risk may arise if the occupants alter the vent pipe in a toilet without obtaining prior approval from HA.

HA will proactively inspect the vent pipes at roof levels of PRH buildings and PRH units that use the same soil pipe and vent pipe with the unit with a confirmed case. For other PRH units, if tenants are concerned about the current condition of their drainage pipework or the hygienic risk arising from their alterations, they may seek assistance from the estate management office who will arrange inspection and follow-up as appropriate.

With no difference from private properties, proper maintenance to the drainage system is the owners' responsibilities for TPS estates. Regardless of the block design, an owner should not arbitrarily modify the drainage



system or pipes of the building to deviate them from the original design and contravene the B0. Upon receipt of a relevant report, ICU will conduct site inspection. If alteration of drains which does not comply with the B0 is found, ICU will request the owner(s) to rectify them according to the law.

(4) HA has provided a maintenance fund at a sum equivalent to \$14,000 per residential unit for each TPS estate on a one-off basis to meet the expenses of post-sale maintenance works. It is the obligation of the OCs/owners to maintain the common facilities in good condition and keep them in proper repair. If the OCs/owners suspect that their common facilities are not in good condition, or may pose a hygiene risk, they should arrange qualified contractors to inspect and repair the facilities as soon as possible. In case there is a need to repair common facilities in individual estates, HA, when necessary, will contribute the fund as required by law and in accordance with its management shares held to share the repair charges with other owners.

---

## **LCQ7: Publication of books by staff members of the Department of Justice**

Following is a question by the Hon Cheung Kwok-kwan and a written reply by the Secretary for Justice, Ms Teresa Cheng, SC, in the Legislative Council today (April 29):

Question:

It has been reported that in September 2019, a Public Prosecutor under the Prosecutions Division of the Department of Justice (DoJ) co-published with a barrister in private practice a law popularisation book, which teaches young readers how to "keep away from legal traps and understand human right protection". Some members of the legal sector have queried whether some parts of the book are overgeneralised. For instance, the explanation in the book on whether a person, who has been found in possession of a fruit knife when stopped and searched by a police officer on the street, will be charged with the offence of "possession of offensive weapon in public place" is oversimplified. They have also queried whether that Public Prosecutor's expounding in the book on the rights of arrestees constitutes serious conflict of interests or roles with his duties in the DoJ. In this connection, will the Government inform this Council:

(1) whether staff members of the DoJ are currently required to submit applications to their supervisors and obtain approval prior to publishing books pertaining to the law or containing their personal views on the law; if so, of the application procedure, the criteria for vetting and approval and the rank(s) of the approving officer(s), as well as whether an applicant is required to submit, for vetting, parts of the book intended to be published;

if so, of the percentage of the content required to be submitted;

(2) of the current mechanism for dealing with the situation where the content of a book published by a staff member of the DoJ may have constituted a conflict of interests or roles with his work in the DoJ;

(3) of the number of books pertaining to the law published by staff members of the DoJ in the past decade according to the DoJ's records; among those books, the respective numbers of those (i) approved for publication and (ii) published without the necessary approval; whether the DoJ has held responsible the relevant staff members in the latter case;

(4) whether staff members of the DoJ who have, without the necessary approval, published books that give rise to conflict of interests or roles with their work will be punished; if so, of the penalties and the number of such incidents in the past decade; and

(5) as the aforesaid Public Prosecutor had obtained approval from the Director of Public Prosecutions before publishing the book, of the reasons why the DoJ transferred the Public Prosecutor out of his current post subsequent to the publication of the aforesaid press report; whether the DoJ has learnt a lesson from that incident and will devise a new mechanism under which similar cases will be subject to more stringent vetting and approval procedure; if so, of the details; if not, whether and how the DoJ will follow up the matter?

Reply:

President,

According to the Civil Service Code issued by the Civil Service Bureau (CSB), civil servants are required to uphold the core value of commitment to integrity and ensure that no actual, perceived or potential conflict of interest shall arise between their official duties and private interests. According to the relevant civil service regulation, no civil servant may, without approval, publish in his own name, communicate to unauthorised persons, or make private copies of, documents or information obtained in his official capacity. A civil servant is required to obtain prior consent before taking up any paid outside work. The above principles are applicable to civil servants of different grades and ranks including prosecutors of the Department of Justice (DoJ).

The DoJ's prosecutors always abide by Article 63 of the Basic Law and shoulder the constitutional duty enshrined therein, and handle all prosecution work in a fair, impartial and highly transparent manner. When conducting prosecutions, the DoJ's prosecutors are required to act professionally in strict accordance with the law and the Prosecution Code (the Code).

The Code sets out the role and duties of prosecutors. The DoJ's prosecutors have always discharged their prosecutorial responsibilities in

accordance with the relevant principles and have at all times exercised the highest standards of integrity and care in maintaining proper administration of justice. As the DoJ's prosecutors, they must ensure that their duties are discharged in a professional and impartial manner without being affected by their personal views expressed. In relation to legal matters, the Government's counsel shall remain independent and impartial, especially when there is a likelihood of handling relevant cases in future.

In relation to Hon Cheung Kwok-kwan's specific questions, the DoJ, after consulting the CSB, replies as follows:

(1) and (2) Same as other civil servants, the DoJ's prosecutors must obtain prior consent of his Head of Department (i.e. the Director of Public Prosecutions) before engaging on his own account in outside work (including publication) for remuneration of any sort, or accepting paid employment of any sort outside of his normal working hours.

When considering such applications, the Head of Department should take into account a number of factors, including whether the outside work proposed may (or appears to) conflict with the officer's duties as a Government servant, and whether the arrangement proposed might be a source of embarrassment to the Government. In approving the relevant applications, the Head of Department may impose conditions as he thinks fit, for example, the applicant's outside work would generally take place outside of normal working hours, and no Government's resources would be used.

(3) and (4) Generally speaking, where there is any act, conduct or behaviour of an officer which contravenes the Civil Service Code or government regulations, his respective department will take appropriate follow-up actions in accordance with the established procedures. If there is evidence that a civil servant has misconducted himself upon investigation, the management will take appropriate disciplinary action, including imposing disciplinary punishment of verbal warning, written warning, reprimand, severe reprimand, reduction in rank, compulsory retirement and dismissal, etc. The above mechanism is applicable to all civil servants including the DoJ's prosecutors.

Any officer who fails to comply with the regulations on outside work, such as undertaking outside work without his Head of Department's written consent, will be subject to disciplinary action in accordance with the above mechanism.

The case referred to in the question is now under the DoJ's investigation. As for other cases, according to our record, the DoJ in the past 10 years gave approvals to a total of 14 officers to undertake outside work related to legal publications. We are not aware of any non-compliance during the period.

(5) The DoJ places much emphasis on the professional conduct of prosecutors. In the event of non-compliance by the DoJ's officer, the DoJ will duly follow up without tolerance.

The DoJ attaches great importance to the matters arising from a prosecutor's publication which are being handled seriously in accordance with the established internal procedures.

To avoid possible public perception as a result of the relevant prosecutor's publication that he may not be able to perform his official duties in an impartial manner, that officer would not handle cases involving public order events.

As usual, the DoJ will handle each application for paid outside work prudently under the existing mechanism taking into account actual experience, and impose appropriate conditions as may be necessary to the approvals so as to ensure that the relevant outside work would not and would not appear to be in conflict of interest or role with the applicant's duties.