

LCQ16: Employees' compensation insurance

Following is a question by the Hon Chau Siu-chung and a written reply by the Secretary for Labour and Welfare, Mr Chris Sun, in the Legislative Council today (April 2):

Question:

Regarding employees' compensation insurance (commonly known as labour insurance), will the Government inform this Council:

(1) of the number of cases recorded by the Labour Department (LD) in which employees died as a result of accidents arising out of and in the course their employment in each of the past seven years and this year to date, together with a breakdown by industry;

(2) among the cases mentioned in (1), of the number of cases in which employers were prosecuted by the authorities for failing to take out labour insurance policies for their employees as required under the Employees' Compensation Ordinance (Cap. 282); among such prosecuted cases, of the following information on each of the convicted cases: (i) the date of the accident, (ii) the industry and occupation to which the workers involved belonged, (iii) the date on which the judgment was handed down by the court and (iv) the penalties imposed;

(3) in respect of the penalties imposed on the convicted cases mentioned in (2), whether the authorities have applied for reviews or appeals; if so, of the details; if not, the reasons for that;

(4) given that under the Employees Compensation Assistance Ordinance (Cap. 365), any employer who contravenes the requirements of Cap. 282 on taking out labour insurance policies shall be liable to pay a surcharge to the Employees Compensation Assistance Fund Board, of the highest, lowest and average amounts of surcharge paid by the employers in the convicted cases mentioned in (2);

(5) of the respective numbers of insurance applications from the employers of the 22 high-risk industries specified under the Employees' Compensation Insurance Residual Scheme (ECIRS) which were received, approved and rejected by the Employees' Compensation Insurance Residual Scheme Bureau Limited in each of the past seven years and this year to date, as well as the number of employees involved in the approved applications, together with a breakdown by industry; the main reasons for rejecting such applications under the Scheme;

(6) as it is learnt that the Occupational Safety and Health (OSH) Council and the LD have jointly launched the OSH Star Enterprise – Repair, Maintenance,

Alteration and Addition Safety Accreditation Scheme (the Accreditation Scheme) to assist the insurance industry in considering offering discounts on labour insurance premium under ECIRS to enterprises satisfying the safety accreditations, of the number of enterprises which have (i) applied, (ii) have been approved and (iii) have been rejected to participate in the Accreditation Scheme in each of the past seven years and this year to date, and set out in the table below a breakdown by type of enterprise (i.e. (I) small and medium enterprises (SMEs) and (II) non-SMEs) and business nature of enterprise (i.e. (a) erection, dismantling and use of truss-out bamboo scaffolds, (b) repair to external walls or pipings, (c) air-conditioning works and (d) interior fitting-out works); the main reasons for rejecting the applications under the Scheme;

Type of enterprise	Business nature of enterprise	2018					This year to date		
		(i)	(ii)	(iii)	(i)	(ii)	(iii)	(i)	(ii)	(iii)
(I)	(a)									
									
	(d)									
(II)	(a)									
									
	(d)									

(7) whether it has compiled statistics on the percentage of the number of enterprises approved under the Accreditation Scheme in the total number of enterprises of the same business nature in Hong Kong at present, together with a tabulated breakdown by type of enterprise (i.e. (I) SMEs and (II) non-SMEs) and business nature of enterprise (i.e. (a) erection, dismantling and use of truss-out bamboo scaffolds, (b) repair to external walls or pipings, (c) air-conditioning works and (d) interior fitting-out works); of the measures in place to step up publicity and promotion of the Accreditation Scheme, so as to encourage more enterprises to participate in the Scheme; and

(8) as there are views that the existing penalties for not taking out labour insurance policies are too light, and some employers may be prompted to take the risk of not taking out labour insurance policies for their employees as required by the law, whether the authorities will consider amending Cap. 282 to raise the relevant penalties, so as to enhance the deterrent effect; if so, of the details; if not, the reasons for that?

Reply:

President,

My reply to the Hon Chau Siu-chung's question is as follows:

(1) From 2018 to February 2025, the numbers of fatal cases reported under the Employees' Compensation Ordinance (ECO) (Cap. 282) and received by the Labour

Department (LD) each year, with a breakdown by industry, are at Annex 1.

(2) Among the cases mentioned in (1), 14 employers were prosecuted by the LD for failing to take out employees' compensation insurance (EC insurance) for their employees as required by the ECO. All the 14 cases were convicted. The details are at Annex 2.

(3) In accordance with the Prosecution Code of the Department of Justice (DoJ), the Secretary for Justice may apply to the court in exceptional cases for the review of a sentence on the basis that it has proceeded on an error of law or of principle or that it is manifestly inadequate or excessive. In general, apart from the factors such as the circumstances of a case, the maximum penalty of an offence and the level of sentence imposed on the offence in the past, the court will also consider a defendant's guilty plea and mitigations when sentencing. The LD will examine the sentence imposed by the court on each case. If the sentence of an individual case is manifestly inadequate or excessive, or has proceeded on an error of law or of principle, the LD will request the DoJ to consider applying for a review of the sentence. In line with the above principles, the LD has not applied for the review or appeal against the sentence of the convicted cases mentioned in (2).

(4) Among the surcharges paid by the convicted employers mentioned in (2) under the Employees Compensation Assistance Ordinance (Cap. 365), the highest and lowest amounts of a case are \$57,347.4 and \$118.3 respectively. The average amount is \$13,426.2.

(5) The Employees' Compensation Insurance Residual Scheme (ECIRS) serves as a market of last resort to assist employers who cannot procure the EC insurance in the market, with a view to ensuring that employers can acquire the EC insurance. The applications received and approved by the Employees' Compensation Insurance Residual Scheme Bureau Limited (ECIRSB) from 2018 to February 2025, with a breakdown by the High Risk Groups, are at Annex 3. During the period, the ECIRSB did not reject any applications submitted by employers.

(6) The LD has collaborated with the Occupational Safety and Health Council (OSHC) to launch the OSH Star Enterprise – Repair, Maintenance, Alteration and Addition (RMAA) Safety Accreditation Scheme (Accreditation Scheme) to provide subsidies to small and medium-sized enterprises (SMEs) in the RMAA sector for purchasing fall prevention devices, assisting them in establishing a safety management system, and offering training on work-at-height safety as well as conducting safety audits. We adopt a multi-pronged approach to enhance the safety standard of relevant enterprises and assist users in identifying those RMAA enterprises with recognised safety standards. According to the OSHC, the number of applications for the Accreditation Scheme and the number of Star Enterprises accredited in the past seven years (up to March 20, 2025) are at Annex 4.

As OSHC has enhanced the OSH Star Enterprise List under the Accreditation Scheme since September 2024 and added the category of "nature

of business" (including erection and dismantling of truss-out scaffolding works, repair of external wall and pipe works, air-conditioning works and interior renovation works) to the list, a breakdown by nature of business of the enterprises before the date of enhancement is not available.

The number of Star Enterprises accredited in 2024-2025 (as at March 20, 2025) is eight. A breakdown of their business nature (Note) is as follows:

Erection and dismantling of truss-out scaffolding works	Repair of external wall and pipe works	Air-conditioning works	Interior renovation works
2	6	1	4

At present, there are 66 SME Star Enterprises under the Accreditation Scheme and their business nature (Note) is categorised as follows:

Erection and dismantling of truss-out scaffolding works	Repair of external wall and pipe works	Air-conditioning works	Interior renovation works
40	24	8	25

Note: Accredited Star Enterprise may offer more than one type of business.

(7) The OSHC does not keep statistics on the percentage of the number of accredited Star Enterprises among the total number of enterprises of the same business nature in Hong Kong, and it does not have a breakdown of the figures by the nature of business of the enterprises.

To enhance the awareness of the RMAA industry and the community at large on the Accreditation Scheme, the LD and the OSHC have been publicising and promoting the Accreditation Scheme through various channels, including promotion on mass media such as television, radio and e-newsletters; dissemination of video clips, text and graphic information through social media; and collaboration with the Home Affairs Department and District Councils to promote the Accreditation Scheme to property owners, property management companies, etc, and to educate them on the key points and importance of choosing suitable scaffolding and the RMAA contractors. For newly completed public housing estates and buildings with more the RMAA works, the LD and the OSHC, in collaboration with trade unions, regularly set up information kiosks in the districts to publicise and promote the Accreditation Scheme to community members, owners' corporations and local organisations. In addition, more than 1 300 organisations have signed the Charter on Preferential Appointment of OSH Star Enterprise, pledging to give priority to Star Enterprises in carrying out RMAA works, so as to encourage

more RMAA enterprises to upgrade their safety standards through market force.

(8) In accordance with section 40 of the ECO, no employer shall employ any employee in any employment unless there is in force a policy of insurance to cover his liabilities under the ECO and common law. Employers failing to comply with the ECO to secure an insurance cover are liable to prosecution and, upon conviction, to a maximum fine of \$100,000 and imprisonment for two years. Among the past prosecution cases, there have been cases where the convicted employers were sentenced to imprisonment or with higher levels of fines.

During the investigation and prosecution, the LD will gather relevant evidence to aid the court in considering the severity of each case and imposing an appropriate sentence. The LD will keep close tabs on the sentences imposed by the court, especially on cases involving work accidents where the employers have not taken out EC insurance. If the sentencing of individual cases is too lenient, the LD will seek the advice of the DoJ on applying for an appeal or a review of the sentence.

The LD will continue to monitor employers' compliance with the requirement of taking out EC insurance and will consider whether to amend the relevant penalties under the ECO as and when required.