

申訴專員公署
Office of The Ombudsman



主動調查行動報告
Direct Investigation Operation Report

政府對建造業職業安全及健康的監管
Government's Regulation of Occupational Safety and Health
in Construction Industry

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Executive Summary

Direct Investigation Operation Report

Government's Regulation of Occupational Safety and Health in Construction Industry

Introduction

Engaging in works projects of different scales ranging from major infrastructures, public works¹, housing development and building repairs to small-scale flat renovation works, the construction industry makes significant contribution to the economic development of society and improvement of people's living environment. In recent years, fatal industrial accidents in construction works have occurred frequently, attracting widespread public concern. At present, the main legislation regulating occupational safety and health ("OSH") includes the Occupational Safety and Health Ordinance (Cap. 509, Laws of Hong Kong), the Factories and Industrial Undertakings Ordinance (Cap. 59, Laws of Hong Kong) and their subsidiary regulations.

2. In this direct investigation operation, the Office has thoroughly examined various aspects of OSH in the construction industry, covering the Labour Department ("LD")'s inspections and enforcement actions, monitoring of registered safety auditors and registered safety officers, regulation of high-risk operations, and follow-up action on accidents; the Buildings Department ("BD")'s regulation of registered contractors; the Development Bureau ("DEVB")'s monitoring of public works and contractors; the use of innovation and technology; safety education and training; as well as publicity and promotion.

3. During our direct investigation operation, the current-term Government has proactively introduced an array of improvement measures, which include amending the OSH legislation to increase the overall level of penalties for greater deterrent effect; revising various codes of practice to enhance technical requirements; conducting a number of special enforcement operations to curb unsafe operations; updating the content of mandatory safety training courses to raise workers' safety awareness; improving the mechanism for processing renewal of contractors' registration; formulating proposed amendments to the Buildings Ordinance to tighten the regulation of contractors; strengthening the regulation of contractors on the "List of Approved Contractors for Public Works" and the "List of Approved Suppliers of Materials and Specialist Contractors for Public Works" (collectively referred to as the "approved lists") with unsatisfactory safety performance; and making great efforts to promote the adoption of the Smart Site Safety System. The Government's endeavours are highly commendable.

¹ Public works refer to works carried out at construction sites under the Architectural Services Department, the Drainage Services Department, the Electrical and Mechanical Services Department, the Highways Department, the Water Supplies Department and the Civil Engineering and Development Department.

4. Nevertheless, we continue to see occurrence of fatal industrial accidents, and the situation is worrying. Based on our findings, the Office considers that there is still room for improvement in different areas on the part of the three authorities:

Our Findings

(I) LD'S REGULATION OF HIGH-RISK OPERATIONS

Strengthening Monitoring of "Competent Persons" Engaging in Various High-risk Operations

5. The construction industry involves high-risk operations such as bamboo scaffolds (including truss-out scaffolds), suspended working platforms, lifting operations and confined spaces, which can only be carried out after a "competent person" or a "competent examiner" (collectively referred to as "competent persons") has certified their safety pursuant to relevant legislation.

6. Our investigation revealed a number of cases where the "competent persons" signed a prescribed form without properly inspecting the high-risk plant or machinery, or even signed the form in advance. In certain cases handled by LD and its inspections that we joined, a "Form 5" signed by a "competent person" certifying that a bamboo scaffold had been inspected and that it was in safe working order was displayed on the scaffold. However, the date of inspection shown on the form was a future date. There were also cases where a "Form 5" had already been signed before the completion of the bamboo scaffolding or no inspection date was recorded on the form. Obviously, in practice, "Form 5" is unable to show that the subject scaffold has been inspected and is in safe working order. Moreover, in its investigation into a fatal industrial accident concerning a lifting appliance, LD found that two registered professional engineers acting in the capacity of "competent examiners" signed prescribed forms certifying that the lifting appliance was in safe working condition, but they actually had not carried out the required tests and examination.

7. We understand that even with a full-fledged regulatory regime and diligent performance by all parties, accidents cannot be completely avoided. That said, some "competent persons" did fail to carry out inspections or examinations properly but irresponsibly signed forms to certify the safety of the equipment. Such reckless acts put the safety of workers and the public at risk. These persons failed to live up to their obligation and the public's expectation, and should be ashamed of themselves for failing on their part as professionals.

8. LD has put in place codes of practice for different kinds of high-risk operations to provide guidelines on how "competent persons" should carry out inspections or examinations, but the codes of practice generally do not contain any inspection checklists. We recommend that LD explore formulating templates of inspection checklist for different types of high-risk operations and attach them to the relevant codes

of practice for use by “competent persons” during inspections or examinations to tighten control.

9. The prevailing legislation only requires various kinds of “competent persons” to sign a prescribed form to state the result of inspection or examination, i.e. whether the plant or machinery is in safe working condition, and to deliver the signed form to the contractor for record and inspection by LD’s occupational safety officers upon request. As regards the actual inspection or examination records of “competent persons”, LD’s requirements for various kinds of high-risk operations differ pursuant to the risk-based principle. “Competent persons” should base their judgement on facts and evidence, and they should provide evidence to prove that they have duly conducted the inspection or examination. We recommend that LD conduct a comprehensive review of the existing requirements for maintenance of inspection records by “competent persons” regarding different types of high-risk operations, specifying the inspection records to be maintained and the need to produce such records upon the instruction of LD officers.

10. Furthermore, we are of the view that LD should consider implementing a random checking system to examine the inspection records of “competent persons” during visits to construction sites so as to enhance monitoring. In case of any breach of OSH legislation by “competent persons” found, LD should continue to take stringent enforcement actions. Apart from instituting prosecutions, LD should also refer cases of misconduct of “competent persons” to the organisations responsible for their registration for examining their professional qualifications or taking disciplinary action. In the long run, LD should explore the development of an electronic platform for contractors and “competent persons” to upload inspection records and forms to facilitate monitoring and random checking so as to curb unprofessional or even fraudulent conduct such as filling in the inspection date in advance.

Utilising Experience from Special Enforcement Operations to Enhance Effectiveness of Routine Safety Inspections

11. In recent years, apart from various types of planned special enforcement operations as preventive measures, LD has also carried out a number of special inspection or enforcement operations subsequent to fatal industrial accidents. Each operation usually lasted for two weeks during which LD would intensively conduct a round of territory-wide inspections at construction sites undergoing the same work processes involved in those accidents. LD’s operations have revealed multiple cases of irregularities and on each occasion, LD issued a large number of statutory notices and instituted prosecutions, reflecting serious non-compliance in the industry.

12. In our opinion, LD should examine how to utilise the experience gained in the special enforcement operations against high-risk operations in further enhancing the effectiveness of routine safety inspections so as to identify and handle unsafe operations in construction sites as soon as possible.

(II) LD'S INSPECTIONS

Reviewing Guidelines on Inspections

In-depth Surprise Inspections

13. LD arranges in-depth surprise inspections to construction sites with poor safety performance and suspected deficiencies in the safety system. In one case, LD had conducted an in-depth surprise inspection at a construction site and issued a number of improvement notices and instituted prosecutions, but a fatal incident of falling from height still happened. There is another case where LD had received many complaints and issued a number of improvement notices within two years prior to the fatal accident, and the construction site involved incidents resulting in injuries. Yet, LD still did not conduct any in-depth surprise inspection.

14. LD puts in a great amount of resources in conducting in-depth surprise inspections and should strive to ensure their effectiveness. We recommend that LD review the operational guidelines on the conduct of in-depth surprise inspections for more precise selection of high-risk construction sites and proper follow-up on sites inspected to ensure systemic improvement of site safety.

Area Patrols

15. As LD may not be notified of some renovation and repair works under the notification mechanism, its occupational safety officers conduct regular area patrols to inspect construction sites with higher risk (in particular those involving truss-out scaffolds) but not reported to the Department so as to ensure site safety. In this regard, LD has not issued any guidelines on how occupational safety officers should identify high-risk construction sites systematically and prioritise the sites to be inspected. Hence, occupational safety officers can only identify high-risk sites by their own professional judgement and prioritise the sites according to the risk-based principle. We recommend that LD provide guidelines on area patrols to occupational safety officers to guide the identification of construction sites with higher risk for inspection.

Improving Site Inspection Records and Their Compilation

16. When inspecting construction sites, LD's occupational safety officers record results of inspections and follow-up recommendations on inspection worksheets, site information tables, machinery lists, inspection checklists and file notes. Having scrutinised the files provided by LD, we noticed that not all occupational safety officers would complete the inspection checklists and that the file notes were very brief, usually containing only the number of workers and a general description of the processes undergone at the construction sites. However, the work processes, equipment and documents that had been inspected were not specified, and the inspection results were not recorded.

17. In our view, the inspection records currently compiled by LD officers are too brief to provide an objective basis to facilitate internal review for improving the inspection quality. To ensure effective monitoring through inspections, LD should remind occupational safety officers of the importance of proper compilation of inspection records and provide guidance on ways of improvement so as to facilitate examination of the inspection quality by the management.

18. Further, there was a case where a subcontractor had failed to conduct safety audit as required by law and no safety committee was set up. However, the occupational safety officers had not noticed these breaches during routine inspections. We believe that this has to do with the absence of the item “Safety Committee” on the existing inspection checklist such that the occupational safety officers omitted to check for compliance during inspections. LD should thoroughly review and improve the inspection checklist to ensure that all important items are included, and require occupational safety officers to record the results of each item during inspections.

19. During our site inspections with LD, we noticed that occupational safety officers would make records of various items of information on paper and take photographs. Upon returning to office, the occupational safety officers would tidy up the inspection records using computer, and the records would then be printed in physical file and submitted to senior officers for approval. Besides, when compiling certain statistical figures, LD has to collect and collate reports from frontline staff of different districts. The process consumes manpower resources. We consider that LD should review the process of reporting work by occupational safety officers to identify areas for streamlining, and explore how to utilise information management systems to reduce document processing for efficiency enhancement. Furthermore, as the current-term Government is vigorously pursuing the development of digital government, LD should explore wider use of advanced technology and procurement of suitable electronic products to facilitate inspections and enforcement actions by frontline staff.

Selecting Suitable Construction Sites of Private Developments for Participating in Meetings of Safety Committees

20. Where the number of workers employed for a construction site or the contract value of a construction works project reaches a prescribed number or amount, the contractor is required by law to set up a safety committee. Offering a platform for the principal contractor, subcontractors, registered safety officers, worker representatives, etc. to exchange views on OSH matters, the safety committee plays an important role in ensuring OSH of construction sites. The contractor should make sure that the committee holds a meeting at least once every three months. Our case studies revealed that some subcontractors failed to set up a safety committee while some were frequently absent from meetings of the safety committee. These examples show that some contractors ignore the importance of safety committees.

21. LD assesses the compliance with the requirement of setting up safety committees through vetting the audit reports compiled by registered safety auditors and checking the minutes of meetings of safety committees during occupational safety officers' site inspections. In our view, LD's current monitoring places too much emphasis on checking of documents and is of limited effectiveness. LD should consider devising a mechanism for selecting suitable construction sites of private developments to participate in meetings of safety committees, so as to stay in tune with the safety risks of the sites and give advice and urge contractors to manage site safety.

Enhancing Statutory Notification Mechanism for Construction Works As Soon As Possible

22. Under the current legislation, contractors are required to notify LD of construction works which has a construction period not less than six weeks and employs more than ten workers, within seven days after the commencement of the works. Having analysed previous fatal industrial accidents in the construction industry, LD found that many of them involved high-risk operations of a shorter construction period or hiring a small number of workers. In this light, LD started in 2021 to formulate a proposal to expand the scope of statutory notification of construction works and to shorten the time frame for such notifications. We recommend that LD continue to pursue the legislative amendment work to enhance the statutory notification mechanism for construction works.

Reviewing Methods of Calculation and Maintenance of Data Regarding Construction Sites and Inspections

23. Upon receipt of a contractor's statutory notification of construction works, the occupational safety officers of LD are required to conduct the first inspection within a stipulated period and give specific OSH advice according to the situation of the site. Without a designated office to coordinate the processing of notification forms received, LD has not maintained the number of construction sites reported under the statutory notification mechanism. Nor has LD compiled the compliance rate for the conduct of the first inspection, making it difficult to monitor staff's performance. We recommend that LD maintain the number of construction sites reported under the statutory notification mechanism through an information computer system, and compile the compliance rate for the conduct of the first inspection for monitoring purposes.

24. Meanwhile, LD currently maintains only the number of routine safety inspections conducted but not the corresponding number of construction sites inspected. Also, the inspection figures are calculated on the basis of the number of LD staff involved in the inspections. In our view, such calculation method could not demonstrate the relationship between the actual number of inspections conducted and the number of construction sites involved. Moreover, while LD has maintained data on the number of unfinished construction works (a total of 35,971 construction sites as at the end of 2024), no breakdown figures on "new works" and "renovation and repair works" are available. We do not find LD's current mode of data calculation and maintenance useful for

analysis purposes. LD should review and improve the current mode of calculation and maintenance of data regarding construction sites and inspections to ensure effective analysis for formulation and adjustment of work strategies.

(III) LD’S ENFORCEMENT ACTIONS AND PROSECUTIONS

Taking More Proactive Steps to Handle Construction Sites Subject to Multiple Improvement Notices

25. In case of irregularities found, LD will issue an improvement notice to the contractor concerned to demand rectification. A case shows that LD had repeatedly issued improvement notices to a contractor regarding unsafe operations of different situations of work-at-height prior to the occurrence of a fatal accident. But the contractor still had not made improvement and the fatal accident of falling from height happened. In our opinion, when the same kind of irregularities (such as unsafe operations of work-at-height) has been found repeatedly in a construction site, LD should, in addition to issuing improvement notices to demand rectification of individual irregularities, strengthen the intensity of enforcement and even adjust its strategies so as to urge systemic improvement of the construction site.

Ongoing Review of Penalties for Convicted Cases

26. The average amounts of penalty imposed on offenders of OSH legislation in the construction industry between 2018 and 2023 ranged from \$8,127 to \$10,522, which is obviously inadequate to bring about deterrent effect. Among those offenders, the two contractors having the largest and the second largest numbers of convictions during the six years had been convicted for 77 and 56 times respectively. This reflects that some contractors in the construction industry are repeated offenders, and their disregard for OSH was indeed staggering.

27. We are pleased to learn that the Occupational Safety and Occupational Health Legislation (Miscellaneous Amendments) Ordinance 2023, which took effect on 28 April 2023, has significantly increased the penalties for contravention of OSH legislation and extended the time limit for prosecution, so as to enhance the deterrent effect and allow LD more time to collect evidence. Since the new penalty levels have taken effect for only a short period of time, data on LD’s prosecutions brought under the amended legislation and court sentence is limited. For the time being, we are unable to comment on the deterrent effect of the new penalty levels. As the construction industry has still recorded fatal industrial accidents from time to time, LD should take stringent enforcement actions and make good use of the extended time limit for prosecution to collect evidence as well as institute prosecutions against suitable cases on indictment to increase the deterrent effect. Moreover, LD should, after the new penalties for OSH offences have been in force for a period of time, conduct a systemic analysis to review its prosecution work and the penalties imposed by the Court in convicted cases.

(IV) LD'S MONITORING OF REGISTERED SAFETY AUDITORS AND REGISTERED SAFETY OFFICERS

Taking More Proactive Steps to Monitor Registered Safety Auditors And Registered Safety Officers

28. For larger-scale construction sites, contractors are required by law to employ a full-time registered safety officer to assist in promoting the safety and health of employees in the construction sites. The contractors are also required to appoint a registered safety auditor to carry out safety audit of the site's safety management system at least once every six months and to make recommendations for improvement to the contractors. These two types of safety personnel are required to obtain registration from the Commissioner for Labour.

29. LD will put any safety personnel in a monitoring list for one year if the safety personnel fail to properly perform their duties; serious or fatal industrial accidents have taken place at the construction sites where they work; they have been complained against for their performance or professional conduct; or LD has conducted in-depth surprise inspections at the construction sites where they work.

30. Our case studies revealed that LD's monitoring of registered safety auditors and registered safety officers on the monitoring list has been very passive. For example, after the occurrence of fatal accidents, LD only interviewed once the registered safety officers on the monitoring list because the registered safety officers had resigned or taken up other positions and no longer worked as safety officers. After one-year monitoring, LD removed the safety officers from the list in the absence of obvious inadequacy found on the part of the safety officers. Similarly, when handling registered safety auditors on the monitoring list, LD was more concerned whether they have notified the Department of the commencement or completion of safety audit and submitted an audit report in a timely manner. We reckon that LD should consider taking more proactive steps in following up on the performance of registered safety auditors and registered safety officers on the monitoring list by, for example, making close observations of their actual performance at construction sites and careful examination of the reports they submit so as to enhance the quality of their work.

31. Meanwhile, LD assesses whether registered safety auditors have duly performed their duties by scrutinising the safety audit reports submitted and inspecting the conduct of safety audits by registered safety auditors. Between 2018 and 2023, LD received a yearly average of 3,253 safety audit reports involving 1,844 construction sites. During the period, LD, however, had only inspected four times the conduct of safety audit by registered safety auditors. In our view, the number of site visits made by LD was too low even taking into account the impact of the pandemic on its work. It would be difficult for LD to exercise comprehensive and effective regulation simply by examining the reports compiled by registered safety auditors. LD should more proactively inspect the conduct of safety audit by registered safety auditors and consider setting a percentage of random checks. By doing so, LD can alert registered safety

auditors to its random checks on their work in order to urge upon them the need to carefully perform their duties. It can as well enable LD to monitor safety auditors' performance and give advice on any areas for improvement through means other than scrutiny of audit reports.

Assisting Registered Safety Auditors and Registered Safety Officers to Enhance Quality of Work

32. Having examined a number of fatal accidents, we noticed that many of them are attributable to irregularities in site operations which were not easily detectable from routine safety inspections and such irregularities resulted in unsafe situation. We consider that LD should, drawing on the painful lessons from previous fatal accidents, remind site personnel including registered safety officers and registered safety auditors of the issues to which they should pay attention during routine inspections or safety audit so as to strengthen their ability to detect irregularities in site operations and enhance the quality of their work.

(V) BD'S REGULATION OF REGISTERED CONTRACTORS

Omission of LD's Referrals for Consideration of Disciplinary Action

33. BD and LD have established a referral mechanism for disciplinary action against registered contractors with poor performance in construction safety. According to relevant guidelines, BD considers two criteria in determining whether disciplinary action should be taken against a registered contractor: the contractor has been convicted of five or more site safety offences relating to building works in the same construction site in six consecutive months ("Criterion 1"); or the contractor has been convicted of site safety offences relating to building works which involved serious accidents (including death, amputation of limbs or serious damage to works or property) ("Criterion 2").

34. Our investigation revealed that BD had taken disciplinary action against a registered contractor in only one case between 2011 and 2021. Against the annual average of 20 fatal industrial accidents in the construction industry and even though not all such accidents related to building works, the caseload of disciplinary action taken by BD obviously could not reflect the actual situation. In fact, as revealed in the nine convicted cases that we randomly selected from LD's referrals to BD between 2012 and 2014, which were all fatal accidents relating to building works (i.e. cases meeting Criterion 2), BD had failed to take necessary follow-up action.

35. We are glad to see that BD has responded positively to our observations by taking the initiative to clarify with LD the procedures for provision of information under the referral system and striving to process cases previously omitted. BD has now proactively requested LD to provide details of 58 convicted cases of site safety offences relating to building works and fatal incidents. We recommend that BD speed up

processing of the cases previously omitted and promptly refer those warranting disciplinary action to the Registered Contractors' Disciplinary Board so as to bring non-compliant contractors to account.

Cumbersome Procedures of Disciplinary Action

36. As regards the only case that BD had taken disciplinary action between 2011 and 2021 mentioned above, it took more than six years from the occurrence of the fatal accident to BD's completion of disciplinary action. We have examined the sequence of events of this case and found delays in different time points. We are glad to note that BD agreed with our observations that improvement should be made to enhance efficiency. BD has put in place new arrangements since October 2023 and implemented time indicators for handling cases of disciplinary action since early 2025. We recommend that BD set up a mechanism for internal monitoring to ensure timely follow-up on all referrals from LD for consideration of disciplinary action against convicted contractors.

37. On 31 December 2024, DEVB launched a public consultation exercise for proposals to amend the Buildings Ordinance. Some of the proposed amendments related to enhancement of the disciplinary system, which include simplifying the composition of the disciplinary boards of registered contractors and increasing the maximum fine for disciplinary sanction from \$250,000 to \$400,000. We reckon that these proposed amendments should be able to enhance the deterrent effect. DEVB and BD should expedite the amendment to the Buildings Ordinance to enhance the disciplinary system.

Reviewing the Criteria for Taking Disciplinary Action

38. The referral mechanism established with LD has been in place since 2002. In more than 20 years from 2002 to 2023, BD had identified only three cases that met Criterion 1 for consideration of disciplinary action. This shows that the threshold is too high to serve its purpose. In particular, this criterion only deals with a contractor's convictions relating to one single construction site, barring circumstances where a contractor has repeatedly contravened OSH legislation in different construction sites. In our view, BD should review Criterion 1 under the disciplinary system and consider whether the threshold should be lowered for more effective prevention.

Exploring Closer Collaboration with LD on Accident Investigations

39. Fatal industrial accidents in the construction industry may result in prosecutions instituted by LD pursuant to OSH legislation, and if they are related to building works, BD may also institute prosecutions under the Buildings Ordinance. While the focus of follow-up actions by BD and LD vary, there is room for collaboration between the two departments on investigation of facts including the cause of accidents. We note that in recent years BD and LD have enhanced their collaboration in this regard. We recommend that BD and LD explore any room for further collaboration on accident investigations to enhance the efficiency and effectiveness of their investigation work.

(VI) DEVB'S MONITORING OF PUBLIC WORKS

40. Relevant data shows that site safety has obviously been better maintained in public works than in the entire construction industry. While it is not by luck but achieved by effective regulation, we consider that there is still room for improvement.

Adequate Consideration Not Given to Contractors' Previous Performance of Site Safety under Tender Evaluation System for Public Works

41. We have randomly selected 12 public works projects involving fatal industrial accidents between 2020 and 2023 and examined the scores that the contractors concerned (i.e. the successful tenderers) were given regarding site safety performance in the tender evaluation. We found in many contracts that the successful tenderer was given a rather low score regarding site safety performance, and some were even given the lowest score among all the tenderers. Yet, given other considerations in the tender evaluation, those successful tenderers still managed to win the bid because of their higher scores in respect of the tender price or technical performance. The score gaps regarding site safety performance among tenderers were insignificant.

42. Although the Office found no systemic occurrence of "the lowest bid wins" situation in the tender evaluation of public works, our case studies did show that adequate consideration had not been given to tenderers' previous performance of site safety. The reason is that items relating to site safety did not weigh much and the score gaps between tenderers were narrow, thereby bringing insignificant impact on the overall outcome. During this direct investigation operation, DEVB introduced a new tender evaluation system whereby a merit or demerit point would be applied having regard to the tenderer's previous performance of site safety. We recommend that DEVB continue to review the tender evaluation system for public works in a timely manner to ensure that only contractors whose performance meets the safety standards would be awarded contracts.

Reviewing Requirements for Taking Regulating Action against Public Works Contractors

43. Under the existing regime, DEVB may initiate a panel of enquiry and take regulating action against a contractor on the approved lists if the contractor: (1) has recorded serious incidents² in the construction sites under its operation (regardless of whether the incidents took place in the construction sites of public works or private development projects); or (2) has convicted of five or more site safety offences in any six-month period. The second regulating requirement aims to allow early intervention by relevant departments to urge contractors with poor safety performance to adopt improvement measures so as to avoid more serious accidents. Between 1999 and 2008, there were 27 regulating actions taken in accordance with the second regulating requirement. The number of such actions drastically dropped to one between 2009 and 2018, and further dropped to zero between 2019 and 2023. This shows that the threshold

² Serious incidents refer to fatal incidents, amputation due to serious injuries, etc.

may be too high for accident prevention.

44. We are pleased to note that DEVB introduced a new measure in July 2023 to require that any contractors on the approved lists having recorded dangerous occurrences³ in their construction sites (regardless of whether the accidents took place in the construction sites of public works or private development projects) must conduct an independent safety audit to review its safety management system. In our opinion, such amendment can help the authorities to address the safety risk of contractors as early as possible. That said, the number of fatal industrial accidents has not dropped, with six recorded for construction sites of public works in 2023. We consider it necessary for DEVB to continue to review the regulating requirement regarding contravention of legislation related to site safety for more effective prevention of accidents.

Instructing Works Departments to Learn from Previous Accidents and Strengthen Monitoring of Site Safety

45. We have examined three fatal accidents taken place in the construction sites of public works projects. According to LD’s accident investigation reports, there were a number of obviously unsafe operations but they went unnoticed. Works departments are duty bound to ensure site safety of public works projects. We note that, after occurrence of serious incidents, DEVB would issue safety alerts to works departments and request them to convene seminars to share the circumstances of the serious incident and improvement measures implemented with all other works departments. DEVB’s management also holds regular meetings with the heads of works departments to review cases of serious incident, discuss improvement measures and supervise their implementation.

46. In our view, conducting post-incident reviews and taking remedial measures are of paramount importance. DEVB should continuously instruct all works departments to learn from previous accidents and stringently monitor the site safety performance of contractors to ensure safety.

(VII) USE OF INNOVATION AND TECHNOLOGY

Encouraging and Supporting Wider Use of Smart Site Safety System

47. In recent years, DEVB has made great efforts to promote wider use of the Smart Site Safety System in the construction industry to provide workers with a safer working environment. Relevant data show that the adoption of the Smart Site Safety System has contributed to improvement in site safety in public works projects. DEVB and the Construction Industry Council (“CIC”) have also implemented various measures

³ Dangerous Occurrences refer to those set out in Schedule 1 to the Factories and Industrial Undertakings Regulations or those in Schedule 1 to the Occupational Safety and Health Ordinance. For example, collapse of a crane or any part thereof used in raising or lowering persons or goods; or the overturning of a crane; electrical short circuit or failure of electrical machinery, plant or apparatus, attended by explosion or fire or causing structural damage thereto.

to promote the use of the Smart Site Safety System in private development projects. We recommend that after various promotional measures have been implemented for a period of time, DEVB review the adoption of the Smart Site Safety System and, with reference to the feedback from the industry, make greater efforts to encourage and support wider use of the system in private development sites so as to enhance site safety by means of technology.

Investigating the Cause of Accidents in Public Works Project Sites with Full Adoption of Smart Site Safety System

48. Meanwhile, there were accidents in certain public works project sites where the Smart Site Safety System has been fully adopted. In our view, DEVB should thoroughly examine the causes of those accidents to identify the problem, implement improvement measures and share the lessons learnt with the industry, thereby maximising the effectiveness of the system in preventing accidents.

(VIII) SAFETY EDUCATION AND TRAINING

Exploring Extension of Safety Training in Public Works to Private Works Projects

49. Our case studies of fatal accidents revealed inadequate safety training for site personnel of private works projects including workers and foremen. For example, a worker was not provided specific training for working on bamboo scaffolding, and the foremen of the principal contractor failed to supervise the worker on the day of accident. A foreman of a contractor revised the design of installation of stanchion on his own and failed to monitor the installation of stanchions. A worker operating drilling units simply relied on his own experience to determine the progress of drilling and the control of air pressure. A worker was not provided with safety training on the lifting of deck panels by the contractor and no personnel was arranged on the site to guide and supervise the worker.

50. Industrial accidents and resultant casualties are obviously less serious a problem in public works than in the entire construction industry. The Office reckons this may be attributable to the safety training of public works projects. We recommend that DEVB share with CIC the experience of safety training in public works for its consideration of offering subsidies as incentive, with a view to extending such safety training to private works projects to enhance site safety.

Stepping up Monitoring of Mandatory Safety Training Courses

51. By law, construction site workers and workers engaging in specified high-risk industries, high-risk activities or machinery operation must attend mandatory safety training courses recognised by LD and obtain the relevant certificate. Apart from vetting applications for recognition of mandatory safety training courses and nominated trainers, LD also conducts surprise checks and handles complaints to ensure the quality

of course providers and trainers. In 2024, LD announced a number of cases involving serious irregularities. While LD has taken necessary actions, such cases inevitably affect public confidence in the quality of course providers and even the personnel working in the construction industry.

52. As an important part of LD’s education and training strategy, mandatory safety training courses are crucial to improving OSH in the construction industry. We recommend that LD step up the monitoring of course providers and trainers engaging in mandatory safety training courses and carry out surprise checks in a timely manner to ensure their quality. In case of irregularities, LD should be decisive in taking regulatory action.

Continuously Enriching the Content of Safety Training Courses

53. LD conducts routine safety inspections to construction sites and investigates the cause of accidents after their occurrence. The Department has a full grasp of the safety performance of frontline site workers, and such information and analysis are very useful reference for training. We recommend that LD continue to share with CIC and the Occupational Safety and Health Council (“OSHC”) its observation from routine inspections and enforcement actions as well as lessons learnt from accidents for designing or reviewing the content of safety training courses.

(IX) PUBLICITY AND PROMOTION

Coordinating Release of Information on OSH in Construction Industry

54. Currently, LD, BD, DEVB, OSHC, CIC and the Property Management Services Authority are among the government departments and public organisations participating in the promotion of OSH in the construction industry. Each of them releases information through their website on their own. With no coordination, we find current information rather disorganised. It may be difficult for the industry and the public to look for the information they need, thereby undermining the dissemination of messages.

55. In our view, LD being the primary department responsible for the regulation of OSH in the construction industry should consider coordinating efforts of relevant departments and organisations to set up a thematic website on OSH in the construction industry to provide a convenient platform for various stakeholders and the public to look for information they need, saving them troubles of checking different channels. We believe that setting up a thematic website on OSH in the construction industry can facilitate publicity and promotion among stakeholders. Recognising that setting up a one-stop website is a complicated task requiring massive resources and coordination, we opine that LD may, as a short-time measure, consider providing on its website hyperlinks to information from various departments and organisations in a systematic manner, categorised by topics relating to OSH in the construction industry, for reference

by stakeholders and members of the public.

Raising Awareness of OSH in Renovation and Repair Works

56. Between 2018 and 2023, there were 45 fatal accidents relating to renovation and repair works in total, accounting for a significant 42% of the total number of fatal accidents (i.e. 108 cases) in the construction industry. Renovation and repair works for buildings often involve truss-out scaffolding which is a high-risk operation. Yet, as renovation and repair works usually require a shorter construction period and fewer workers to complete, they are often not subject to statutory notification to LD.

57. Based on the case studies of fatal accidents and LD's site visits that we joined, our investigation identified many safety issues associated with renovation and repair works. Workers showed inadequate safety awareness, which was reflected in their failure to wear a safety helmet, or their wearing a full body harness in a wrong way or even not wearing it. No "competent person" monitored scaffolding by workers on the site. Eye bolt was not examined by a "competent examiner". Staff of property management companies and residents did not know about the safety requirements for scaffolding. All these reflect serious inadequacies of safety measures for renovation and repair works and a lack of safety awareness among workers and even property management companies and residents.

58. Of the 45 fatal accidents relating to renovation and repair works between 2018 and 2023, only 16 cases (36%) were reported via the statutory notification mechanism to LD for commencement of works prior to the accidents as required by law. As regards the remaining 29 cases (64%), LD had not received any voluntary notification. In our view, LD should step up its publicity and encourage owners' corporations, owners and residents engaging in renovation and repair works to notify LD of such works via property management companies for timely action by LD.

59. We recognise the sheer volume of renovation and repair works undergoing throughout the territory. In 2024, LD received a total of 9,179 notifications of works from the Hong Kong Association of Property Management Companies Limited and the Housing Department. LD alone can hardly ensure the safety of this kind of works, and property management companies, owners' corporations and residents should also take part in the monitoring. Nevertheless, based on our observation, members of the public have very limited understanding of their legal liability concerning renovation and repair works and the risk of claims arising from such works, mistakenly believing that only contractors would be liable. Although LD's leaflets do mention that property management companies, owners' corporations and residents may be legally liable to any accidents involving casualties that arise from renovation and repair works of buildings or flats and the pertinent claims, we have reservation whether the message has been effectively conveyed to the public.

60. We consider that LD should step up publicity and education among owners, owners' corporations, property management companies and residents through mass

media and the platform of property management companies, stressing in particular their legal liability in relation to renovation and repair works and the legal consequence and loss in case of accidents. This is to ensure these stakeholders understand that it is in their interest to protect the safety of workers, and at the same time give them an incentive to engage contractors with good safety record.

Utilising Lessons Learnt from Accidents

61. Currently, LD informs the public and the industry of the cause of fatal accidents and preventive measures by way of Work Safety Alerts and Accident Casebooks. For more effective sharing of lessons learnt from accidents, thereby educating different stakeholders on how to fulfil their responsibilities properly, we recommend that LD enrich the content of the publications and information on analysis of accidents, adding the role and responsibility of various stakeholders and how they can avoid accidents.

Our Recommendations

62. In view of the above, the Office has made the following recommendations to LD, BD and DEVB:

LD

- (1) explore formulating templates of inspection checklist for different types of high-risk operations and attach them to the relevant codes of practice for use by “competent persons” during inspections or examinations to tighten control;
- (2) conduct a comprehensive review of the existing requirements for maintenance of inspection records by “competent persons” regarding different types of high-risk operations, specifying the inspection records to be maintained and the need to produce such records upon the instruction of LD officers;
- (3) consider implementing a random checking system to examine the inspection records of “competent persons” during visits to construction sites so as to enhance monitoring;
- (4) continue to take stringent enforcement actions against any breach of OSH legislation by “competent persons” found. Apart from instituting prosecutions, LD should also refer cases of misconduct of “competent persons” to the organisations responsible for their registration for examining their professional qualifications or taking disciplinary action;

- (5) in the long run, explore the development of an electronic platform for contractors and “competent persons” to upload inspection records and forms to facilitate monitoring and random checking so as to curb unprofessional or even fraudulent conduct such as filling in the inspection date in advance;
- (6) examine how to utilise the experience gained in the special enforcement operations against high-risk operations in further enhancing the effectiveness of routine safety inspections so as to identify and handle unsafe operations in construction sites as soon as possible;
- (7) review the operational guidelines on the conduct of in-depth surprise inspections for more precise selection of high-risk construction sites and proper follow-up on sites inspected to ensure systemic improvement of site safety;
- (8) provide guidelines on area patrols to occupational safety officers to guide the identification of construction sites with higher risk for inspection;
- (9) remind occupational safety officers of the importance of proper compilation of inspection records and provide guidance on ways of improvement so as to facilitate examination of the inspection quality by the management;
- (10) thoroughly review and improve the inspection checklist to ensure that all important items are included, and require occupational safety officers to record the results of each item during inspections;
- (11) review the process of reporting work by occupational safety officers to identify areas for streamlining, and explore how to utilise information management systems to reduce document processing for efficiency enhancement;
- (12) explore wider use of advanced technology and procurement of suitable electronic products to facilitate inspections and enforcement actions by frontline staff;
- (13) consider devising a mechanism for selecting suitable construction sites of private developments to participate in meetings of safety committees, so as to stay in tune with the safety risks of the sites and give advice and urge contractors to manage site safety;
- (14) continue to pursue legislative amendment work to enhance the statutory notification mechanism for construction works;

- (15) maintain the number of construction sites reported under the statutory notification mechanism through an information computer system, and compile the compliance rate for the conduct of the first inspection for monitoring purposes;
- (16) review and improve the current mode of calculation and maintenance of data regarding construction sites and inspections to ensure effective analysis for formulation and adjustment of work strategies;
- (17) when the same kind of irregularities (such as unsafe operations of work-at-height) has been found repeatedly in a construction site, in addition to issuing improvement notices to demand rectification of individual irregularities, strengthen the intensity of enforcement and even adjust its strategies so as to urge systemic improvement of the construction site;
- (18) take stringent enforcement actions and make good use of the extended time limit for prosecution to collect evidence as well as institute prosecutions against suitable cases on indictment to increase the deterrent effect;
- (19) after the new penalties for OSH offences have been in force for a period of time, conduct a systemic analysis to review its prosecution work and the penalties imposed by the Court in convicted cases;
- (20) take more proactive steps to follow up on the performance of registered safety auditors and registered safety officers on the monitoring list by, for example, making close observations of their actual performance on the site and careful examination of the reports they submit so as to enhance the quality of their work;
- (21) more proactively inspect the conduct of safety audit by registered safety auditors and consider setting a percentage of random checks. By doing so, LD can alert registered safety auditors to its random checks on their work in order to urge upon them the need to carefully perform their duties. It can as well enable LD to monitor safety auditors' performance and give advice on any areas for improvement through means other than scrutiny of audit reports;
- (22) drawing on the painful lessons from previous fatal accidents, remind site personnel including registered safety officers and registered safety auditors of the issues to which they should pay attention during routine inspections or safety audit so as to strengthen their ability to detect irregularities in site operations and enhance the quality of their work;

- (23) step up the monitoring of course providers and trainers engaging in mandatory safety training courses and carry out surprise checks in a timely manner to ensure their quality. In case of irregularities, the Department should be decisive in taking regulatory action;
- (24) continue to share with CIC and OSHC its observation from routine inspections and enforcement actions as well as lessons learnt from accidents for designing or reviewing the content of safety training courses;
- (25) consider coordinating efforts of relevant departments and organisations to set up a thematic website on OSH in the construction industry to provide a convenient platform for various stakeholders and the public to look for information they need;
- (26) as a short-term measure, consider providing on its website hyperlinks to information from various departments and organisations in a systematic manner, categorised by topics relating to OSH in the construction industry, for reference by stakeholders and members of the public;
- (27) step up its publicity and encourage owners' corporations, owners and residents engaging in renovation and repair works to notify LD of such works via property management companies for timely action by LD;
- (28) step up publicity and education among owners, owners' corporations, property management companies and residents through the mass media and the platform of property management companies, stressing in particular their legal liability in relation to renovation and repair works and the legal consequence and loss in case of accidents;
- (29) enrich the content of the publications and information on analysis of accidents, adding the role and responsibility of various stakeholders and how they can avoid accidents;

BD

- (30) speed up processing of the cases previously omitted and promptly refer cases warranting disciplinary action to the Registered Contractors' Disciplinary Board so as to bring non-compliant contractors to account;
- (31) set up a mechanism for internal monitoring to ensure timely follow-up on all referrals from LD for consideration of disciplinary action against convicted contractors;

- (32) review Criterion 1 under the disciplinary system and consider whether the threshold should be lowered for more effective prevention;

DEVB

- (33) continue to review the tender evaluation system for public works in a timely manner to ensure that only contractors whose performance meets the safety standards would be awarded contracts;
- (34) continue to review the regulating requirement regarding contravention of legislation related to site safety for more effective prevention of accidents;
- (35) continuously instruct all works departments to learn from previous accidents and stringently monitor the site safety performance of contractors to ensure safety;
- (36) after various promotional measures have been implemented for a period of time, review the adoption of the Smart Site Safety System and, with reference to the feedback from the industry, step up efforts to encourage and support wider use of the system in private development sites so as to enhance site safety by means of technology;
- (37) as regards public works project sites having records of accidents despite full adoption of the Smart Site Safety System, thoroughly examine the causes of the accidents to identify the problem, implement improvement measures and share the lessons learnt with the industry, thereby maximising the effectiveness of the system in preventing accidents;
- (38) share with CIC the experience of safety training in public works for its consideration of offering subsidies as incentive, with a view to extending such safety training to private works projects to enhance site safety;

LD and BD

- (39) explore any room for further collaboration on accident investigations to enhance the efficiency and effectiveness of their investigation work; and

DEVB and BD

- (40) expedite the amendment to the Buildings Ordinance to enhance the disciplinary system.

Office of The Ombudsman
March 2025

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1

INTRODUCTION

BACKGROUND

1.1 Fatal industrial accidents in construction works projects have occurred frequently in recent years. In 2021, over 90% of the 25 fatal industrial accidents, i.e. 23 fatal industrial accidents, in the territory were related to construction industry. One life lost to an industrial accident is one too many.

1.2 The current legislation regulating occupational safety and health (“OSH”) includes the Occupational Safety and Health Ordinance (“OSHO”) (Cap. 509, Laws of Hong Kong), the Factories and Industrial Undertakings Ordinance (“FIUO”) (Cap. 59, Laws of Hong Kong), and their subsidiary regulations. On regulation of operations in the construction industry, the Labour Department (“LD”) inspects construction sites and takes enforcement actions. Pursuant to the Buildings Ordinance (“BO”) (Cap. 123, Laws of Hong Kong), the Buildings Department (“BD”) considers contractors’ conviction records for OSH offences when assessing their applications for registration or renewal, and when determining whether disciplinary action is warranted.

1.3 As regards public works of the Government, the Development Bureau (“DEVB”) may, in accordance with the Contractor Management Handbook, take regulating actions against contractors involved in serious incidents in works projects or against those who have violated site safety legislation. The regulating actions include suspending contractors from tendering for public works or even removing them from the “List of Approved Contractors for Public Works” and the “List of Approved Suppliers of Materials and Specialist Contractors for Public Works” (collectively referred to as the “approved lists”). DEVB has also put in place a tender evaluation system to assess contractors’ past safety performance and accident rate in public works contracts. Contractors’ site safety performance will affect their chances of being awarded public works contracts.

1.4 In May 2022, LD submitted the Occupational Safety and Occupational Health Legislation (Miscellaneous Amendments) Bill 2022 to the Legislative Council (“LegCo”) to increase the level of penalties in OSH legislation¹. While enhanced penalties can act as a stronger deterrent, we consider it vitally important to have

¹ The bill was passed by LegCo and the Occupational Safety and Occupational Health Legislation (Miscellaneous Amendments) Ordinance 2023 took effect from 28 April 2023 (see **Chapter 3** for details).

appropriate measures to prevent such accidents. In view of the above, on 29 September 2022, The Ombudsman announced the launch of this direct investigation operation pursuant to section 7(1)(a)(ii) of The Ombudsman Ordinance (Cap. 397, Laws of Hong Kong) to examine the Government's regulation of OSH in the construction industry, and to make recommendations for improvement where necessary.

SCOPE OF INVESTIGATION

1.5 The scope of this direct investigation operation covers:

- LD's inspections and enforcement actions on new works (including building, piling, demolition, site formation and civil engineering works), and repair, maintenance, alteration and addition works, etc. ("renovation and repair works");
- LD's monitoring of registered safety auditors and registered safety officers;
- LD's regulation of high-risk operations;
- LD's follow-up action on accidents;
- BD's regulation of registered contractors;
- DEVB's monitoring of public works;
- use of innovation and technology;
- safety education; and
- publicity and promotion.

PROCESS OF INVESTIGATION

1.6 In this direct investigation operation, the Office has:

- examined the information provided by LD, BD and DEVB, including their case files and enforcement and operation data;
- met with the senior management of LD, BD and DEVB for detailed discussion;
- conducted site visits with LD;

- invited the Construction Industry Council (“CIC”) ² and the Occupational Safety and Health Council (“OSHC”) to provide information and views for reference;
- examined information and views provided by members of the public³; and
- studied relevant media reports.

1.7 On 25 and 26 February 2025, we issued a draft investigation report to LD, BD, DEVB, CIC and OSHC for comment under the principle of confidentiality. Upon considering and incorporating the comments from the relevant bureau, departments and organisations as appropriate, we completed this final report on 31 March 2025.

² Formed in 2007 under the Construction Industry Council Ordinance (Cap. 587, Laws of Hong Kong), CIC consists of a chairman and 24 members representing various sectors of the industry including employers, professionals, academics, contractors, workers, independent persons and government officials. The main functions of CIC are to forge consensus on long-term strategic issues, convey the industry’s needs and aspirations to the Government, as well as provide a communication channel for the Government to solicit advice on all construction-related matters. In order to propagate improvements across the entire industry, CIC is empowered to formulate codes of conduct, administer registration and rating schemes, steer forward research and manpower development, facilitate adoption of construction standards, promote good practices and compile performance indicators.

Established under the Occupational Safety and Health Council Ordinance (Cap. 398, Laws of Hong Kong) in 1988, OSHC consists of a chairman and 18 members representing employers, employees, professionals, academics and the Government. OSHC strives to improve the working environment and safety management of enterprises. Its services include promoting OSH in the community; education and training; consultancy services; research and strategies development, information dissemination and facilitating exchanges between the Government, employers, employees, professionals and academics.

CIC and OSHC are not among the organisations subject to this Office’s investigation under The Ombudsman Ordinance.

³ During this direct investigation operation, we have received a total of 19 submissions from the public.

2

AN OVERVIEW OF OSH IN CONSTRUCTION INDUSTRY

FATAL INDUSTRIAL ACCIDENTS IN CONSTRUCTION INDUSTRY

2.1 The numbers on fatal industrial accidents⁴ in all industries and those in the construction industry between 2018 and 2023 are set out in the table below.

**Table 1: Number of fatal industrial accidents
in all industries and in construction industry**

Year	Number of fatal industrial accidents	
	All industries (including construction industry)	Construction industry
2018	16	14
2019	22	16
2020	21	18
2021	25	23
2022	25	17
2023	24	20
Total	133	108

2.2 The figures in Table 1 show that the construction industry has recorded the highest proportion of fatal industrial accidents among all industries. Between 2018 and 2023, there were a total of 108 fatal industrial accidents in the construction industry, which accounts for over 80% of the fatal industrial accidents in all industries during the period. Among those cases, 63 (58%) involved construction sites of new works and 45 (42%) were related to renovation and repair works.

⁴ Industrial accidents refer to injuries or deaths arising from industrial activities in the industrial undertakings in Hong Kong as defined under FIUO.

“NEW WORKS” AND “RENOVATION AND REPAIR WORKS” IN CONSTRUCTION INDUSTRY

2.3 “New Works” refer to construction sites where new development or re-development works take place. Such works include building, piling, demolition, site formation and civil engineering works. “Renovation and Repair Works” cover alterations, repairs, maintenance and interior decoration of existing buildings, and term maintenance or repairs contracts such as road, water and drainage works.

Table 2: Number of fatal industrial accidents relating to “New Works” and “Renovation and Repair Works”

Year	Number of fatal industrial accidents relating to “New Works”		Number of fatal industrial accidents relating to “Renovation and Repair Works”	Number of fatal industrial accidents in construction industry
	Public-works-related*	Not public-works-related		
2018	1 (7.1%)	4 (28.6%)	9 (64.3%)	14 (100%)
2019	0 (0%)	14 (87.5%)	2 (12.5%)	16 (100%)
2020	4 (22.2%)	8 (44.4%)	6 (33.3%)	18 (100%)
2021	1 (4.3%)	9 (39.1%)	13# (56.5%)	23 (100%)
2022	1 (5.9%)	8 (47.1%)	8 (47.1%)	17 (100%)
2023	5 (25%)	8 (40%)	7^ (35%)	20 (100%)
Total	12 (11.1%)	51 (47.2%)	45 (41.7%)	108 (100%)

* Public works refer to works carried out at construction sites under the Architectural Services Department, the Drainage Services Department, the Electrical and Mechanical Services Department, the Highways Department, the Water Supplies Department and the Civil Engineering and Development Department.

Two of them are public-works-related.

^ One of them is public-works-related.

TYPES OF FATAL INDUSTRIAL ACCIDENTS IN CONSTRUCTION INDUSTRY

2.4 Among the aforementioned 108 fatal industrial accidents, 52 (48%) involved “fall of person from height” while others were related to such circumstances as “trapped

by collapsing or overturning object”, “trapped in or between objects”, “striking against or struck by moving object” and “struck by falling object”.

Table 3: Statistical analysis of industrial fatalities in construction industry by type of accidents

	2018	2019	2020	2021	2022	2023	Total
Fall of person from height	11	7	7	8	10	9	52
Trapped by collapsing or overturning object	0	2	4	3	6	1	16
Trapped in or between objects	1	1	2	2	1	2	9
Striking against or struck by moving object	0	2	2	3	0	1	8
Struck by falling object	0	2	1	2	0	1	6
Drowning	0	1	1	0	0	0	2
Contact with electricity or electric discharge	1	0	1	0	0	3	5
Asphyxiation	0	0	0	4	0	0	4
Exposure to or contact with harmful substance	0	0	0	0	0	2	2
Struck by moving vehicle	1	1	0	0	0	0	2
Striking against fixed or stationary object	0	0	0	1	0	0	1
Slip, trip or fall on same level	0	0	0	0	0	1	1
Total	14	16	18	23	17	20	108

2.5 Many of the fatal industrial accidents involving work-at-height resulted from falling of workers from bamboo scaffolds, ladders, etc. Truss-out bamboo scaffolds are commonly used in repair and maintenance works for external walls in the construction industry. For example, repairs and replacement of split type air-conditioners, and replacement of windows and water pipes. Suspended working platforms are widely used for carrying workers for working at height during the installation of curtain walls or windows, cleansing of windows and external renovation and decoration of buildings, bridges, chimneys, silos and other structures, etc. Between 2018 and 2023, the numbers of fatal industrial accidents involving bamboo scaffolding, suspended working platforms and lifting operations were 19, 3 and 6 respectively.

Figure 1: Truss-out bamboo scaffolds
(Photograph taken by our staff)



Figure 2: Suspended working platform
(Taken from LD's website)



3

REQUIREMENTS IN OSH LEGISLATION

3.1 Currently, regulation of OSH is mainly enforced under OSHO, FIUO and their subsidiary regulations including the Construction Sites (Safety) Regulations, the Factories and Industrial Undertakings (Safety Management) Regulation, the Factories and Industrial Undertakings (Safety Officers and Safety Supervisors) Regulations, etc.

GENERAL DUTY PROVISIONS FOR PROPRIETORS, EMPLOYERS AND OCCUPIERS OF PREMISES

3.2 Section 6A(1) of FIUO provides that it shall be the duty of every proprietor⁵ of an industrial undertaking (including any construction work) to ensure, so far as is reasonably practicable, the health and safety at work of all persons employed by the proprietor at the industrial undertaking. Pursuant to section 6A(2) of the ordinance, without prejudice to the generality of a proprietor's duty mentioned above, the matters to which that duty extends include in particular—

- (a) the provision and maintenance of plant and systems of work that are, so far as is reasonably practicable, safe and without risks to health;
- (b) arrangements for ensuring, so far as is reasonably practicable, safety and absence of risks to health in connection with the use, handling, storage and transport of articles and substances;
- (c) the provision of such information, instruction, training and supervision as is necessary to ensure, so far as is reasonably practicable, the health and safety at work of all persons employed by the proprietor at the industrial undertaking;

⁵ According to the Interpretation in section 2 of FIUO, "proprietor" in relation to any industrial undertaking or notifiable workplace includes the person for the time being having the management or control of the business carried on in such industrial undertaking or notifiable workplace and includes a body corporate and a firm and also the occupier of any industrial undertaking or notifiable workplace and the agent of such occupier.

- (d) so far as is reasonably practicable as regards any part of the industrial undertaking under the proprietor's control, the maintenance of it in a condition that is safe and without risks to health and the provision and maintenance of means of access to and egress from it that are safe and without such risks; and
- (e) the provision and maintenance of a working environment for all persons employed by the proprietor at the industrial undertaking that is, so far as is reasonably practicable, safe, and without risks to health.

3.3 Any proprietor of an industrial undertaking who contravenes section 6A commits an offence and is liable on summary conviction to a fine of \$3,000,000; or on conviction on indictment to a fine of \$10,000,000⁶. Any proprietor of an industrial undertaking who contravenes section 6A wilfully and without reasonable excuse commits an offence and is liable on summary conviction to a fine of \$3,000,000 and to imprisonment for six months; or on conviction on indictment to a fine of \$10,000,000 and to imprisonment for two years⁷.

3.4 Section 6(1) of OSHO stipulates that every employer must, so far as is reasonably practicable, ensure the safety and health at work of all the employer's employees.

3.5 Section 7(1) of OSHO provides that where an employee's workplace is located on premises that are not under the control of his employer, the occupier of the premises must ensure that the premises, the means of access to and egress from the premises, and any plant or substance kept at the premises are, so far as is reasonably practicable, safe and without risks to health.

3.6 Any employer or occupier of premises who fails to comply with section 6(1) or section 7(1) of OSHO commits an offence; and is liable on summary conviction to a fine of \$3,000,000; or on conviction on indictment to a fine of \$10,000,000⁸. Any employer or occupier of premises who fails to comply with section 6(1) or section 7(1) intentionally, knowingly or recklessly commits an offence and is liable on summary conviction to a fine of \$3,000,000 and to imprisonment for six months; or on conviction on indictment to a fine of \$10,000,000 and to imprisonment for two years⁹.

⁶ This is the penalty following the legislative amendment (see **para. 3.38**). The penalty prior to the amendment was a fine of \$500,000.

⁷ These are the penalties following the legislative amendment (see **para. 3.38**). The penalties prior to the amendment were a fine of \$500,000 and imprisonment for 6 months.

⁸ This is the penalty following the legislative amendment (see **para. 3.38**). The penalty prior to the amendment was a fine of \$200,000.

⁹ These are the penalties following the legislative amendments (see **para. 3.38**). Prior to the amendments, the penalties were a fine of \$200,000 and imprisonment for 6 months.

3.7 Furthermore, section 5 of the Construction Workers Registration Ordinance (Cap. 583, Laws of Hong Kong) stipulates that no person (including contractors) shall employ unregistered construction workers to carry out construction work at a construction site. Any person who contravenes this provision commits an offence and is liable on conviction to a fine of \$50,000.

GENERAL DUTY PROVISIONS FOR EMPLOYEES

3.8 Section 6B(1) of FIUO stipulates that it shall be the duty of every person employed at an industrial undertaking while at work to take reasonable care for the health and safety of himself and others; and to cooperate with the proprietor or such other persons so far as is necessary to enable the duty or requirement for securing the health and safety of persons employed at the industrial undertaking to be performed or complied with. Any person who contravenes section 6B(1) commits an offence and is liable on conviction to a fine of \$150,000¹⁰. Any person employed at an industrial undertaking who wilfully and without reasonable excuse does anything while at work likely to endanger himself or others commits an offence and is liable on conviction to a fine of \$150,000 and to imprisonment for six months¹¹.

3.9 Section 8(1) of OSHO stipulates that any employee while at work must, so far as is reasonably practicable, take care of the safety and health of persons (including the employee himself) at his workplace and who may be affected by his work, and must, so far as reasonably practicable, cooperate with his employer or such other persons so far as may be necessary to enable the requirement imposed in the interests of safety or health to be complied with. Any employee who fails to comply with this provision commits an offence and, upon conviction, is liable to a fine of \$150,000¹². Any employee who fails to comply with this provision intentionally, knowingly or recklessly commits an offence and, upon conviction, is liable to a fine of \$150,000 and to imprisonment for six months¹³.

STATUTORY NOTIFICATION OF CONSTRUCTION WORKS

3.10 Under Regulation 56(1) of the Construction Sites (Safety) Regulations, a contractor who undertakes construction work lasting for not less than six weeks and

¹⁰ This is the penalty following the legislative amendment (see **para. 3.38**). The penalty prior to the amendment was a fine of \$25,000.

¹¹ These are the penalties following the legislative amendment (see **para. 3.38**). The penalties prior to the amendment were a fine of \$50,000 and imprisonment for 6 months.

¹² This is the penalty following the legislative amendment (see **para. 3.38**). The penalty prior to the amendment was a fine of \$10,000.

¹³ These are the penalties following the legislative amendments (see **para. 3.38**). Prior to the amendments, the penalties were a fine of \$50,000 and imprisonment for 6 months.

engaging more than ten workers shall, within seven days after the commencement of the work, furnish to LD: the name and address of the contractor; the name and address of every subcontractor employed on the work; the location of the construction site; the nature of the work; the commencement date of the work; whether any mechanical power is being or will be used, with details of its nature; and the expected duration of the work. A contractor who fails to notify LD of the construction works as required above commits an offence and is liable on conviction to a fine of \$100,000¹⁴.

Enhancing the Statutory Notification Mechanism for Construction Projects

3.11 LD analysed past fatal industrial accident cases in the construction industry and found that a significant number of fatal industrial accidents involved high-risk operations with relatively short durations or employing a small number of workers. Under the current legislation, contractors of such construction sites are not required to notify LD of the works.

3.12 Given that some construction projects of shorter construction period or engaging fewer workers may also involve high-risk operations (such as truss-out bamboo scaffolds), LD is formulating proposals to enhance the statutory notification mechanism for construction works to expand the scope of notification and shorten the time frame for such notification, while assessing the feasibility of implementation within available resources. LD is following up on the relevant legislative amendments and will submit the proposals to LegCo for consideration as soon as possible.

NOTIFICATION MECHANISM FOR RENOVATION AND REPAIR WORKS

3.13 Apart from the aforesaid statutory notification mechanism for construction works, LD currently obtains information on renovation and repair works through a notification mechanism established with the Hong Kong Association of Property Management Companies (“HKAPMC”) and the Housing Department (“HD”).

The Notification Mechanism Established with HKAPMC

3.14 Under the notification mechanism established between LD and HKAPMC, any member managing a property where truss-out scaffolding works are to be carried out must notify LD at least five working days prior to the commencement of such works. LD staff will conduct safety inspections within a stipulated period.

3.15 Whereas previously LD would inspect no fewer than one-tenth of truss-out scaffolding works reported by HKAPMC members, LD has inspected all such works reported since January 2020.

¹⁴ This is the penalty following the legislative amendment (see **para. 3.38**). The penalty prior to the amendment was a fine of \$10,000.

3.16 In view of the increasing OSH risks, LD deployed additional manpower from 29 November 2023 to 29 February 2024 to step up inspections of large-scale construction sites or those involving high-risk work processes. During this period, LD’s occupational safety officers inspected approximately one-fifth of truss-out scaffolding works reported by HKAPMC members. LD then continues to inspect all such scaffolding works reported. Furthermore, since the revised Code of Practice for Bamboo Scaffolding Safety took effect on 19 October 2024 (see **para. 5.9**), LD deployed additional manpower from 21 October to 31 December 2024 to strengthen area patrols both on weekdays and weekends, targeting irregularities relating to bamboo scaffolding operations and monitoring compliance with the code of practice. This included checking whether the erection, addition, alteration, or dismantling of truss-out scaffolding was carried out under the immediate supervision of a “competent person”; whether scaffolders held valid certificates; whether scaffolders were provided with and correctly using appropriate fall arresting equipment and systems; and whether duty holders had taken adequate measures to ensure the stability of the scaffolding.

The Notification Mechanism Established with HD

3.17 Under the notification mechanism established between LD and HD, where sites of renovation and repair works within HD’s properties involve the use of truss-out scaffolding, working in confined spaces, or lifting operations and rigging (such as hoisting materials to rooftops), HD must notify LD at least five working days prior to the commencement of works, so that LD can conduct targeted and timely safety inspections.

3.18 According to LD, despite the substantial number of renovation and repair works reported by HD, the OSH standards for these works are generally high, owing to HD’s significant resources allocated for improving such standards. Consequently, LD has since January 2020 conducted safety inspections on no fewer than one-tenth of the renovation and repair works reported by HD. LD will ensure that the selected sites cover all districts throughout the territory.

Other Ways to Obtain Information on Renovation and Repair Works

3.19 LD encourages members of the public to report unsafe OSH conditions through various channels. In addition to establishing a telephone hotline for public complaints regarding OSH matters, the Department launched an online OSH complaint platform in 2019, which allows employees and members of the public to report unsafe working environments by using mobile devices, thereby obtaining more information on construction works (including renovation and repair works).

SAFETY MANAGEMENT SYSTEM

3.20 Through the Factories and Industrial Undertakings (Safety Management) Regulation passed on 24 November 1999, the Government implemented the 14 safety

management elements listed in Schedule 4 to the Regulation (see **Table 4**) in phases, with the first ten elements coming into effect on 1 April 2002. LD stated that the purpose of phased implementation was to allow relevant industries to become accustomed to the safety management system and prepare for the implementation of the remaining four elements.

3.21 Section 8 of the Factories and Industrial Undertakings (Safety Management) Regulation stipulates that a contractor who employs not less than 100 workers in one or more construction sites within a day, or a contractor undertaking construction works with a contract value of \$100 million or more, shall develop, implement and maintain in respect of the relevant construction site a safety management system, and shall also audit the system regularly. Any person who contravenes this provision commits an offence and, upon conviction, is liable to a fine of \$400,000 and to imprisonment for six months¹⁵.

Table 4: Elements of the Safety Management System

The 14 Elements of a Safety Management System	
Part 1	
1	<p>Safety Policy A safety policy which states the commitment of the proprietor or contractor to safety and health at work.</p>
2	<p>Organisational Structure A structure to assure implementation of the commitment to safety and health at work.</p>
3	<p>Safety Training Training to equip personnel with knowledge to work safely and without risk to health.</p>
4	<p>In-house Safety Rules In-house safety rules to provide instruction for achieving safety management objectives.</p>
5	<p>Inspection Programme A programme of inspection to identify hazardous conditions and for the rectification of any such conditions at regular intervals or as appropriate.</p>

¹⁵ These are the penalties following the legislative amendments (see **para. 3.38**). Prior to the amendments, the penalties were a fine of \$200,000 and imprisonment for 6 months.

The 14 Elements of a Safety Management System	
Part 1	
6	<p>Hazard Control Plan A programme to identify hazardous exposure or the risk of such exposure to the workers and to provide suitable personal protective equipment as a last resort where engineering control methods are not feasible.</p>
7	<p>Investigation of Accidents or Incidents Investigation of accidents or incidents to find out the cause of any accident or incident and to develop prompt arrangements to prevent recurrence.</p>
8	<p>Emergency Preparedness Emergency preparedness to develop, communicate and execute plans prescribing the effective management of emergency situations.</p>
Part 2	
9	<p>Evaluation, Selection and Control of Subcontractors Evaluation, selection and control of subcontractors to ensure that subcontractors are fully aware of their safety obligations and are in fact meeting them.</p>
10	<p>Safety Committees Safety Committees to identify, recommend and keep under review measures to improve the safety and health at work.</p>
Part 3 (Effective from 29 April 2024)	
11	<p>Job-hazards Analysis Evaluation of job related hazards or potential hazards and development of safety procedures.</p>
12	<p>Safety and Health Awareness Promotion, development and maintenance of safety and health awareness in a workplace.</p>
13	<p>Accident Control and Hazard Elimination A programme for accident control and elimination of hazards before exposing workers to any adverse work environment.</p>
14	<p>Occupational Health Assurance Programme A programme to protect workers from occupational health hazards.</p>

3.22 LD explained that since the implementation of the Factories and Industrial Undertakings (Safety Management) Regulation in 2002, it has conducted a number of reviews to assess the readiness of the industry on the implementation of the remaining four elements. The findings revealed that many organisations were then either incapable or insufficiently prepared to fully implement the remaining four elements. After considering the review findings and other factors, LD commenced preparations in 2018 to implement these four elements, including updating the Code of Practice on Safety Management to assist organisations in effectively implementing them, and consulting the industry on the updated content. However, in light of the economic challenges in subsequent years (in particular the construction industry), the Department decided to defer the implementation.

3.23 On 23 February 2024, the Government gazetted the Factories and Industrial Undertakings (Safety Management) Regulation (Commencement) Notice 2024, appointing 29 April 2024 as the day on which elements 11 to 14 come into effect (with a six-month grace period following the commencement date). On the same day, the Government also published the revised Code of Practice on Safety Management in the Gazette. Key amendments include enhanced requirements for conducting safety audits and reviews, introduction of requirements for notification of safety audit and submission of safety audit reports, and inclusion of an assessment form on safety management systems. These changes aim to provide more practical guidance for duty holders to comply with statutory requirements.

SAFETY COMMITTEE

3.24 The establishment of a safety committee constitutes the tenth element of the safety management system. Section 10 of the Factories and Industrial Undertakings (Safety Management) Regulation stipulates that contractors required to implement a safety management system shall establish one or more safety committees. The function of such committees is to identify, recommend and continually review measures to improve the safety and health of workers in the relevant industrial undertaking; and to implement, as far as reasonably practicable, any measures recommended by the safety committees concerning the safety and health of workers in the course of their work in that industrial undertaking.

3.25 Section 11 of the Regulation also stipulates that the contractor shall ensure that not less than half the members of the safety committee represent workers on the construction site; the committee is provided with a written statement setting out rules governing its membership, terms of reference and meeting procedures; the committee meets at least once every three months; and the committee keeps records of its meetings for not less than five years, which are available for inspection upon request by LD.

3.26 A fine of \$100,000 and imprisonment for three months¹⁶ may be imposed for contravention of section 10, and a fine of \$100,000 may be imposed for contravention of section 11¹⁷.

SAFETY AUDITS AND REGISTERED SAFETY AUDITORS

3.27 Under section 13 of the Factories and Industrial Undertakings (Safety Management) Regulation, contractors required to implement a safety management system shall appoint a registered safety auditor to conduct not less than one safety audit in each six-month period on the site's safety management system and its constituent elements. Any person who contravenes the requirement to appoint a registered safety auditor for such audits commits an offence and, upon conviction, is liable to a fine of \$400,000 and to imprisonment for six months¹⁸.

3.28 Pursuant to sections 4 and 6 of and Schedule 1 to the Factories and Industrial Undertakings (Safety Management) Regulation, an applicant for registration as a safety auditor shall (1) satisfy the Commissioner for Labour that he is eligible, competent and fit and proper to be so registered; (2) be a registered safety officer; (3) have acquired not less than three years' full-time experience in the five-year period immediately preceding the application, in a managerial post responsible for industrial safety and health matters in respect of an industrial undertaking (including a construction site), and occupied at the time of application concerned such managerial post; (4) have completed a specified training programme; and (5) understand the requirements under legislation in Hong Kong relating to industrial safety and health matters. Upon registration as a safety auditor, the individual is not required to renew his registration. Where LD finds that a registered safety auditor has contravened any provisions of the relevant legislation applicable to registered safety auditors, or is no longer satisfied that the registered safety auditor is competent to perform his duties, it may issue a reprimand, suspend or cancel the registration of that safety auditor.

3.29 During safety audits at construction sites, registered safety auditors collect information on the site's safety management systems by interviewing management personnel and staff at all levels, examining documentation, and observing actual work conditions and processes. They establish their audit criteria based on statutory requirements, codes of practice and guidelines issued by LD, applicable industry standards and international standards. This enables them to assess whether each element of the site's safety management system meets the audit standards and to provide improvement recommendations to the contractor.

¹⁶ This penalty remains at the previous level following the legislative amendments (see **para. 3.38**).

¹⁷ This penalty applies after the legislative amendments (see **para. 3.38**). The penalty prior to the amendments was a fine of \$50,000.

¹⁸ These are the penalties following the legislative amendments (see **para. 3.38**). Prior to the amendments, the penalties were a fine of \$200,000 and imprisonment for 6 months.

3.30 Section 15 of the Factories and Industrial Undertakings (Safety Management) Regulation stipulates that a registered safety auditor shall submit a safety audit report not later than 28 days after completing the audit, and to the contractor who appointed him. Section 16 of the Regulation requires that the contractor shall read and countersign the report, and record the date of his countersignature, as soon as practicable after receiving the report. If the report contains recommendations for improvements, the contractor shall draw up a plan for the improvements within 14 days after receiving the report and implement the plan as soon as is practicable, and submit a copy of the report together with a copy of the plan to LD within 21 days after receiving the report.

3.31 A registered safety auditor commits an offence in case of failure to notify LD prior to conducting a safety audit, or failure to submit a safety audit report to the contractor. Upon conviction, the safety auditor shall be liable to a fine of \$50,000¹⁹.

3.32 A contractor commits an offence if he fails to draw up or implement an improvement plan within the specified time after receiving a safety audit report. Upon conviction, he shall be liable to a fine of \$400,000 and to imprisonment for three months²⁰.

REGISTERED SAFETY OFFICERS

3.33 Regulation 14 of the Factories and Industrial Undertakings (Safety Officers and Safety Supervisors) Regulations stipulates that a contractor employing 100 or more persons at one or more construction sites shall employ a full-time registered safety officer to assist the contractor in promoting the safety and health of persons employed at the relevant construction site. A contractor who contravenes this requirement commits an offence and is liable on conviction to a fine of \$400,000²¹.

3.34 Pursuant to regulations 5 and 7 of and Schedules 2 and 3 to the Factories and Industrial Undertakings (Safety Officers and Safety Supervisors) Regulations, an applicant for registration as a safety officer shall (1) satisfy the Commissioner for Labour that he is qualified, competent, fit and proper; (2) hold an academic qualification recognised by the Commissioner for Labour; and (3) possess not less than one or two years of relevant experience (depending on the academic qualification held by the applicant). The registration of a safety officer is valid for four years. A registered safety officer who wishes to renew his registration as a safety officer must have completed a total of not less than 100 hours of Continuing Professional Development Programme in OSH in the 4 years immediately preceding the application. LD has

¹⁹ This penalty remains at the previous level following the legislative amendments (see **para. 3.38**).

²⁰ These penalties apply following the legislative amendments (see **para. 3.38**). The penalties prior to the amendments were a fine of \$100,000 and imprisonment for 3 months.

²¹ This is the penalty following the legislative amendment (see **para. 3.38**). The penalty prior to the amendment was a fine of \$50,000.

issued the Guidance Notes on Continuing Professional Development Programmes under the Factories and Industrial Undertakings (Safety Officers and Safety Supervisors) Regulations²² to provide guidance to registered safety officers participating in professional development programmes.

3.35 The primary duties of a registered safety officer include advising contractors on OSH measures to be implemented; inspecting plants, equipment and work processes at construction sites through workplace inspections; supervising safety supervisors²³; investigating and reporting to the contractors any accident or dangerous occurrence; and assisting contractors in implementing safety management systems. Registered safety officers are required to submit monthly reports to contractors.

3.36 Regulations 19 and 20 of the Factories and Industrial Undertakings (Safety Officers and Safety Supervisors) Regulations stipulate that contractors shall provide all such assistance, equipment, facilities and information as may be necessary for the proper carrying out of duties by the registered safety officer, and discuss with the registered safety officer the report submitted by the latter as soon as practicable after the report is submitted to him. The contractor shall also countersign the report and indicate the date when it was discussed. A contractor who contravenes the above provisions commits an offence and, upon conviction, is liable to a fine of \$100,000²⁴.

AMENDMENTS TO OSH LEGISLATION

3.37 The penalties of FIUO were last amended in 1994, while those of OSO have remained unchanged since the ordinance's enactment in 1997. In other words, the penalties of both ordinances have not been reviewed for over 20 years. In May 2022, the Government introduced the Occupational Safety and Occupational Health Legislation (Miscellaneous Amendments) Bill 2022 to LegCo to amend OSO, FIUO and their subsidiary legislation to increase the overall level of penalties for OSH offences to achieve greater deterrence and provide employees with better OSH protection. The Occupational Safety and Occupational Health Legislation (Miscellaneous Amendments) Ordinance 2023 was passed by the LegCo on 19 April 2023 and came into operation on 28 April of the same year.

²² To meet the development and needs of the industry, and stakeholders' expectations regarding the professional standards of safety officers, LD updated the guidance notes in early 2022. This included adding professional ethics and integrity of safety officers as a compulsory continuing professional development programme, and accepting training on subjects in other learning areas (namely engineering, information technology, software applications, and soft skills training) as one of the options for the continuing professional development programme, with the aim of enhancing the professional competence of safety officers.

²³ Under Regulation 16 of the Factories and Industrial Undertakings (Safety Officers and Safety Supervisors) Regulations, contractors at construction sites employing 20 or more persons shall appoint a safety supervisor to assist the registered safety officer in performing duties. The safety supervisor shall submit a weekly report to the contractor or the registered safety officer.

²⁴ This is the penalty following the legislative amendment (see **para. 3.38**). The penalty prior to the amendment was a fine of \$50,000.

3.38 The major amendments include:

- (1) with regard to offences under the general duty provisions for proprietors, employers and occupiers of premises, LD can take out prosecutions by way of indictment. The maximum fines and imprisonment terms are set at \$10,000,000 and two years respectively, and new provisions are added to require the courts to take into account the convicted entity's turnover and other financial information given by the convicted entity when sentencing;
- (2) the maximum fines for summary offences under the general duty provisions for employers and employees are increased to \$3,000,000 and \$150,000 respectively;
- (3) the maximum fines for other summary offences are adjusted according to the seriousness of the offence; and
- (4) the time limit for prosecution for an offence that is triable summarily is extended from six months to nine months.

4

LD'S INSPECTION AND ENFORCEMENT WORK

TYPES OF INSPECTION

4.1 LD's inspections are mainly divided into the following four categories:

(1) *Routine Safety Inspections*

4.2 Routine safety inspections including first inspections and follow-up inspections account for the majority of inspections conducted by LD's occupational safety officers.

Statutory Notification of Construction Works

4.3 For construction sites that are subject to statutory notification (see **para. 3.10**), LD's internal guidelines require that an occupational safety officer must conduct the first inspection within a stipulated period after receiving the contractor's notification.

4.4 During the first inspection, the occupational safety officer verifies the information provided in the notification form, assesses site risks, and offers OSH advice accordingly. The divisional occupational safety officer reviews the inspection record completed by the occupational safety officer and determines the frequency of subsequent inspections based on a risk-based approach and the criteria set out in the internal guidelines such as site scale, work processes, and number of persons employed. For example, building construction sites generally pose higher safety risks and are inspected more frequently by LD.

4.5 In November 2022, LD added an "Electronic Correspondence Book" to its Occupational Safety and Health Management Information System. Divisional occupational safety officers can use this record book to monitor the number of files assigned to subordinate occupational safety officers, ensuring inspections are conducted in a timely manner according to priority. Occupational safety officers can also better manage their assigned cases and set inspection priorities accordingly.

Voluntary and Statutory Notification of Renovation and Repair Works

4.6 Renovation and repair works are generally below the threshold that requires statutory notification to LD. LD obtains information about such works through a voluntary notification mechanism established with HKAPMC and HD (see **para. 3.13**). LD's internal guidelines require that occupational safety officers should conduct the first inspection of the site concerned within a stipulated period upon receiving a contractor's notification.

4.7 Voluntary notifications of renovation and repair works from HKAPMC members to LD surged from 347 cases in 2018 to 3,869 cases in 2023. LD met its targets of carrying out the first inspection within the stipulated periods only in 2018 and 2019. Between 2020 and 2023, the compliance rate ranged from 54% to 88%. The Department explained that special work arrangements during the pandemic affected inspection operations.

4.8 Since January 2020, LD has inspected no fewer than 10% of renovation and repair works referred by HD. Between 2020 and 2023, HD referred approximately 2,900 to over 3,300 cases each year, and LD conducted around 270 to over 500 inspections each year, roughly meeting its target of inspecting 10% of notified cases.

4.9 Renovation and repair works vary in scale, from large-scale housing estate repairs to small-scale home renovations. For works that meet the criteria under Regulation 56(1) of the Construction Sites (Safety) Regulations, contractors shall notify LD within 7 days after commencement of such works (see **para. 3.10**). Of the 45 fatal accidents relating to renovation and repair works between 2018 and 2023, only 16 cases (36%) met the criteria for statutory notification, and LD had received notifications from the contractors concerned prior to the accidents. The remaining 29 cases involved works not subject to statutory notification, and no voluntary notification had been received prior to the accidents. Relevant statistics are set out as follows:

Table 5: Figures on fatal industrial accidents relating to renovation and repair works and the number of notifications received by LD prior to the commencement of works before the accidents

Year	Number of fatal industrial accidents relating to renovation and repair works	Number of notifications received by LD prior to the commencement of works before the accidents (Percentage in Brackets)
2018	9	4 (44%)
2019	2	1 (50%)
2020	6	2 (33%)
2021	13	5 (38%)
2022	8	2 (25%)
2023	7	2 (29%)
Total	45	16 (36%)

(2) *Area Patrols*

4.10 As LD may not be notified of some renovation and repair works under the notification mechanism, its occupational safety officers conduct regular area patrols to inspect construction sites with higher risk (in particular those renovation and repair works involving truss-out scaffolds) but not reported to the Department. If there are too many such sites, occupational safety officers will determine inspection priorities based on professional judgment and a risk-based approach, considering such factors as the number of anchor bolts fixing on metal brackets, the condition of external walls, the size and appearance of the truss-out scaffolds, etc.

(3) *Special Enforcement Operations*

4.11 LD closely monitors the risk levels of construction sites involving various high-risk work processes, works types, and contractors. Where a rising trend in accidents linked to a specific work process is detected, or when repeated serious incidents occurred in a contractor's sites, LD will carry out special enforcement operations.

4.12 Each special enforcement operation usually lasted for two weeks during which LD would target construction sites, contractors, or high-risk work processes related to the theme of the operation, aiming to identify deficiencies and assess whether contractors have provided and maintained safety work systems for the relevant work processes.

(4) *In-Depth Surprise Inspections*

4.13 LD conducts in-depth surprise inspections for construction sites that:

- (1) involve complicated work processes or unconventional construction methods;
- (2) engage high-risk operations or work processes;
- (3) have poor safety performance and suspected deficiencies in the safety systems, such as sites with serious or fatal industrial accidents, repeated unsafe incidents in a short period, or a high number of work injuries or complaints.

4.14 Regional units of LD's Occupational Safety Operations Division hold regular meetings to discuss site safety conditions and select higher-risk sites in their regions for consideration by the regional supervisor (i.e. deputy chief occupational safety officer) for in-depth surprise inspections.

4.15 These inspections focus not only on identifying unsafe operations but also on whether contractors have provided and maintained safety work systems for high-risk

work processes, and whether the site has properly implemented the safety management system specified under the Factories and Industrial Undertakings (Safety Management) Regulation (see **para. 3.21**).

4.16 According to LD, it deploys more occupational safety officers (usually eight to ten) than for routine safety inspections to conduct these in-depth surprise inspections at targeted construction sites. Preparations and planning are made in advance, and the inspection duration is longer than routine checks. This enhances enforcement effectiveness and serves as a deterrent. The prevailing target of LD is to conduct such inspections at 40 construction sites annually.

INSPECTION RECORDS

4.17 All LD’s inspections of construction sites are surprise inspections. The time required for each inspection varies depending on the type of works, site scale, work processes, and number of persons employed, so LD cannot specify the duration of each inspection.

4.18 Occupational safety officers may use various tools and methods as needed, including digital cameras for taking photographs or videos, and other technological instruments such as laser distance meters, electronic inclinometers, and digital calipers for evidence collection. They also request employees at construction sites to produce relevant certificates, such as the certificate of the Mandatory Basic Safety Training Course for Construction Industry (commonly known as “Green Card”) for checking, and inspect forms signed by “competent persons” and “competent examiners” for high-risk work (see **Chapter 5**).

4.19 Occupational safety officers complete the following inspection records during site inspections:

- (1) Inspection Worksheet: records inspection scope, items, and results, including violations;
- (2) Site Information Table: records site address, names of principal and subcontractors, and site management personnel;
- (3) Machinery List: records machinery used on site;
- (4) Inspection Checklist: lists items to be checked for high-risk work processes, and occupational safety officers are required to record whether each item has been checked and followed up; and
- (5) File Notes: records overall inspection findings and follow-up recommendations.

4.20 On completing the inspection, occupational safety officers will submit the records to their superior (divisional occupational safety officer) for review. If necessary, the divisional occupational safety officer provides feedback or instructions and may conduct supervisory inspections.

INSPECTION FIGURES

4.21 Between 2018 and 2023, as of December 31 of each year, the number of construction site files for uncompleted “new works” and “renovation and repair works” ranged from over 28,000 to over 36,000.

4.22 Including all types of safety inspections and complaint-driven inspections, **the number of site safety inspections calculated on the basis of the number of staff members involved** conducted by LD each year ranged from about 58,000 to 87,000, averaging around 70,700 per year.

4.23 LD indicated that the number of inspections is all along calculated on the basis of the number of LD staff members involved in the inspections (i.e., if two occupational safety officers conduct one inspection together, it is counted as two inspections) so as to reflect the actual workload.

4.24 For “new works”, the number of **routine safety inspections calculated on the basis of the number of staff members involved** ranged from about 17,974 to 31,098 each year between 2018 and 2023, averaging 23,789 per year. The Department does not maintain corresponding site counts. The number of **special enforcement operations** ranged from 2,744 to 6,216, covering 1,641 to 3,521 sites, with an average of 1.75 inspections per site.

4.25 Due to the high manpower required, **in-depth surprise inspections** are generally conducted only once per high-risk site. Between 2018 and 2023, LD conducted such inspections at 17 to 41 sites each year.

4.26 The total number of inspections for “new works” averaged 28,218 each year between 2018 and 2023, accounting for 40% of the roughly 70,700 safety inspections of all sites inspected (see **para. 4.22**).

4.27 Meanwhile, the number of renovation and repair works sites identified through notification from HD and HKAPMC members and area patrols ranged from over 4,800 to over 8,000 each year between 2018 and 2023.

4.28 Starting in 2020, LD has required occupational safety officers to inspect all truss-out bamboo scaffolding works reported by HKAPMC members, and therefore ceased area patrols during office hours. As a result, the number of works identified through area patrols in 2020 was lower than in other years. Starting in 2021, LD has enhanced area patrols by conducting targeted six- to eight-week operations each year

through 2023, focusing on high-risk renovation and repair works.

ENFORCEMENT GUIDELINES

4.29 LD explained that occupational safety officers assess the risks and hazards of each construction site, use professional judgment to evaluate the severity and consequences of contravention, and scrutinise available evidence to determine appropriate follow-up actions for different levels of contravention.

4.30 Pursuant to section 9 of OSHO, LD may issue an improvement notice to an employer or occupier of premises, requiring them to remedy the contravention within a period specified in the notice, or to refrain from continuing or repeating the contravention. Failure to comply without reasonable excuse constitutes an offence, and on conviction, the employer or occupier of premises concerned is liable to a fine of \$400,000 and to imprisonment for 12 months²⁵.

4.31 Under section 10 of the same ordinance, LD may issue a suspension notice to an employer or occupier of premises if the Department is of the opinion that there is an imminent risk of death or serious bodily injury because of an activity undertaken on the premises, or the condition or use of the premises or of any plant or substance located on the premises. The notice will direct the activity not to be undertaken, or the premises, plant or substance not to be used, while the notice remains in force. The suspension notice remains valid until it is revoked. An employer or occupier of premises who, without reasonable excuse, contravenes a suspension notice commits an offence and is liable on conviction to a fine of \$1,000,000 and to imprisonment for 12 months²⁶, and to a further fine of \$100,000 for each day during which the offender knowingly and intentionally continues the contravention²⁷.

4.32 LD classifies OSH risks into four groups to determine appropriate enforcement actions.

²⁵ These are the penalties following the legislative amendments (see **para. 3.38**). Prior to the amendments, the penalties were a fine of \$200,000 and imprisonment for 12 months.

²⁶ These are the penalties following the legislative amendments (see **para. 3.38**). Prior to the amendments, the penalties were a fine of \$500,000 and imprisonment for 12 months.

²⁷ This is the penalty following the legislative amendment (see **para. 3.38**). The penalty prior to the amendment was a fine of \$50,000.

Table 6: Classification of OSH risks and corresponding enforcement actions by LD

Risk Category	Contravention	LD's enforcement action
Group 1	<ul style="list-style-type: none"> • Imminent risk of death or serious bodily injury to workers. Delay in controlling it may seriously endanger workers. • Examples: Cranes lifting loads beyond their capacity; serious mechanical damage to lifting appliance; and disregard of working-at-height safety. 	<ul style="list-style-type: none"> • To issue a suspension notice to the contractor, requiring the cessation of the relevant work, process, or use of equipment until the Department is satisfied that the contractor has taken measures to eliminate the hazard. Only then may work resume. • If sufficient evidence is available, prosecution may also be initiated for the violation.
Group 2	<ul style="list-style-type: none"> • Risks of serious bodily injury or ill health, or considerable fire hazards. • Examples: blocked exits or emergency doors being locked and inadequate measures to prevent workers from falling from height. 	<ul style="list-style-type: none"> • To initiate prosecution. • To issue an improvement notice to the contractor if the offences are likely to be repeated or continuing.
Group 3	<ul style="list-style-type: none"> • Risks of a less serious nature, or the contractor has taken some actions to reduce the risk substantially despite that the relevant regulations have not been fully complied with. 	<ul style="list-style-type: none"> • To issue an improvement notice to the contractor for rectification only, despite that its acts may constitute a violation of OSH legislation. If the situation improves, the Department will generally not initiate prosecution for the original contravention. • However, if the situation does not improve, LD will initiate prosecution against the contractor for both the original contravention and the non-compliance of the improvement notice.

Risk Category	Contravention	LD's enforcement action
Group 4	<ul style="list-style-type: none"> • The contravention involved typically does not pose an imminent or serious risk of bodily injury, and the nature of the contravention is milder than those in Group 3. • Examples: Lack of first aid facilities and failure to properly maintain records. 	<ul style="list-style-type: none"> • To give written warnings unless there are compelling reasons to take stronger enforcement action.

Follow-up on Suspension Notices

4.33 For suspension notices issued during routine safety inspections, LD will arrange staff to pay daily visits (including on public holidays) to the relevant construction site to ensure the contractor's compliance with the notice. If the occupational safety officer finds evidence that the contractor is taking appropriate remedial measures or is highly unlikely to resume unsafe work, the frequency of follow-up inspections may be reduced. Where the contractor is found to be actively implementing measures to eliminate the hazard, the inspection frequency may be further adjusted.

4.34 For suspension notices issued due to the occurrence of accidents, LD will conduct daily follow-up inspections to ensure the contractor takes sufficient measures to prevent similar incidents from recurring at the same site. If the contractor is taking appropriate remedial actions or is highly unlikely to resume unsafe work, the divisional occupational safety officer may adjust the frequency of follow-up inspections accordingly.

4.35 After serving a suspension notice on a contractor, if the construction project is a public works project or managed by other government departments or public organisation, LD will send a copy of the notice to the relevant authority to engage its monitoring of the contractor's safety performance and assistance in addressing deficiencies identified by LD. Where the notice involves a private construction site, a copy will be sent to BD. If the suspension notice remains in effect for 14 days without the contractor submitting a remedial plan, LD will promptly liaise with the relevant authority and arrange a case review meeting to eliminate the hazard as soon as possible.

4.36 To apply for revocation of a suspension notice, the contractor must develop a work plan that effectively eliminates the hazard and provide convincing evidence of how the plan will be implemented to the satisfaction of LD. The Regional Operations Division Head of LD will scrutinise the plan and revoke the notice only after confirming that the hazard has been effectively eliminated.

Follow-up on Improvement Notices

4.37 For violations requiring prompt rectification, improvement notices are typically issued without a specified compliance deadline. For other cases, a deadline of two to four weeks is generally set, depending on the nature of the irregularities and the time needed for rectification. In exceptional circumstances such as the installation of effective safeguards on complex machinery, the divisional occupational safety officer has the discretion of stipulating a longer period for compliance, but in no case should it exceed three months.

4.38 LD will conduct follow-up inspections at the construction site concerned either after the compliance deadline or within 2 to 4 weeks of issuing the improvement notice. If the contractor fails to comply with the notice, prosecution will be initiated and further follow-up will continue. If the situation continues, LD will institute prosecutions again until compliance is achieved.

4.39 As with suspension notices, copies of improvement notices will be sent to the relevant government department or public organisation (for public works) or to BD (for private projects).

ENFORCEMENT FIGURES

Improvement Notices and Suspension Notices

4.40 Between 2018 and 2023, LD issued an average of approximately 2,949 improvement notices per year, with 68% related to new works and 32% to renovation and repair works. During the same period, an average of 457 suspension notices per year were issued, with 41% related to new works and 59% to renovation and repair works. LD noted that the time required to revoke a suspension notice depends on the complexity of the remedial work, the contractor's responsiveness, and the completeness of the submitted documentation. Based on the experience of frontline occupational safety officers, the revocation process for construction-related suspension notices can take as long as four months, or as short as a few days.

Overall Prosecution Figures

4.41 Between 2018 and 2023, LD compiled statistics on the number of prosecutions related to OSH in the construction industry, along with corresponding court sentences.

Table 7: Figures on prosecutions against breach of OSH legislation and penalties imposed by Court

Year	Number of cases of breach of OSH legislation #	Number of prosecutions #^	Number of conviction cases *#	Average fine of each conviction	Cases# in which imprisonment was imposed
2018	2,209	2,524	1,876	\$10,552	0
2019	2,343	2,305	1,767	\$8,777	0
2020	1,703	2,015	1,439	\$8,127	0
2021	1,962	1,872	1,341	\$8,144	1 Two weeks' imprisonment
2022	2,400	2,034	1,195	\$8,694	0
2023	2,409	2,322	1,711	\$8,992	0

Number of cases refers to the number of summonses.

^ Cases of breach of OSH legislation might not be brought to prosecution during the year and so the two figures might not tally.

* As the court hearing for prosecution cases might not be concluded within the year, the number of cases where the hearing was concluded might not tally with the number of conviction cases during the year.

4.42 As regards the overall prosecution situation in the construction industry, the numbers of prosecutions and convicted cases declined from its peak in 2018, followed by an upward trend in recent years. Between 2018 and 2023, the number of convictions ranged from 1,195 to 1,876 cases each year, while the average fine imposed ranged from \$8,127 to \$10,522. The only imprisonment case in recent years occurred in 2021, involving an accident during renovation and repair works. The defendant was convicted on one summons and sentenced to imprisonment, which was served concurrently with a separate conviction for dangerous driving causing death in the same fatal incident. The highest fine imposed by the court between 2018 and 2023 was \$180,000.

4.43 Between 2018 and 2023, the contractors having the largest and the second largest numbers of convictions had been convicted for 77 and 56 times respectively.

Prosecutions for Failure to Submit Statutory Notifications of Construction Works

4.44 LD strictly enforces the requirement for statutory notification of construction sites. Occupational safety officers will look for any unreported sites through routine inspections and area patrols.

4.45 LD's observations reveal that compliance in this area has been satisfactory in the construction industry. Between 2018 and 2023, only three unreported

construction sites were identified, and prosecutions were initiated against the respective contractors. The fines imposed were \$5,000, \$2,000, and \$3,500 respectively.

SITE INSPECTIONS BY THE OFFICE

Notifications of Renovation and Repair Works

4.46 Between November 2023 and February 2024, our staff joined two LD inspections conducted by occupational safety officers of truss-out bamboo scaffolding works at private housing estate, which were reported by HKAPMC members, and one truss-out bamboo scaffolding works in a public housing estate reported by HD. LD staff conducted surprise inspections based on the expected commencement dates provided in the notifications.

4.47 Of the three notifications, only one site was found to be active during inspection. The property management company had reported that scaffolding works would be carried out in four units of the estate. On the inspection day, the property management company staff informed the occupational safety officers that works was underway in one unit. Upon explaining the purpose of the visit to the resident, the occupational safety officers gained access and made the following observations:

- One scaffolder was working with half his body outside the window, preparing to install an angle bracket near the planter box for scaffolding to allow other workers to repair external pipes. Another qualified scaffolder was present, serving as a “competent person” for bamboo scaffolding (see **Chapter 5** for detailed description).
- Although the scaffolder wore a safety helmet and full-body harness, the lanyard was clipped back onto the harness itself, rather than onto an independent lifeline.
- The external wall had been installed an eye bolt and lifelines. However, the occupational safety officers confirmed after checking that these had not been examined by a “competent examiner”, and the lifeline lacked a fall arrester.
- The property management company staff claimed the scaffolding work had not yet started and that the eye bolt must be installed before examination. The occupational safety officers clarified that only examined eye bolt may be used, and that the worker’s position outside the window showed that he was engaging in scaffolding work.

4.48 Due to the imminent danger of death or serious bodily injury at the site concerned, the occupational safety officers immediately issued a suspension notice, and strongly advised workers not to proceed with the works in the other three units. LD staff later visited those units and confirmed that no work was being carried out. The occupational safety officers recorded a statement from the scaffolder involved, explained the content of the suspension notice, and outlined the procedures for its revocation, including the submission of an improvement proposal. The occupational safety officers emphasised that intensive inspections would be conducted while the notice remained in force and warned of the consequences of non-compliance. The officers also reiterated the safety requirements, and required the property management company staff to assist in monitoring. The occupational safety officers distributed the "Guide on Construction and Work Safety of Truss-out Bamboo Scaffolds" to those present.

4.49 For the other two notifications, no active works was found during surprise inspections. Nevertheless, the occupational safety officer reminded management and security staff of key safety points and conducted follow-up inspections until the works were completed.

Area Patrols

4.50 On a weekend in January 2024, our staff joined the occupational safety officers of LD on an area patrol to inspect the rooftop of a private building enclosed with bamboo scaffolding, where waterproofing and external wall repairs were underway.

4.51 The occupational safety officers identified a number of unsafe operations at the construction site. More than half of the workers were not wearing safety helmets, and one worker was operating an electric mixer without a safety guard. Cigarette butts were found in the rest area, and a damaged extension socket (commonly referred to as a "power bar") was present on-site. Based on the information gathered during the inspection, the number of workers and the duration of the works met the threshold for statutory notification, yet no record of such notification had been submitted to LD. Subsequently, LD issued improvement notices to the relevant contractors, citing violations including the failure to ensure workers wore safety helmets, the lack of effective guarding on the hazardous part of the electric mixer, and the failure to notify LD of the construction site. In the inspection report provided to the contractors, LD also stated that it was considering legal action regarding these violations.

**Figure 3: Electric mixer in use for mortar mixing without a safety guard
(Photograph taken by our staff in January 2024)**



**Figure 4: Safety guard of the electric mixer
(Photograph taken by our staff in January 2024)**



**Figure 5: Workers not wearing safety helmets, including the foreman (far left)
(Photograph taken by our staff in January 2024)**



MONITORING OF REGISTERED SAFETY AUDITORS AND REGISTERED SAFETY OFFICERS

4.52 In 2018, LD established two new Safety Management Offices dedicated to overseeing the performance and professional conduct of safety personnel, including registered safety auditors and registered safety officers.

Registered Safety Auditors

4.53 Under the current legislation, a registered safety auditor shall notify LD at least 14 days prior to the conduct of a safety audit, and submit the safety audit report to the appointing contractor within 28 days after completing the audit. If the report contains improvement recommendations, the contractor shall draw up an improvement plan within 14 days after receiving the report and implement the plan as soon as is practicable. The contractor should also submit both the safety audit report and the improvement plan to LD within 21 days after receiving the report.

4.54 LD reviews all safety audit reports and improvement plans submitted by contractors. Should any doubts arise regarding the report's content, occupational safety officers will conduct site inspections to verify actual safety conditions and assess whether the registered safety auditors have properly performed their duties. The Department also conducts site inspections on selected sites to examine the conduct of safety audits by registered safety auditors.

4.55 Additionally, LD selects construction sites in which fatal industrial accidents occurred or sites with consistently poor safety performance for audit visits. These

inspections include a comprehensive evaluation of the site's safety management system and an assessment of the safety auditors' performance and the quality of their audit reports.

4.56 Between 2018 and 2023, LD's Safety Management Offices received an average of 3,253 safety audit reports each year, covering 1,844 construction sites. During the same period, they conducted an average of 117 audit visits per year, involving 38 sites. However, over the past six years, the Safety Management Offices had only conducted four audit visits among all the safety audits by registered safety auditors.

Registered Safety Officers

4.57 As required by law, a contractor shall display in a conspicuous place at construction sites where a registered safety officer is employed, a notice in the approved form showing in both Chinese and English the name of the contractor and the name, contact telephone number and duties of the registered safety officer. LD's occupational safety officers check and record such information during site inspections and interview the contractor concerned to confirm whether the registered safety officer has performed his duties.

4.58 LD stated that during each site inspection, occupational safety officers request the contractor for the monthly reports completed by the registered safety officers to check whether they comprehensively reflect the OSH conditions of the site, thereby assessing the performance of the registered safety officers.

4.59 As regards suggestions that the number of registered safety officers should be proportionate to the scale of the site, LD clarified that the legislation requires contractors to engage registered safety officers in developing safety work systems and safety management systems, providing professional advice to help contractors, as employers, fulfil their statutory duty to safeguard employees' safety and health. Hence, the OSH legislation sets a minimum requirement for the number of registered safety officers employed: contractors employing 100 or more persons across one or more sites shall employ a full-time registered safety officer. While this is merely a baseline, contractors may, depending on operational need, determine the number of registered safety officers to be employed. Based on the experience of LD's frontline staff, most large contractors and construction sites employ more registered safety officers than the legal minimum.

4.60 On the other hand, some have proposed that registered safety officers should be employed by project owners to ensure their independence from the contractors and avoid conflicts of interest. LD responded that under the prevailing OSH legislation, contractors bear ultimate responsibility for ensuring the OSH of workers at construction sites. If registered safety officers were employed by project owners, they might prioritise the owner's interests when advising contractors, potentially compromising site safety. The Department also cited Regulation 19 of the Factories and Industrial

Undertakings (Safety Officers and Safety Supervisors) Regulations, which requires contractors to provide all necessary assistance and facilities for registered safety officers to perform their duties effectively. During inspections, occupational safety officers review monthly reports compiled by registered safety officers to monitor their performance. If a registered safety officer is found to have neglected their duties, LD will take disciplinary action, which may include suspension or cancellation of their registration depending on the severity of the case.

Monitoring List and Regulatory Action

4.61 Since 2019, LD's Safety Management Offices have placed registered safety auditors and registered safety officers on a one-year monitoring list under certain specified circumstances, such as:

- they failed to properly perform their duties;
- serious or fatal industrial accidents occurred at the construction sites where they worked;
- there were complaints regarding their work performance or professional conduct; or
- in-depth surprise inspections were conducted by LD at their work sites.

4.62 During the one-year monitoring period, the Safety Management Office closely follows up on the performance of the registered safety auditors and registered safety officers. By scrutinising reports compiled by those safety auditors and safety officers, and records of site safety meetings, training logs and accident investigation reports relating to the construction sites concerned, alongside conducting site visits and interviewing relevant personnel, LD can assess whether they are properly fulfilling their responsibilities.

4.63 LD stated that only a very small number of registered safety auditors or registered safety officers have shown performance deficiencies in the past, and these were minor in nature. Hence, only written warnings were issued, without letter of admonishment or letter of censure. LD believes that individuals on the monitoring list generally meet performance standards after the one-year period. Therefore, in recent years, no registrations of safety auditors and safety officers have been suspended or cancelled.

4.64 As of 31 December 2023, there were 4,118 registered safety officers with valid registrations and 1,650 registered safety auditors. Among them, 58 registered safety officers and 38 registered safety auditors were placed on the monitoring list.

4.65 Under the Factories and Industrial Undertakings (Safety Officers and Safety Supervisors) Regulations, there are no provisions for prosecuting registered safety

officers. However, registered safety auditors may be prosecuted for violations under the Factories and Industrial Undertakings (Safety Management) Regulation. Between 2017 and 2023, only one registered safety auditor was prosecuted in 2023 for failing to notify the Commissioner for Labour of an audit arrangement within 14 days prior to the conduct of safety audit. LD issued a written warning to the registered safety auditor and institute a prosecution under sections 18(b) and 34(4) of the Factories and Industrial Undertakings (Safety Management) Regulation. The registered safety auditor pleaded guilty and was fined \$500. Moreover, the registered safety auditor was placed on a one-year monitoring list. During follow-up actions, the occupational safety officers scrutinised the registered safety auditor’s submission and audit reports, and inspected his conduct of safety audit. Upon confirming the registered safety auditor’s compliance with the Factories and Industrial Undertakings (Safety Management) Regulation and relevant codes of practice, LD ceased follow-up actions after the monitoring period ended.

Cases Being Placed on Monitoring List and Involving Written Warnings

4.66 The Office has studied four recent cases where registered safety auditors or registered safety officers, previously placed on the monitoring list and received written warnings issued by LD, were later removed from the list. These cases comprised two registered safety auditors and two registered safety officers.

4.67 In the cases involving registered safety auditors, two registered safety auditors were given written warnings due to one-day delay in submitting safety audit reports and delay in notifying LD of the safety audit arrangements. After reviewing their submissions, LD did not find any significant deficiencies. Both registered safety auditors were removed from the monitoring list after the monitoring period of one year and two years respectively.

4.68 As regards cases involving registered safety officers, one registered safety officer was given written warning for failing to countersign weekly reports prepared by the safety supervisor, and the other was given written warning for failing to submit the monthly reports to the contractor by the end of the month. LD met with one of them only once during the one-year monitoring period. Nevertheless, as he no longer worked at the site and his whereabouts were unknown, he was removed from the monitoring list on the grounds of no significant inadequacies found. Separately, LD paid three visits to the construction site concerned to inspect the work of the other registered safety officer. After evaluating his performance, LD removed him from the monitoring list also on the grounds of no significant inadequacies found.

SAFETY COMMITTEES

4.69 LD noted that as part of the safety audit process, registered safety auditors will verify whether site safety committees are properly established and functioning (see **para. 3.24**). Where inadequacy is found in the safety management system, including

the safety committee, the registered safety auditor should make recommendations to the contractor. LD will review the audit reports prepared by the registered safety auditor to understand the status of the site's safety committee, and also examine relevant documents and minutes of meetings during site inspections to assess compliance.

5

REGULATION OF HIGH-RISK OPERATIONS

5.1 This chapter provides an overview of LD's regulation of four types of high-risk operations, including scaffolds (specifically bamboo scaffolds), suspended working platforms, lifting operations and confined spaces.

OVERVIEW OF STATUTORY PROVISIONS

5.2 Several subsidiary regulations of FIUO, including the Construction Sites (Safety) Regulations, the Factories and Industrial Undertakings (Suspended Working Platforms) Regulation, the Factories and Industrial Undertakings (Lifting Appliances and Lifting Gear) Regulations and the Factories and Industrial Undertakings (Confined Spaces) Regulation, govern the plants, machinery and environment associated with high-risk operations such as scaffolds (including bamboo scaffolds), suspended working platforms, lifting operations and confined spaces.

5.3 Under the Construction Sites (Safety) Regulations, the Factories and Industrial Undertakings (Suspended Working Platforms) Regulation, the Factories and Industrial Undertakings (Lifting Appliances and Lifting Gear) Regulations, contractors shall ensure that a high-risk plant or machine is not used unless a competent professional or technician has certified, in a prescribed form, that it is in safe working order.

5.4 Regarding work in confined spaces, the Factories and Industrial Undertakings (Confined Spaces) Regulation stipulates that a proprietor or contractor shall appoint a competent person to carry out a risk assessment and submit a written report on the proposed work; and after the recommendations in the risk assessment report are implemented, the proprietor or contractor is required to issue a permit-to-work certificate before allowing certified workers to enter and work in the confined space. The relevant requirements are summarised below:

Table 8: Subsidiary regulations of FIUO governing common high-risk operations in the construction industry and the relevant written reports

Subsidiary regulations and the relevant written reports		Type of high-risk work, plant, machinery and environment regulated	Person signing the relevant written reports
Construction Sites (Safety) Regulations	Form 1	Hoist	Competent technician
	Form 2 Form 3		Registered professional engineer in a specified discipline
	Form 4	Excavations and earthworks (e.g. shaft, pit, opening, etc.) and structures erected in connexion therewith	Competent technician
	Form 5	Work at height: scaffolds (including truss-out bamboo scaffolds)	Competent technician
Factories and Industrial Undertakings (Suspended Working Platforms) Regulation	Form 1	Work at height: suspended working platforms	Competent technician
	Form 2 Form 3		Registered professional engineer in a specified discipline
Factories and Industrial Undertakings (Lifting Appliances and Lifting Gear) Regulations	Form 1	Lifting appliances	Competent technician
	Form 5		Registered professional engineer in a specified discipline
	Form 4	Lifting appliances (except cranes, crabs and winches)	Registered professional engineer in a specified discipline
	Form 3	Cranes, crabs and winches	
	Form 2	Anchoring and ballasting of cranes	
	Form 6 Form 7	Chains, ropes and lifting gear (including independent lifelines for work-at-height and eye bolts as anchorages of fall arresting harness)	Registered professional engineer in a specified discipline or competent technician ²⁸
Factories and Industrial Undertakings (Confined Spaces) Regulation	Risk assessment report	Confined spaces	Competent technician
	Permit-to-work certificate		Proprietor or contractor

²⁸ According to the “Guide on Construction and Work Safety of Truss-out Bamboo Scaffolds” issued by LD and the “Guidelines on the Design, Installation and Maintenance of Cast-in Anchors at External Walls of New Buildings” published by CIC, for the fall arresting system of truss-out bamboo scaffolds, apart from professional structural or mechanical engineers, a competent person who has completed the course for “Certification of Competence in the Selection, Installation, Use, Inspection and Testing of Anchor Devices and Cast-in Anchors for Attachment of Personal Fall Protection Equipment for Truss-out Bamboo Scaffolds” (“ACCP course”) organised by the OSHC is also eligible to inspect and test the relevant eye bolts or cast-in anchors. When it is impracticable to provide fixed anchorages due to restrictions of the site environment, transportable temporary anchor devices may be used, which must be supervised, installed and inspected by a competent person who has completed the “Certificate Course in Safety at Work for Repair, Maintenance, Alteration and Addition Works” (“DOCC course”) organised by the OSHC, or proper training provided by suppliers or other organisations.

BAMBOO SCAFFOLDS

5.5 The legislative requirements governing bamboo scaffolding work are mainly set out in Part VA of the Construction Sites (Safety) Regulations. Major relevant publications of LD include:

- A Guide to the Provisions for Safe Places of Work under Part VA of the Construction Sites (Safety) Regulations;
- Code of Practice for Bamboo Scaffolding Safety; and
- Guide on Construction and Work Safety of Truss-out Bamboo Scaffolds (for truss-out bamboo scaffolds).

Figure 6: Guide on Construction and Work Safety of Truss-out Bamboo Scaffolds (Source: LD website)



Erection, Addition, Alteration or Dismantling of Bamboo Scaffolds

5.6 Principal contractors usually subcontract works involving erection, addition, alteration or dismantling of bamboo scaffolds to bamboo scaffolding companies. According to the Code of Practice for Bamboo Scaffolding Safety, a bamboo scaffolding company, as subcontractor, should draw up a scaffolding plan, spelling out the ways and means to carry out work safely and effectively, and have it incorporated into the safety plan of the main construction project.

5.7 Section 38E of the Construction Sites (Safety) Regulations provides that the contractor responsible for a scaffold on a construction site and any contractor who has direct control over a scaffold shall ensure that the scaffold is not erected, added to, altered or dismantled except by workmen who are adequately trained and possess adequate experience of such work under the immediate supervision of a “competent person”. A “competent person”, as interpreted in the Regulations, must be appointed by the contractor and be competent to perform the relevant duty by reason of substantial training and practical experience.

5.8 The Code of Practice for Bamboo Scaffolding Safety provides specific details on the substantial training and practical experience required for a “competent person”, which generally means that the person has completed formal training in bamboo scaffolding works, possesses an experience of 10 years or more in bamboo scaffolding works and has the ability to read and understand scaffolding plan and other important documents and the ability to identify risks.

5.9 According to the Code of Practice for Bamboo Scaffolding Safety, a “trained workman” refers to a scaffolder who has completed formal training in bamboo scaffolding works equivalent to the above training organised for “competent persons”, or has passed the intermediate trade test for bamboo scaffolders held by CIC, and possesses at least one year of experience in bamboo scaffolding works. The revised Code of Practice for Bamboo Scaffolding Safety, which came into effect on 19 October 2024, further requires all workers who perform erection, addition, alteration or dismantling of truss-out scaffolds to hold a valid certificate of “Advanced Level Truss-out Scaffolder Safety Training” or “Intermediate Level Truss-out Scaffolder Safety Training” issued by CIC before performing specified work.

5.10 The Code of Practice for Bamboo Scaffolding Safety stipulates that when performing supervisory duties, the “competent person” should focus on monitoring the safety condition of the bamboo scaffold and the safety of the workmen, and should not engage in the bamboo scaffolding work at the same time. The revised Code of Practice for Bamboo Scaffolding Safety further specifies the requirements of supervising work of “competent persons” to the bamboo scaffolders who perform erection, addition, alteration or dismantling of bamboo scaffolds and inspection prior to inclement weather. Other major revisions of the code include enhancing technical requirements for the bracings, putlogs and access and egress of bamboo scaffolds; and prohibiting unauthorised alteration of bamboo scaffolding including putlogs.

Inspection of Bamboo Scaffolds

5.11 Upon completion of the erection, addition or alteration of a bamboo scaffold, the “competent person” must inspect its strength and stability and sign a prescribed form as confirmation. Section 38F(1)(a) of the Construction Sites (Safety) Regulations stipulates that a contractor shall ensure that a scaffold is not used unless it has been inspected by a “competent person”:

- before being taken into use for the first time;
- after any substantial addition, partial dismantling or other alteration;
- after any exposure to weather conditions likely to have affected its strength or stability or to have displaced any part; and
- at regular intervals not exceeding 14 days immediately preceding each use of the scaffold.

5.12 Under section 38F(1)(b) of the Construction Sites (Safety) Regulations, a “competent person” must sign a Form 5 after inspecting a scaffold to certify that it is in safe working order. The completed Form 5 must then be delivered forthwith to the contractor, failing which the “competent person” commits an offence and will be liable to a fine of \$50,000. Furthermore, section 70(2) of the Regulations provides that any “competent person” who delivers to a contractor any Form 5 which is to his knowledge false as to a material particular shall be guilty of an offence and shall be liable to a fine of \$200,000 and to imprisonment for 12 months. A contractor who fails to ensure that a scaffold has been inspected by a “competent person” in accordance with the Regulations commits an offence and is liable to a fine of \$400,000.

5.13 Contractors are also required under section 38F(4) of the Construction Sites (Safety) Regulations to at all times keep the Form 5 on the construction site on which the scaffold to which the Form 5 relates is located for inspection by LD and scaffold users.

5.14 Under the current legislation, “competent persons” are not required to retain the Form 5 they have issued or the associated records of scaffolding inspection. Moreover, neither “competent persons” nor contractors are required to submit a Form 5 to LD. According to LD, during site inspections, occupational safety officers will check the Form 5 provided by contractors based on an inspection checklist. If Form 5 is not kept on a site, the occupational safety officer will issue a letter requesting the contractor to submit the form within a specified time frame. A contractor who fails to comply with the request to provide a Form 5 or its copy for inspection commits an offence and is liable to a fine of \$25,000.

**Figure 7: Form 5
(Source: LD guidelines)**

僱主或承建商姓名或名稱 Name or Title of Employer or Contractor 建築地盤地址 Address of Site 開始施工日期 Work Commenced Date	表格五 FORM 5 建築地盤(安全)規例 棚架 每十四日一次或在其他場合執行的檢查結果報告 本表格乃由勞工處處長為施行建築地盤(安全)規例第 38F(1)條而認可 Construction Sites (Safety) Regulations SCAFFOLDS REPORTS OF RESULTS OF FORTNIGHTLY OR OTHER INSPECTIONS <i>Form approved by the Commissioner for Labour for the purposes of regulation 38F(1) of the Construction Sites (Safety) Regulations</i>	[規例第 38F(1)條] [reg. 38F(1)]	
有關棚架的說明或所在地點 Description or location	檢查日期 Date of inspection	檢查結果 註明該座棚架是否處於安全操作狀態 Result of inspection State whether the scaffold is in safe working order	檢查者簽署及職階 Signature and designation of person who made the inspection
(1)	(2)	(3)	(4)

任何合資格檢驗員或合資格的人，如向承建商交付他明知有任何要項屬虛假的證明書或報告，即屬犯罪：一經定罪，可處罰款二十萬元及監禁十二個月。
 Any competent examiner or competent person who delivers to a contractor a certificate or makes a report which is to his knowledge false as to a material particular shall be guilty of an offence and shall be liable on conviction to a fine of \$200,000 and to imprisonment for 12 months.
 CSSR-F5

Fall Arresting System for Working on Bamboo Scaffolds

5.15 Wearing a safety harness and securely fastening it to an effective anchorage system is the last defence against falls from height.

5.16 According to the Guide on Construction and Work Safety of Truss-out Bamboo Scaffolds, contractors must provide workers with full-body safety harnesses and anchorage systems (such as lanyards, independent lifelines and fall arrestors) that meet specified standards for the erection, addition, alteration or dismantling of or working on truss-out scaffolds or bamboo scaffolds. Contractors must also ensure that workers wear their safety harnesses properly, with the lanyards attached to secure anchorages such as cast-in anchors, eye bolts or fall arrestors connected to independent lifelines that fastened to secure anchorages, before commencing any erection, addition, alteration or dismantling of truss-out scaffolds or working on bamboo scaffolds.

Figure 8: Eye bolt and a worker using an eye bolt
(Source: LD's Guide on Construction and Work Safety of Truss-out Bamboo Scaffolds)



5.17 As to the responsibilities of the workers themselves, section 38I of the Construction Sites (Safety) Regulations stipulates that every person working on a construction site who has been provided with a safety belt shall wear it and keep it attached to a secure anchorage whenever the use of the belt is necessary for his own or any other person's safety. Failure to comply with such requirement constitutes an offence and carries a fine of \$150,000.

5.18 To ensure that the independent lifelines used for work-at-height are of sufficient pull-out force and that the eye bolts are securely fastened to an anchorage point, they must, before use, be inspected and tested either by a professional structural or mechanical engineer who then issues the prescribed forms under the Factories and Industrial Undertakings (Lifting Appliances and Lifting Gear) Regulations (i.e. Forms 6 and 7), or by a competent person who has completed a course specified by OSHC and who then issues a corresponding report.

Site Inspection by the Office

5.19 In January 2024, our staff joined LD's occupational safety officers in a construction site inspection in response to a complaint regarding unsafe operations involving a bamboo scaffold. The scaffold in question extended from the ground floor to the first floor of two adjoining buildings. During the inspection, none of the four workers on site were wearing safety helmets, and the two workers working on the scaffold were not using full-body harnesses properly. Besides, no independent lifeline

was available for use by the workers. The “competent person” for scaffolding works (the person-in-charge of the scaffolding company) improperly participated in the work rather than overseeing it from the sidelines. The individual who hired the workers to erect the scaffold was also present, yet he did not stop the workers from working in an unsafe condition, demonstrating his lack of understanding of the safety requirements for work-at-height.

**Figure 9: Inadequate safety equipment for workers on the bamboo scaffold
(Taken by our staff in January 2024)**



5.20 The occupational safety officers requested that the four workers present their green cards and training certificates, and statements were taken from each of them. In view of the unsafe working environment at the site, the occupational safety officers issued two suspension notices to the person-in-charge of the scaffolding company, requiring a suspension of the work on the scaffold in question, as well as the erection, dismantling and alteration of scaffolds at the site. In addition to explaining the content of the suspension notices, the occupational safety officers reiterated to the person-in-charge of the scaffolding company the relevant safety requirements and the conditions under which the suspension notices may be revoked.

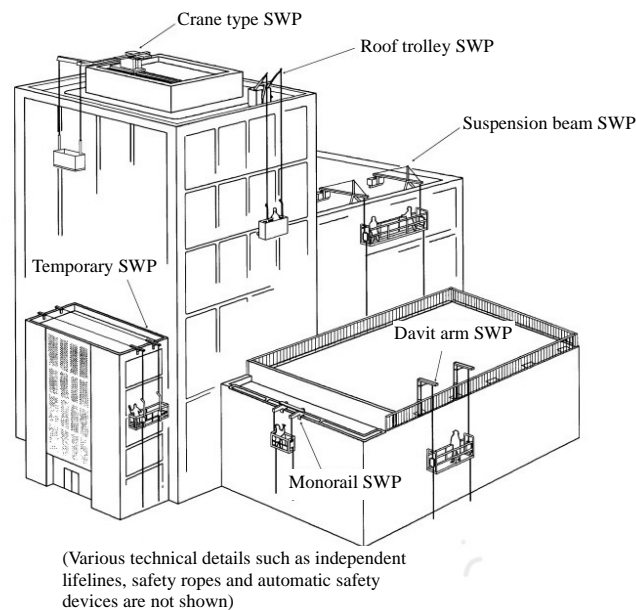
SUSPENDED WORKING PLATFORMS

5.21 The statutory requirements governing the work involving suspended working platforms are mainly set out in the Factories and Industrial Undertakings (Suspended Working Platforms) Regulation. Major relevant publications of LD include:

- A Guide to the Factories and Industrial Undertakings (Suspended Working Platforms) Regulation;

- Code of Practice for Safe Use and Operation of Suspended Working Platforms; and
- Guidance Notes on the Inspection, Thorough Examination and Testing of Suspended Working Platforms.

Figure 10: Various types of suspended working platforms
(Source: LD website)



Inspection, Examination and Testing of Suspended Working Platforms

5.22 The Factories and Industrial Undertakings (Suspended Working Platforms) Regulation provides that the owner of a suspended working platform (including the contractor responsible for the construction site, and the lessee or hirer of a suspended working platform or any overseer or foreman) shall ensure that the suspended working platform has been inspected, examined or tested by a “competent person” or a “competent examiner” the owner appointed before being used to carry persons. An owner who fails to comply with such requirement commits an offence and is liable to a fine ranging from \$100,000 to \$400,000 and to imprisonment for 12 months, depending on the charges committed.

5.23 Under section 19 of the Factories and Industrial Undertakings (Suspended Working Platforms) Regulation, the owner of a suspended working platform shall ensure that –

- the suspended working platform has been inspected in the immediately preceding 7 days before its use by a “competent person” who has issued Form 1 certifying its safe working order; and

- all the suspension ropes and safety ropes have been inspected and found in safe working condition by a “competent person” prior to commencement of daily work.

5.24 According to the Interpretation of the Regulation, a “competent person” means a person appointed by the owner of a suspended working platform to carry out a duty and who, by reason of substantial training and practical experience, is competent to perform such duty. Specifically, according to the Guidance Notes on the Inspection, Thorough Examination and Testing of Suspended Working Platforms, a “competent person” is normally a professionally trained mechanic, possessing adequate knowledge and practical experience in inspecting similar types of suspended working platforms, who is capable of detecting and assessing defects and potential hazards that could impact the safe operation of suspended working platforms. In practice, since the inspection process often involves operating the suspended working platform, the “competent person” should also hold the necessary qualifications to work on suspended working platforms. Upon completing the weekly inspection, the “competent person” is required to promptly submit a Form 1 to the owner of the suspended working platform.

5.25 In accordance with paragraphs 4.6.1 and 4.6.2 of the Guidance Notes on the Inspection, Thorough Examination and Testing of Suspended Working Platforms, LD strongly recommends the use of an inspection checklist to assist in the inspection of suspended working platforms. For maintenance records, LD strongly advises keeping a logbook where the “competent person” can record the basic information of a suspended working platform, defects and findings noted during the inspection and details of maintenance.

5.26 Section 20 of the Factories and Industrial Undertakings (Suspended Working Platforms) Regulation provides that the owner of a suspended working platform shall ensure that the suspended working platform –

- has been thoroughly examined in the immediately preceding 6 months before its use by a “competent examiner”, who has issued a Form 2 certifying that it is in safe working order; and
- has been load tested and thoroughly examined during the immediately preceding 12 months before its use by a “competent examiner”, who has issued a Form 3 certifying that it is in safe working order.

5.27 “Competent examiner” is defined in the Interpretation of this Regulation as a registered professional engineer within a specified discipline, appointed by the owner of a suspended working platform, and deemed competent by virtue of his previous experience to carry out a thorough examination or load test and thorough examination on the suspended working platform. In this connection, the Code of Practice for Safe Use and Operation of Suspended Working Platforms stipulates that the two disciplines specified by the Commissioner for Labour are mechanical engineering and marine engineering.

5.28 Under section 21 of the Factories and Industrial Undertakings (Suspended Working Platforms) Regulation, a “competent examiner” shall, within 28 days after thoroughly examining, or load testing and thoroughly examining a suspended working platform, deliver a signed Form 2 or Form 3 as applicable to the owner of the suspended working platform. Should the “competent examiner” discover that repairs are needed, he shall immediately inform the owner and deliver a report to him, with a copy of that report to the Commissioner for Labour, within 14 days. In addition, under section 31(2) of the Regulation, a “competent examiner” who delivers to an owner a signed Form 2 or Form 3 which is to his knowledge false as to any material particular commits an offence and is liable on conviction to a fine of \$200,000 and to imprisonment for 12 months.

5.29 Sections 24 to 26 of the Factories and Industrial Undertakings (Suspended Working Platforms) Regulation require the owner of a suspended working platform to keep and display the maintenance records, certificates and reports and furnish them to occupational safety officers on request. An owner who contravenes such requirements commits an offence and is liable to a fine of \$25,000.

Use and Operation of Suspended Working Platforms

5.30 According to section 17(1) of the Factories and Industrial Undertakings (Suspended Working Platforms) Regulation, persons working on suspended working platforms must be trained and competent. The owner of a suspended working platform shall ensure that every person working thereon is at least 18 years old, has completed an LD-recognised mandatory safety training course specifically designed for persons working on suspended working platforms (see **Table 21 in Chapter 10**), and has obtained a certificate in respect of such training.

5.31 Under section 15 and section 28(2) of the Factories and Industrial Undertakings (Suspended Working Platforms) Regulation, a person using a suspended working platform must wear a safety belt and keep it attached to an independent lifeline or other anchorage. Similar to the fall arresting system for working on scaffolds, the anchorage and independent lifeline must be examined by a relevant professional or technical person, with prescribed forms signed by him, in accordance with the Factories and Industrial Undertakings (Lifting Appliances and Lifting Gear) Regulations.

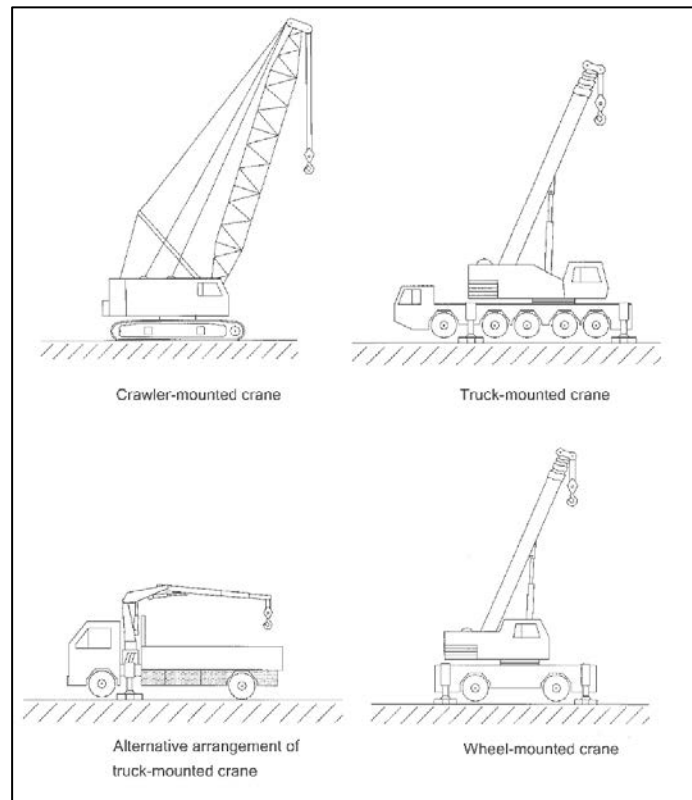
LIFTING OPERATIONS

5.32 The Factories and Industrial Undertakings (Lifting Appliances and Lifting Gear) Regulations constitute the primary legislation governing lifting operations, which

are applicable to lifting appliances²⁹ and lifting gear³⁰ used for raising or lowering or as a means of suspension in any industrial undertaking. Major relevant publications of LD include:

- A Guide to the Factories and Industrial Undertakings (Lifting Appliances and Lifting Gear) Regulations;
- Guidance Notes on Inspection, Thorough Examination and Testing of Lifting Appliances and Lifting Gear;
- Code of Practice for Safe Use of Tower Cranes; and
- Code of Practice for Safe Use of Mobile Cranes.

**Figure 11: Common types of mobile cranes
(Source: LD website)**



²⁹ Lifting appliance means a crab, winch, teagle, pulley block or gin wheel used for raising or lowering, and a crane, sheerlegs, excavator, pile driver, pile extractor, dragline, aerial ropeway, aerial cableway transporter or overhead runway, and also any part of any such appliance. Crane means any appliance equipped with mechanical means of raising and lowering a load and for transporting the load while suspended; and also all chains, ropes, swivels, or other tackle (down to and including the hook), used in the operation of a crane.

³⁰ Lifting gear means a chain sling, rope sling, ring or similar gear, and a link, hook, plate clamp, shackle, swivel or eye bolt.

Figure 12: Tower cranes
(Source: LD website)



Figure 13: Other types of tower cranes
(Source: LD website)

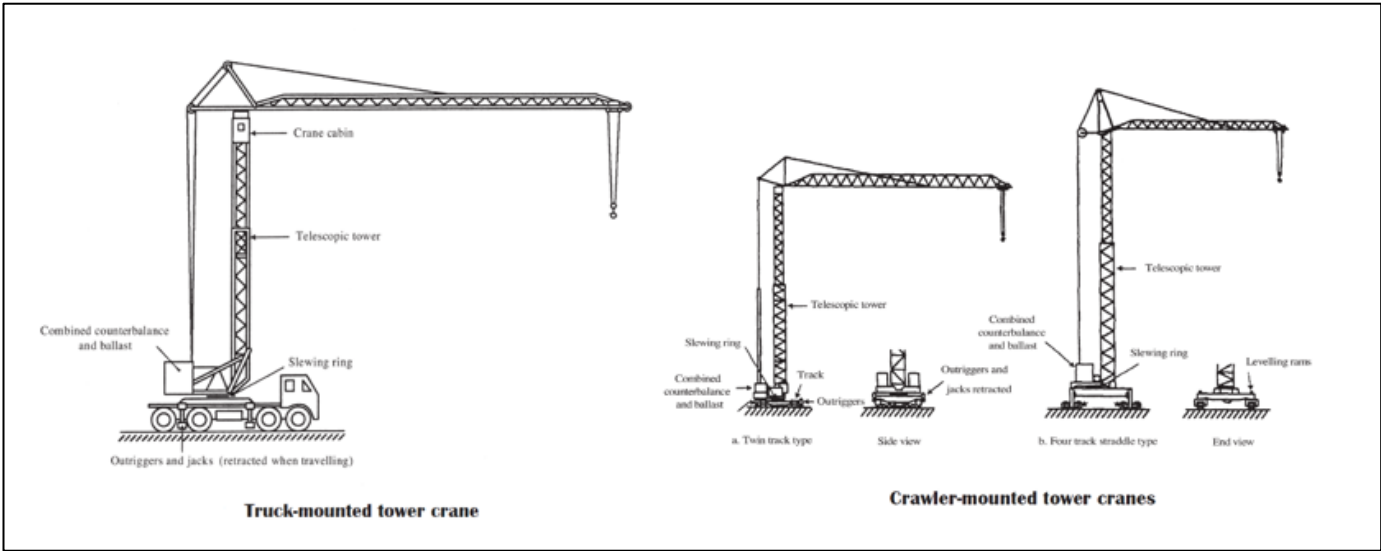
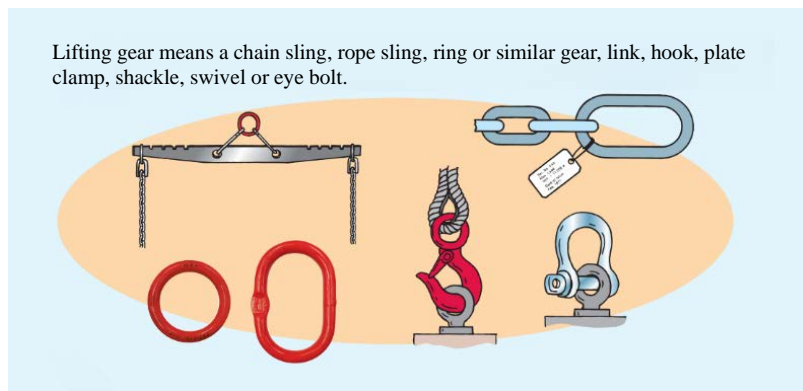


Figure 14: Lifting gear
(Source: OSHC website)



Inspection, Examination and Testing of Lifting Appliances and Lifting Gear

5.33 The Factories and Industrial Undertakings (Lifting Appliances and Lifting Gear) Regulations stipulate that owners of lifting appliances and lifting gear (including contractors of construction sites, lessees, hirers, overseers or managers of lifting appliances or lifting gear) shall ensure that their lifting appliances and lifting gear have been inspected, thoroughly examined and tested by a “competent person” or “competent examiner” appointed by them before use to ensure their safety and reliability. An owner who contravenes such requirement commits an offence and is liable to a fine ranging from \$100,000 to \$400,000 and to imprisonment for 12 months, depending on the offence committed.

5.34 Pursuant to sections 7A, 7B and 18 of the Factories and Industrial Undertakings (Lifting Appliances and Lifting Gear) Regulations, an owner shall ensure that a “competent person” -

- inspects the lifting appliance and, if necessary, the installed automatic safe load indicator³¹ within seven days before the lifting appliance is used, and issues a Form 1 certifying that the lifting appliance and the indicator are in safe working order; and
- inspect the lifting appliance before use on each occasion.

5.35 Under the Interpretation of the Regulation, a “competent person” means a person appointed by the owner of the lifting appliance or lifting gear to perform the duty required and who is competent to do so by reason of training and practical experience. Specifically, according to the Guidance Notes on the Inspection, Thorough Examination and Testing of Lifting Appliances and Lifting Gear, a “competent person” should

³¹ Automatic safe load indicator means a device intended to be fitted to a crane that automatically gives an audible and visible warning to the operator thereof that the crane is approaching its safe working load and that automatically gives a further audible and visible warning when the crane has exceeded its safe working load.

possess adequate knowledge and practical experience in handling the similar type of lifting appliances or lifting gear, and should be able to detect and assess defects and potential hazards that could affect the safe performance of the lifting appliances or lifting gear.

5.36 Under sections 5, 7B(1)(b), 7E, 7G(2)(a) and 18 of the Factories and Industrial Undertakings (Lifting Appliances and Lifting Gear) Regulations, the owner of a lifting appliance or lifting gear shall ensure that a “competent examiner” -

- tests and thoroughly examines the lifting appliance and signs Form 2, Form 3 or Form 4 to certify its safe working condition, before its initial use or within 4 years prior to its use; or after substantial repair, re-erection, failure, overturning or collapse; or after each erection and after each removal to a new location or any adjustment involving changes in anchoring or ballasting arrangements; or after exposure to weather conditions likely to have affected its stability, depending on the type of the lifting appliance;
- thoroughly examines the lifting appliance and signs Form 5 to certify its safe working condition, before its erection or at least once within 12 months prior to its initial use, depending on the type of the lifting appliance;
- tests and thoroughly examines the lifting gear (except a fibre rope or fibre-rope sling) and signs Form 6 to certify its safe working condition, before its initial use; and
- thoroughly examines the lifting gear and signs Form 7 to certify its safe working condition, within 6 months prior to its use.

5.37 According to the Interpretation of the Factories and Industrial Undertakings (Lifting Appliances and Lifting Gear) Regulations, “competent examiner” means a registered professional engineer in a specified discipline who is appointed by the owner of a lifting appliance or lifting gear and who, by reason of his qualifications, training and experience, is competent to carry out the tests and examinations. In the case of tower cranes and mobile cranes, for instance, the Code of Practice for Safe Use of Tower Cranes and the Code of Practice for Safe Use of Mobile Cranes stipulate that mechanical engineering and marine and naval architecture are the disciplines specified by the Commissioner for Labour.

5.38 A “competent person” or “competent examiner” who, having carried out any test, inspection or examination, fails or refuses to deliver forthwith, or within a reasonable time thereafter, to an owner the relevant forms, commits an offence and is liable to a fine of \$50,000 on conviction. In addition, where a test or examination indicates that a lifting appliance requires repair, the “competent examiner” shall immediately inform its owner and, within 14 days, deliver a report to the owner and a

copy of it to the Commissioner for Labour. Any “competent person” or “competent examiner” who delivers to an owner a certificate which is to his knowledge false as to any material particular commits an offence and is liable to a fine of \$200,000 and to imprisonment for 12 months.

5.39 Section 18C of the Factories and Industrial Undertakings (Lifting Appliances and Lifting Gear) Regulations requires the owner of a lifting appliance or lifting gear to keep, display, and make available for inspection at the request of an occupational safety officer from LD, the forms and reports issued in relation to the relevant tests, examinations or inspections. Any owner who contravenes the requirement commits an offence and is liable to a fine of \$25,000.

5.40 According to the Guidance Notes on Inspection, Thorough Examination and Testing of Lifting Appliances and Lifting Gear, a “competent person” or “competent examiner” should maintain a logbook to record inspection or examination results, as well as any defects or abnormal conditions identified during inspections or examinations.

Operations

5.41 Section 15A(1) of the Factories and Industrial Undertakings (Lifting Appliances and Lifting Gear) Regulations provides that a crane must be operated by a person who has attained the age of 18 years; has completed a mandatory safety training course (see **Table 21 in Chapter 10**) under the “Training Courses for Operators of Crane” organised by CIC or approved by the Commissioner for Labour, and has been issued with a relevant certificate; and is competent to operate the crane by virtue of his experience.

5.42 Under section 15B of the Factories and Industrial Undertakings (Lifting Appliances and Lifting Gear) Regulations, where a person operating a lifting appliance does not have a clear and unrestricted view necessary for the safe working of the appliance, the owner of the lifting appliance shall appoint and station one or more persons to give effective signals to the person operating the appliance to ensure its safe working. If it is impracticable to comply with the above requirement, the owner shall ensure that effective signalling arrangements or other means of communication exist between the person operating the appliance and the person employed in the loading or unloading of the appliance to ensure its safe working.

CONFINED SPACES

5.43 Work in confined spaces is governed by the Factories and Industrial Undertakings (Confined Spaces) Regulation, under which a “confined space” means any place in which, by virtue of its enclosed nature, there arises a reasonably foreseeable specified risk, and includes any chamber, tank, vat, pit, well, sewer, tunnel, pipe, flue, boiler, pressure receiver, hatch, caisson, shaft or silo in which such risk arises. Major

relevant publications of LD include:

- A Brief Guide to the Factories and Industrial Undertakings (Confined Spaces) Regulation;
- Code of Practice for Safety and Health at Work in Confined Spaces; and
- Safe Work in Confined Spaces (Guidebook).

Risk Assessment and Recommendations for Confined Spaces

5.44 Under the Factories and Industrial Undertakings (Confined Spaces) Regulation, when work is to be undertaken in a confined space, a proprietor or contractor shall appoint a “competent person” to conduct a risk assessment and make recommendations on measures to be taken to ensure the safety and health of workers. The proprietor or contractor is required to ensure the adoption of safety precautions, the use of appropriate personal protective equipment by the workers concerned, and the formulation and implementation of suitable emergency procedures both before and when the work is being carried out. A proprietor or contractor who contravenes such requirements commits an offence and is liable to a fine of \$400,000. Where the offence is committed without reasonable excuse, the penalty increases to a fine of \$400,000 and to imprisonment for 12 months.

“Competent Person” Conducting Risk Assessment and Preparing Report

5.45 Section 5 of the Factories and Industrial Undertakings (Confined Spaces) Regulation stipulates that before work begins in a confined space (including when workers enter the space for the first time and when there has been a significant change in the conditions of the confined space or the work activities therein), a proprietor or contractor shall appoint a “competent person” to carry out a risk assessment of the working conditions in the confined space and make recommendations on measures to be taken by the proprietor or contractor in relation to safety and health of workers while working in that space.

5.46 Under the Interpretation of the Factories and Industrial Undertakings (Confined Spaces) Regulation, a “competent person” conducting a risk assessment of the working conditions in a confined space must meet certain requirements, including having completed and obtained a certificate from a mandatory safety training course for “Competent Persons of Confined Spaces Operation” recognised by LD (see **Table 21 in Chapter 10**), or having been registered as a safety officer under the Factories and Industrial Undertakings (Safety Officers and Safety Supervisors) Regulations. He must have at least one year’s experience in assessing risk to the safety and health of workers working in confined spaces, after obtaining registration as a safety officer or certification from the mandatory safety training for “Competent Persons of Confined Spaces Operation”.

5.47 The “competent person” must specify the assessment and recommendations regarding work in a confined space in the risk assessment report. The report must identify the hazards likely to be present in the confined space, evaluate the extent of the risks arising from such hazards, and cover the items listed in section 5(2) of the Factories and Industrial Undertakings (Confined Spaces) Regulation, including the assessment of whether or not there is any hazardous gas, vapour, dust or fume present or there is any deficiency in oxygen, and the possibility of a fire or explosion in the confined space and loss of consciousness of a worker arising from an increase in body temperature due to ambient heat. To mitigate the identified hazards, the report must also include recommendations on the safety measures required, such as whether or not the use of approved breathing apparatus is necessary and the period during which workers may remain safely in the confined space.

5.48 Section 5(6) of the Factories and Industrial Undertakings (Confined Spaces) Regulation stipulates that a “competent person” shall submit a risk assessment report to the proprietor or contractor of a confined space within a reasonable time frame following the latter’s request for a risk assessment. Failure to comply with this requirement may result in a fine of \$10,000. Workers are prohibited from entering the confined space unless the proprietor or contractor has received the risk assessment report from the “competent person”.

5.49 In addition, section 14(2)(c) of the Regulation provides that a “competent person” who makes a risk assessment report which is to his knowledge false as to a material particular commits an offence and is liable to a fine of \$200,000 and to imprisonment for 12 months.

Compliance with Recommendations in Risk Assessment Report and Issuing of Certificate by Proprietor or Contractor

5.50 Upon receipt of the risk assessment report from the “competent person”, the proprietor or contractor must verify its content. Only after confirming that all necessary safety precautions have been effectively implemented can the proprietor or contractor issue a permit-to-work certificate, allowing certified workers to enter and perform tasks in the confined space concerned. Section 6(1) of the Factories and Industrial Undertakings (Confined Spaces) Regulation stipulates that the certificate must specify that the proprietor or contractor has complied with the safety measures recommended in the risk assessment report and state the period during which workers may safely remain in the confined space. The certificate should also indicate the location and type of the work to be undertaken.

5.51 Section 6(2) of the Factories and Industrial Undertakings (Confined Spaces) Regulation provides that a proprietor or contractor shall keep a risk assessment report and a certificate for one year after the work in the confined space to which they relate has been completed and shall make them available, on request, to an occupational safety officer of LD. A proprietor or contractor who contravenes this requirement commits an offence and is liable on conviction to a fine of \$25,000.

“Certified Workers” Entering a Confined Space to Work

5.52 A “certified worker” may enter a confined space to work upon issuance of a certificate by the proprietor or contractor. A “certified worker” refers to a person who has, in accordance with section 4(1) of the Factories and Industrial Undertakings (Confined Spaces) Regulation, completed a mandatory safety training course for “Certified Workers of Confined Spaces Operation” recognised by LD, and has been issued a certificate (see **Table 21 in Chapter 10**) certifying his competence to work in a confined space.

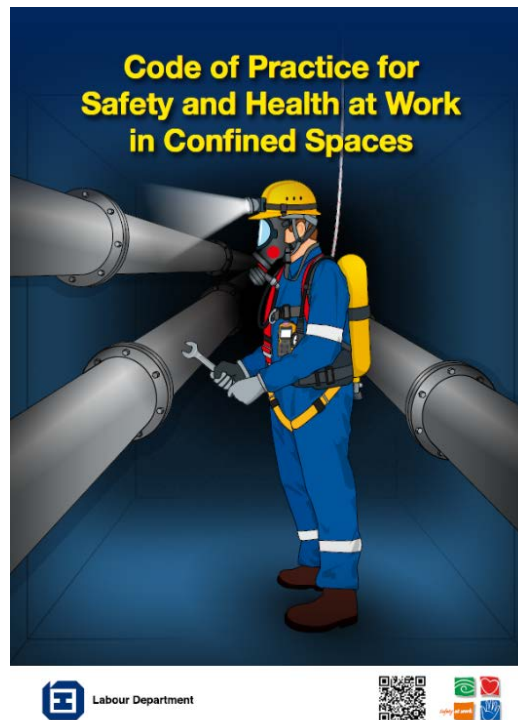
5.53 Before and when the work is being carried out, the proprietor or contractor shall also ensure the adoption of safety precautions and the use of appropriate personal protective equipment by “certified workers”, including but not limited to providing an adequate supply of respirable air and an effective forced ventilation; conducting atmospheric testing and purging to ensure that the confined space is a safe workplace; ensuring that the risk assessment report and the permit-to-work certificate are displayed in a conspicuous place at the entrance of the confined space; ensuring that a trained person is stationed outside the confined space to maintain communication with the “certified workers” inside and to hold the free end of a lifeline attached to the workers’ safety harness, which must be strong enough to pull the workers out.

5.54 According to section 10 of the Factories and Industrial Undertakings (Confined Spaces) Regulation, a proprietor or contractor shall formulate and implement appropriate emergency procedures to deal with any serious and imminent danger to “certified workers” inside a confined space.

Revision of the Code of Practice

5.55 The revised Code of Practice for Safety and Health at Work in Confined Spaces took effect on 30 November 2024. In response to the lack of an approved form or template for risk assessment reports in legislation or previous codes of practice, the revised code of practice introduces a detailed template of the risk assessment form, lists out the setting of an air-monitoring alarm and updates the Permit-to-work Certificate template. Other major revisions include the enhancement of requirements for proprietors’ or contractors’ supervision on confined space work; highlighting the factors for assessing whether a particular task constitutes underground pipework; and requiring proprietors or contractors to adopt technology to record videos at the entrance and exit of the confined space throughout the entire work period to monitor relevant personnel’s compliance with the safety precautions and to keep video records.

Figure 15: Code of Practice for Safety and Health at Work in Confined Spaces
(Source: LD website)



LD'S ENFORCEMENT ACTIONS

Signing of False Certificates by Professionals or Technicians

5.56 According to LD, if there are uncertainties or doubts regarding the information contained in documents or forms in relation to a construction site, occupational safety officers will take appropriate follow-up actions based on the actual circumstances. These actions may include conducting site inspections, meeting with or obtaining statements from construction site management, staff and other relevant individuals (including those who completed the documents) to verify the authenticity of the information.

5.57 Figures on prosecutions instituted by LD against individuals for providing false information in construction site documents or forms, as well as cases referred to the police for follow-up actions, between 2018 and 2023 are as follows:

Table 9: Number of prosecutions in relation to the signing of prescribed forms by professionals or technical staff

Year	No. of prosecutions	No. of cases referred to the police
2018	0	0
2019	0	0
2020	1	0
2021	0	0
2022	0	1
2023	12	3

5.58 The prosecution instituted in 2020 involved a “competent examiner” who, as a registered professional engineer, carried out a load test and a thorough examination on the chain slings of a truck-mounted crane before issuing a certificate (Form 6) certifying that the chain slings were in a safe working order. According to the information obtained by an occupational safety officer from a meeting with the crane operator and other relevant persons, the operator indicated that on the day of the alleged examination, the chain slings had all along been installed on the truck-mounted crane without any examination or testing being conducted. The operator also mentioned that he had only been away from the crane for three minutes. Nevertheless, the engineer claimed that he had performed a 10-minute examination of the chain slings on that day. Based on the information obtained, LD suspected that the engineer had submitted a false report to the principal contractor, and subsequently instigated prosecution. The court, however, considered that the evidence was insufficient and found the engineer not guilty.

5.59 The case referred to the police in 2022 involved two certificates provided by a subcontractor to the principal contractor for retention relating to the testing and thorough examination of a crane. According to the statement of the relevant registered professional engineer, on the date of the examination and signing the certificates, he did not conduct any test or thorough examination of the crane at the site, nor did he issue the relevant certificates. LD therefore suspected the use of false instruments and referred the case to the police for further investigation.

5.60 One of the 12 prosecution cases in 2023 involved a crane-related fatal industrial accident. During the investigation, LD found that a “competent examiner”, who was a registered professional engineer, issued Form 2, Form 3 and Form 5 for the conduct of a test and a thorough examination of the crane concerned. However, it was revealed that, on the day of the test, the “competent examiner” only made a brief visit to the construction site and did not perform the inspections required by the forms. After a storm in the following month, another registered professional engineer was appointed as a “competent examiner” to test and thoroughly examine the crane, and this engineer also signed Form 2, Form 3 and Form 5. However, LD found that no load testing or examination had been carried out on the crane. LD indicated that, once the relevant judicial proceedings were concluded, it would forward its investigation findings concerning the two registered professional engineers to the Engineers Registration Board for further action.

5.61 As regards the three cases referred to the police in 2023, two involved forged signatures on instruments. The third case pertained to a drainage pipe replacement work, where a “competent person” signed a Form 5 (a scaffolding inspection report) prior to the erection of a truss-out scaffold on the external wall of a residential unit. Upon receiving the complaint in July 2023, LD launched an investigation during which the “competent person” admitted to having sent a signed Form 5 (with the date of inspection stated as 8 June 2023) to the management company of the housing estate concerned prior to the erection of the truss-out scaffold, thereby notifying the company of his intention to erect a scaffold on the external wall of the residential unit. Following the investigation, LD prosecuted the scaffolding company for failing to provide the Form 5 upon request and the “competent person” for failing to deliver the Form 5 to the contractor. The “competent person” was fined \$7,000 after trial. Furthermore, LD referred the matter to the police for further investigation into possible criminal offenses, such as making and using a false instrument.

Inspection of Scaffolds

Table 10: Number of prosecutions against contractors for failing to ensure the bamboo scaffolds had been inspected by a competent person or provide “Form 5” at the request of LD

	Contractors in breach of section 38F(1) of the Construction Sites (Safety) Regulations (failing to ensure that scaffolds had been inspected by a competent person)		Contractors in breach of section 38F(4) of the Construction Sites (Safety) Regulations^ (failing to provide a Form 5 or its copy at the request of LD)	
Year	No. of prosecutions*#	No. of conviction cases# (the amount in brackets refers to the average fine)	No. of prosecutions*#	No. of conviction cases# (the amount in brackets refers to the average fine)
2018	34	11 (\$4,909)	23	1 (\$3,000)
2019	17	29 (\$5,138)	3	0 (0)
2020	23	12 (\$4,083)	18	0 (0)
2021	13	13 (\$3,846)	11	3 (\$2,000)
2022	16	12 (\$4,333)	15	0 (0)
2023	9	6 (\$5,167)	2	1 (\$2,500)

Number of cases refers to number of summonses.
 * As the court hearing for prosecution cases might not be concluded within the year, the number of cases where the hearing was concluded might not tally with the number of conviction cases during the year.
 ^ LD explained that, depending on the merits of individual cases, part of section 38F(4) would be invoked as an alternative charge to section 38F(1). Where the defendant was convicted of breaching section 38F(1), LD would withdraw the charge brought under section 38F(4).

5.62 Between 2018 and 2023, there were 112 prosecutions involving scaffolds that were not inspected by “competent persons”, with 83 resulting in convictions. The average fines ranged from \$3,846 to \$5,167. There were five convictions relating to failure to provide a Form 5 (a scaffold inspection report) or a copy thereof upon request by the LD, with average fines ranging from \$2,000 to \$3,000.

5.63 The Office also examined nine complaints received by LD in 2022 regarding the signing of Form 5 by “competent persons” without properly inspecting bamboo scaffolds or providing incorrect information on Form 5. In one case, the complainant alleged that the date of inspection was not recorded on the Form 5 for a particular truss-out scaffold, on which workers were already working. When investigating the complaint, LD’s occupational safety officer was unable to enter the building for a site inspection. Observations from outside the building, however, showed no evidence of workers using the scaffold. Based on the information on Form 5 provided by the complainant, the occupational safety officer contacted the “competent person” concerned, who claimed to have already inspected the scaffold and then submitted to LD a Form 5 with the date of inspection. As the complainant did not leave any contact information, LD could not obtain concrete evidence from the complainant on the use of scaffold by workers. Moreover, the building caretaker could neither testify nor give evidence that workers had used the scaffold. Consequently, LD was unable to obtain sufficient evidence to initiate prosecution against the “competent person” under OSH legislation. Nevertheless, the occupational safety officer issued a stern verbal warning to him, emphasising his duty to inspect scaffolds and duly complete a Form 5 before the scaffold could be used. Subsequent follow-ups by the occupational safety officer revealed that no workers were using the scaffold. During another inspection conducted a few months later, the occupational safety officer noted that the construction works had been completed, and the case was therefore closed.

5.64 Four other complaint cases involved the failure to display a Form 5 for the bamboo scaffold concerned, the expiry of a Form 5, or supporting brackets installed with insufficient anchor bolts. All relevant scaffolds were not in use during inspections conducted by LD’s occupational safety officers. After inquiries with building caretakers or calls with contractors for clarification or re-checks, the occupational safety officers found that the scaffolds were either still being erected, left unused while awaiting dismantling, or had already been dismantled. Since the scaffolds had not been put into use, were idle or had been dismantled, the occupational safety and health provisions relating to scaffold inspection did not apply.

5.65 Of the nine complaint cases mentioned above, two involved a bamboo scaffold at the same location. The complainants alleged that the “competent person” signed a Form 5 before inspecting the scaffold. During the initial inspection, the occupational safety officer did not find any worker using the scaffold, and the foreman of the site claimed that the scaffold had been inspected by a “competent person”. During a follow-up inspection, no workers were seen on the scaffold, but three dates, namely 1, 15 and 31 August, were recorded in the “date of inspection” column of a Form

5, despite that it was 18 August when LD conducted the inspection. The occupational safety officer immediately issued a warning to the foreman. On 31 August, another inspection revealed that a new inspection date of 1 September had been added to the Form 5. After questioning the workers using the scaffold, the occupational safety officer confirmed that it had been used without prior inspection by a “competent person”. Since the principal contractor of the site and the sub-contractor involved failed to ensure that the scaffold was inspected by a “competent person” every 14 days as required by the prevailing regulations, they were prosecuted by LD and fined \$4,500 each by the court.

Site Inspections by the Office

5.66 In January 2024, our officers joined occupational safety officers from LD in an area patrol. That day, the rooftop of a private building was enclosed with a scaffold. The occupational safety officers inspected the Form 5 displayed on the scaffold, which had been signed by a “competent person” to certify that it was in safe working order. However, the inspection date recorded on the form was two days later, suggesting that it had been signed in advance.

5.67 Subsequently, when LD met with the “competent person” to take a statement, the latter explained that he had conducted an on-site inspection of the scaffold but had inadvertently recorded the wrong date, which he corrected immediately upon realising the error. To verify his explanation, LD made inquiries with the building’s caretaker, who confirmed that the “competent person” had indeed visited the building on the claimed date. While LD accepted his explanation, they issued him a stern warning for his misconduct.

Suspended Working Platforms

Table 11: Number of prosecutions against owners of suspended working platform in breach of the Factories and Industrial Undertakings (Suspended Working Platforms) Regulation

Year	Owners of suspended working platform in breach of section 19 (failing to ensure that the suspended working platform had been inspected and Form 1 signed by a competent person)		Owners of suspended working platform in breach of section 20 (failing to ensure that the suspended working platform had been thoroughly examined and Form 2 signed by a competent examiner, or the suspended working platform had been thoroughly examined with load testing done and Form 3 signed by a competent examiner)		Owners of suspended working platform in breach of section 25 (failing to keep and display the relevant certificates or reports)	
	No. of prosecutions *#	No. of conviction cases# (the amount in brackets refers to the average fine)	No. of prosecutions *#	No. of convicted cases# (the amount in brackets refers to the average fine)	No. of prosecutions *#	No. of conviction cases# (the amount in brackets refers to the average fine)
2018	4	4 (\$3,125)	2	2 (\$4,250)	4	4 (\$4,250)
2019	5	4 (\$2,375)	2	0 (0)	11	11 (\$3,455)
2020	0	0 (0)	0	0 (0)	0	0 (0)
2021	0	0 (0)	0	0 (0)	0	0 (0)
2022	0	0 (0)	0	0 (0)	4	0 (0)
2023	4	3 (\$3,267)	0	0 (0)	4	6 (\$3,000)

Number of cases refers to number of summonses.

* As the court hearing for prosecution cases might not be concluded within the year, the number of cases where the hearing was concluded might not tally with the number of conviction cases during the year.

5.68 Between 2018 and 2023, there were 40 prosecutions for failing to ensure that a suspended working platform was inspected, tested and thoroughly examined by a “competent person” or “competent examiner”, or for failing to keep and display the relevant certificate or report. Of these cases, 34 resulted in convictions, with an average fine of about \$3,333.

Lifting Operations

Table 12: Number of prosecutions against owners of lifting appliances or lifting gear in breach of the Factories and Industrial Undertakings (Lifting Appliances and Lifting Gear) Regulations

Year	Owners of lifting appliances or lifting gear in breach of section 7A (failing to ensure that the lifting appliance had been inspected and Form 1 signed by a competent person)		Owners of lifting appliances or lifting gear in breach of sections 5, 7B, 7E or 18 (failing to ensure that the lifting appliance or lifting gear had been tested and thoroughly examined and Form 2, Form 3, Form 5, Form 6 or Form 7 signed by a competent examiner)		Owners of lifting appliances or lifting gear in breach of section 18C [^] (failing to keep and display the relevant certificates or reports)	
	No. of prosecutions *#	No. of conviction cases# (the amount in brackets refers to the average fine)	No. of prosecutions *#	No. of conviction cases# (the amount in brackets refers to the average fine)	No. of prosecutions *#	No. of conviction cases# (the amount in brackets refers to the average fine)
2018	16	18 (\$3,267)	190	113 (\$5,038)	127	26 (\$1,116)
2019	10	14 (\$3,414)	142	163 (\$5,404)	152	44 (\$2,236)
2020	38	4 (\$4,800)	188	52 (\$3,812)	187	42 (\$1,669)
2021	19	22 (\$4,355)	127	164 (\$3,971)	134	7 (\$3,429)
2022	9	12 (\$2,250)	109	68 (\$3,203)	80	14 (\$2,929)
2023	8	5 (\$4,900)	126	106 (\$3,275)	119	6 (\$3,333)

Number of cases refers to number of summonses.

* As the court hearing for prosecution cases might not be concluded within the year, the number of cases where the hearing was concluded might not tally with the number of conviction cases during the year.

[^] The breach of section 18C(4) means the failure of the owner of lifting appliance or lifting gear to provide the relevant certificates or reports for LD's inspection. Depending on the merits of individual cases, part of section 18C(4) would be invoked as an alternative charge to sections 5, 7A, 7B, 7E or 18. Where the defendant was convicted of breaching of sections 5, 7A, 7B, 7E or 18, LD would withdraw the charge brought under section 18C(4).

5.69 Between 2018 and 2023, there were 1,781 prosecutions for failing to ensure that a lifting appliance or lifting gear was inspected, tested and thoroughly examined by a “competent person” or “competent examiner”, or for failing to keep and display the relevant certificate or report. Of these cases, 880 resulted in convictions, with an average fine of about \$3,887.

Confined Spaces

Table 13: Number of prosecutions regarding breach of the Factories and Industrial Undertakings (Confined Spaces) Regulation

	Breach of the Factories and Industrial Undertakings (Confined Spaces) Regulation	
Year	No. of prosecutions*#	No. of conviction cases# (the amount in brackets refers to the average fine of each conviction)
2019	0	0 (0)
2020	3	1 (\$5,000)
2021	0	0 (0)
2022	20	0 (0)
2023	22	6 (\$21,917)

Number of cases refers to number of summonses.

* As the court hearing for cases of prosecution might not be concluded within the year, the number of cases where the hearing was concluded might not tally with the number of conviction cases during the year.

5.70 Between 2019 and 2021, there were only three prosecution cases, resulting in one conviction where the individual was fined \$5,000. In 2022 and 2023, the number of prosecution cases rose significantly to a total of 42 and the number of conviction cases reached 6, with an average fine of about \$21,917. The provisions breached include: ensuring that no worker enters or remains in a confined space unless all recommendations in the risk assessment report have been complied with; providing necessary instructions, training and advice to workers working in a confined space; keeping the relevant certificate and risk assessment report for one year and making them available, on request, to an occupational safety officer; ensuring that a person is stationed outside the confined space to maintain communication with the workers inside; and providing a sufficient supply of apparatus in a satisfactory condition.

5.71 Regarding a fatal work accident that occurred in September 2023 in an underground cooling duct at a construction site on Austin Road West, LD announced in June 2024 its decision to take out part of the prosecutions against the duty holders concerned by way of indictment for the first time. The case has entered into judicial proceedings.

6

FOLLOW-UP ON FATAL ACCIDENTS

FOLLOW-UP ACTIONS AFTER ACCIDENTS

Accident Investigation

6.1 Upon learning of a fatal industrial accident, LD will immediately arrange on-site investigation of the accident. Normally, LD will issue a suspension notice to the contractor concerned to mitigate the relevant occupational safety and health risks at once. Work may only resume when LD is satisfied that the contractor has taken measures to eliminate the hazards.

6.2 In addition to collecting evidence at the scene, LD will also test and inspect the relevant work equipment, interview persons involved to take statements, and examine relevant documents. Where accidents involve areas of specialisation, LD will seek assistance from relevant experts to provide advice on the case, conduct technical tests or analyses, and prepare expert reports. LD staff will analyse all evidence to determine the cause of the accident, identify the legal liabilities of duty holders, and prepare an accident investigation report. In cases of breaches of OSH legislation, LD will seek legal advice and institute prosecution.

6.3 On the other hand, fatal industrial accidents may be subject to coroners' inquests. LD will follow up on recommendations made by the coroner to prevent similar fatalities from recurring. Moreover, the Department will provide a written response to the coroner regarding the recommendations, detailing measures already taken or proposed to be taken.

6.4 In response to the view that LD should disclose accident investigation reports so that the public and the industry can understand the full picture of incidents and learn lessons, the Department stated that most of the information contained in the investigation reports was obtained by occupational safety officers from data holders under the powers conferred by OSHO and FIUO. This includes the work procedures of individual companies. Section 29 of OSHO stipulates that only with lawful authority (e.g. under a court order) can LD disclose information such as work processes

obtained through the exercise or performance of functions under the ordinance or FIUO to another person. Constrained by the above provisions, LD cannot disclose accident investigation reports. That said, LD will provide information to the bereaved families or injured workers for use in civil proceedings, in accordance with legal principles.

6.5 LD considers that should the investigation report be made public, a significant portion of its content would need to be redacted to comply with the aforementioned legal duty. However, redacting such information would render the investigation report fragmented and incoherent, impeding comprehension and potentially leading to misinterpretation. Consequently, this would prevent the public and the industry from gaining a full understanding of the incident, defeating the purpose of preventing such tragedies from recurring.

6.6 Currently, following fatal accidents, LD issues press releases, Safety Alerts and text version of Work Safety Alerts as well as producing promotional and educational materials such as animation of Work Safety Alerts and compiling casebooks of fatal accidents, conveying safety messages to the industry and the general public in a simple and vivid manner. Furthermore, in March 2024, LD officially launched the new version of its mobile application ‘Occupational Safety and Health 2.0’. In addition to the text version of Work Safety Alerts, the application features animated versions of the alerts and a function for anonymous reporting of unsafe practices. The user interface has also been enhanced, with the addition of online enrolment for OSH training courses, Systematic Safety Alerts and important announcements. LD considers that the current measures, in compliance with section 29 of OSFO, adequately and appropriately enable the public and the industry to understand the circumstances of accidents and methods for preventing them.

Issuing Systematic Safety Alerts

6.7 For serious or fatal accidents, individual hazardous machinery or work processes, LD conducts systematic risk analyses from time to time. Systematic safety issues and preventive measures are compiled into Systemic Safety Alerts which are disseminated through various channels to relevant stakeholders including contractors, registered safety auditors, registered safety officers, trade unions and trade associations. This also serves to urge safety practitioners to advise their employers or clients on occupational safety and health control measures in accordance with safety management principles when performing their statutory duties.

6.8 LD has compiled 24 Systemic Safety Alerts to date, covering various topics including truss-out bamboo scaffolding safety, lifting operations, falls through floor openings, power-operated lifting platforms, and demolition works.

Conducting Special Enforcement Operations

6.9 LD has consistently conducted various types of planned and preventive special enforcement operations based on a risk-based approach, including operations

targeting high-risk work processes. Furthermore, in response to the gravity of fatal industrial accidents, LD will conduct special inspections or enforcement actions to deter unsafe practices. Should non-compliance be identified, LD will take immediate enforcement action without prior warning to alert the industry. Examples of such special inspections or enforcement actions are as follows:

- (1) Subsequent to a number of fatal industrial accidents occurring at a particular contractor's sites during the latter half of 2022, LD launched a special operation in December 2022. Over three consecutive days, LD carried out inspections at 13 construction sites operated by the contractor. During the operation, LD issued 55 improvement notices and initiated 21 prosecutions.
- (2) In light of multiple fatal and serious industrial accidents occurring in the construction industry during the latter half of 2023, LD conducted a two-week special enforcement operation targeting construction sites of new works from 13 to 24 November 2023. The Department inspected 1,060 construction sites across the territory, issuing approximately 210 improvement notices or suspension notices, and initiating around 35 prosecutions.
- (3) In response to the fatal industrial accident that occurred on 24 September 2023 in an underground cooling duct on Austin Road West, Tsim Sha Tsui, LD conducted a two-week special inspection exercise targeting work in confined space at construction sites across all districts from 25 September to 6 October 2023. The exercise focused on whether duty holders complied with regulations governing confined space work, including conducting risk assessments, establishing appropriate safe systems of work, and providing personal protective equipment. The Department inspected a total of 190 construction sites, issuing one improvement notice and 88 written warnings.
- (4) In response to the fatal accident involving the collapse of bamboo scaffolding at the external walls of a building at a construction site in Kai Tak on 20 February 2024, LD launched a two-week special inspection exercise from 21 February to 5 March 2024. The exercise targeted construction sites across Hong Kong where large-scale bamboo scaffolding had been erected. A total of 292 construction sites were inspected, and some bamboo scaffolds were found to be posing structural safety hazards. Besides, some contractors had failed to take adequate measures to prevent workers from falling from height (such as not providing safe working platforms and safe access and egress). LD issued 256 written warnings, 195 improvement notices, 6 suspension notices, and initiated 14 prosecutions.

Revision of Codes of Practice and Enhancement of Course Content

6.10 Following an in-depth investigation into the causes of the accident, LD will update its codes of practice and guidelines as necessary to improve or elaborate on relevant safety requirements, thereby preventing similar incidents from recurring. LD will also enhance the content of its mandatory safety training courses based on analyses of serious accidents, with a view to strengthening trainees' awareness of associated risks and their ability to manage them.

The role of BD

6.11 Upon learning of an incident at a construction site, BD will immediately arrange on-site inspections to ascertain the circumstances, whilst notifying the registered building professionals responsible for the relevant project to attend. BD officers will assess the situation at the site concerned to take appropriate measures to ensure site safety, and will commence an investigation into the cause of the incident.

6.12 BD's primary concern in investigation of accidents is whether building works have been carried out in accordance with BO and in a safe manner, while LD examines whether contractors and other duty holders have complied with OSH legislation to ensure the safety and health of employees, including the provision of safe plants and work systems.

6.13 To avoid duplication of resources, BD and LD have established a liaison mechanism: where LD plans to issue a suspension notice or an improvement notice in relation to construction works on private site projects, it will liaise with BD prior to issuing the notice to ensure that both departments take appropriate action within their respective purview. Where BD proposes to issue a suspension order or an order to cease or remedy dangerous works, it will also send copies of such orders to LD. Upon compliance with the relevant notices or orders, BD and LD will notify each other accordingly.

CASE STUDIES OF FATAL ACCIDENTS

6.14 The Office randomly selected 13 cases involving fatal industrial accidents in recent years which had resulted in court sentences. We examined LD's inspection and enforcement records, accident investigation reports and prosecution documents, the minutes of meetings of the Site Safety Committee, safety audit reports completed by registered safety auditors, monthly reports submitted by registered safety officers to contractors, etc. The case study materials are set out in the **Appendix**. These 13 cases involved three public works projects, four private works projects and six renovation and repair works.

7

BD'S REGULATION OF REGISTERED CONTRACTORS

CONTRACTORS REGISTRATION SYSTEM

7.1 BO provides for a contractors registration system. The primary objective of the system is to ensure that only contractors who are competent in carrying out their work and duties as well as conversant with the relevant statutory requirements and the current building control system are registered and allowed to carry out buildings works and street works. Under BO and the Building (Minor Works) Regulation, the Building Authority (i.e. the Director of Buildings) is empowered to:

- (1) maintain three registers of contractors, namely the general building contractors' register, the specialist contractors' register and the minor works contractors' register;
- (2) establish a Contractors Registration Committee to assist the Building Authority in considering applications for inclusion in a register; and
- (3) prescribe the eligibility criteria that applicants must meet to be registered as contractors.

General Building Contractors or Specialist Contractors

7.2 In accordance with BO and the Practice Notes for Registered Contractors, any general building contractor or specialist contractor applying for inclusion in the register, renewal or restoration of registration, or addition of an authorised signatory³², a technical director³³ or other officer, must submit the required documents to the

³² Each registered contractor is required to appoint at least one person to act on its behalf for the purposes of BO. The appointed person is commonly referred to as the contractor's authorised signatory. The authorised signatory is responsible for exercising overall control of the contractor's safety management structure for its building works, including matters relating to quality supervision and site safety.

³³ Each registered contractor must also appoint at least one technical director, who is responsible for duties such as having access to plant, providing technical and financial support for the works, and supervising the authorised signatory and other staff.

Building Authority. These documents include a declaration of convictions made using standard form prescribed by BD, which must exhaustively detail any conviction, disciplinary and records of suspension from tendering for public works of the applicant and its authorised signatories, technical directors or other officers. Records of convictions include those under FIUO and OSHO related to site safety offences, particularly those relating to building works, such as failure to provide suitable and adequate safe access to and egress from a place of work, failure to take adequate steps to prevent any person on the site from falling from a height of two metres or more, or failure to ensure that loads are securely suspended or supported when being raised or lowered by lifting appliances.

7.3 BO also stipulates that the Building Authority must not include the name of an applicant in the register of general building contractors or specialist contractors unless the applicant is recommended by the Contractors Registration Committee³⁴. Accordingly, when processing any application for inclusion in the register or for addition of an authorised signatory, technical director or other officer, the Building Authority must refer the application, including the applicant's declaration of convictions, to the Contractors Registration Committee for interview and assessment. The contractor's authorised signatory must attend the interview on behalf of the applicant to demonstrate that the authorised signatory, technical director or other officer possesses the necessary qualifications and experience to perform their designated duties, and is capable of applying relevant knowledge in the execution and supervision of building works and street works. The Contractors Registration Committee will assess the contents of the declaration of convictions during the interview.

7.4 Additionally, when processing an application for renewal or restoration of registration, the Building Authority must refer the application to the Contractors Registration Committee for interview and assessment if the applicant's declaration of convictions involves certain specified circumstances, including cases where the applicant has been convicted of serious site safety offences, such as those involving death or amputation of limbs, or has been convicted of seven or more site safety offences within any consecutive six months.

7.5 As of October 2024, there were 814 registered general building contractors and 729 registered specialist contractors.

³⁴ Established in accordance with sections 8(3) and 8(3A) of BO, the Contractors Registration Committee consists of the Building Authority's representative; persons nominated by the Architects Registration Board, the Engineers Registration Board and the Surveyors Registration Board from the lists of authorised persons, registered structural engineers and registered geotechnical engineers; persons nominated by The Hong Kong Construction Association Ltd.; a person nominated by The Hong Kong E & M Contractors' Association Limited; and a person selected by the Building Authority from among persons nominated by such bodies as the Building Authority may think fit.

7.6 Media reports have quoted industry professionals expressing concerns that the persons-in-charge under supervision plans³⁵—namely, the authorised signatories—may lack adequate professional qualifications and are not personally held accountable when site accidents occur. The reports also cited observations from within the industry that authorised signatories of contractors may be concurrently responsible for multiple construction sites, thereby limiting the time available for supervision of individual sites.

7.7 In response to the above concerns, BD stated that when considering a contractor’s registration application, it takes into account whether the authorised signatory appointed by the contractor possesses appropriate qualifications and sufficient experience. The authorised signatory is also required to attend an interview and assessment conducted by the Contractors Registration Committee on behalf of the contractor. In addition, under BD’s Code of Practice for Site Supervision and Technical Memorandum for Supervision Plans, the authorised signatory, serving as the head of the safety management structure within the registered contractor’s team, is responsible for overseeing representatives of his stream and each grade of technically competent persons, ensuring that all responsibilities outlined in the supervision plan are properly performed. Should the authorised signatory fail to discharge his responsibilities and duties, thereby breaching BO, BD may consider initiating prosecution and disciplinary action against both the authorised signatory and the registered contractor under BO.

7.8 For example, in 2022, BD prosecuted an authorised signatory for substandard sheet piling works at a construction site. The authorised signatory was subsequently convicted by the court and fined \$14,000. In another case in 2020, BD took disciplinary action against an authorised signatory over site safety issues related to a re-roofing project, resulting in a reprimand ordered by the Disciplinary Board.

7.9 Given the differences in the scale of each site, as well as the type and complexity of works involved, BD considers it inappropriate to impose a rigid limit on the number of construction sites an authorised signatory may oversee. Instead, authorised signatories should determine the number of sites they involve in based on their individual capacity and the time required for each site, ensuring they can effectively fulfil the responsibilities and duties prescribed under BO. BD further noted that in practice, some large contractors, in view of the large quantity of their projects and the significant responsibilities placed on authorised signatories under BO, appoint multiple authorised signatories to act on their behalf.

³⁵ A supervision plan sets out the plan of safety management of building works or street works. It must be prepared by authorised persons, registered structural engineers, registered geotechnical engineers, the authorised signatory of the registered contractor appointed for the relevant works, and any other persons deemed necessary, to address quality supervision and highlights specific site safety related features and hazards of the whole works.

7.10 On 31 December 2024, DEVB launched the public consultation exercise for the proposals to amend BO, with the aim of introducing an amendment bill into the LegCo in the first half of 2026. According to the consultation document, although BD had previously issued the Code of Practice for Site Supervision and the Technical Memorandum for Supervision Plans, which clearly define the roles and responsibilities of various parties involved in building works and provide a basis for accountability in the event of safety or quality incidents, there are views that that these arrangements lack legal basis. Moreover, the current provisions of BO do not comprehensively cover personnel at all levels involved in building works, namely, competent technical persons, authorised signatories and technical directors, making it difficult to establish clear statutory responsibilities. DEVB therefore proposed to explicitly define the roles of these personnel under BO, and to further elaborate on the relevant details in the relevant technical memorandum, thereby establishing their legal responsibilities in relation to building works.

Minor Works Contractors

7.11 Contractors listed in the register of minor works contractors are eligible to carry out designated minor works according to their registered classes (Classes I, II and III), types (Types A to H) and items (currently totalling 187 items). Self-employed individuals registered in their personal capacity to carry out Class III minor works items are collectively referred to as registered minor works contractors (individual). Companies registered to carry out minor works of different classes and types are collectively referred to as registered minor works contractors (company).

Minor Works Contractors (Individual)

7.12 Minor works contractors (individual) applying for registration, renewal or restoration of registration, or adding Class III minor works items must submit a declaration of convictions to the Building Authority using the standard form prescribed by BD.

7.13 For applications to register as a registered minor works contractor (individual) or to add Class III minor works items, if the applicant has been convicted of a serious site safety offence, such as one involving death or amputation of limbs, within the three years preceding the application date, he must provide additional supporting information (e.g., evidence of having completed appropriate training courses and acquired a solid understanding of the latest knowledge in construction and site safety) for consideration.

7.14 For applications for renewal or restoration of registration, if the applicant has been convicted of a serious site safety offence, such as one involving death or amputation of limbs, within the three years preceding the application date, he must submit sufficient supporting documentation to demonstrate continued suitability for registration (for example, evidence accepted by the Building Authority that the applicant has subsequently completed appropriate training courses and has acquired a solid

understanding of the latest knowledge in construction and site safety). If such documentation is not provided, the applicant will be required to attend an interview conducted by the Minor Works Contractors Registration Committee³⁶. The interview will cover such matters as safety management and site supervision as the Minor Works Contractors Registration Committee or the Building Authority considers necessary for assessment.

Minor Works Contractors (Company)

7.15 When applying for registration, renewal or restoration of registration, addition of authorised signatories or technical directors, or inclusion of additional classes or types of minor works, minor works contractors (company) must submit a declaration of convictions to the Building Authority using the standard form prescribed by BD.

7.16 If any application involves Class I minor works—whether for registration as a registered minor works contractor (company), addition of minor works types, or addition of authorised signatories or technical directors—the authorised signatory must attend an interview conducted by the Minor Works Contractors Registration Committee on behalf of the applicant. For other applications not involving Class I minor works, including those for registration as a minor works contractor (company), addition of minor works classes or types, or addition of authorised signatories or technical directors, the Building Authority will generally assess the application based on the documents submitted. However, if the applicant has been convicted of site safety offence within the three years preceding the application date, the application will be referred to the Minor Works Contractors Registration Committee for interview and assessment.

7.17 For applications for renewal or restoration of registration involving any class of minor works, if the applicant has been convicted of serious site safety offence, such as one involving death or amputation of limbs, within the three years preceding the application date, or has been convicted of seven or more site safety offences in six consecutive months, the application will be referred to the Minor Works Contractors Registration Committee for interview and assessment.

7.18 As of October 2024, there were approximately 7,300 registered minor works contractors (individual) and approximately 9,500 registered minor works contractors (company).

Verification of Contractors’ Conviction Records

7.19 To verify the accuracy of conviction declarations made by applicants for

³⁶ The Minor Works Contractors Registration Committee, established under section 7 of the Building (Minor Works) Regulation, consists of a representative of the Building Authority; an authorised person or registered structural engineer selected by the Building Authority from among persons nominated by the Architects Registration Board, the Engineers Registration Board or the Surveyors Registration Board; and a person selected by the Building Authority from among persons nominated by such bodies as the Authority thinks fit.

registration as contractors, BD established a mechanism with LD in 2000. Under this arrangement, LD regularly provides BD with records of convictions for site safety offences arising from building works for reference.

7.20 According to BD, between 2019 and 2023, at least 29 registration applications were rejected due to convictions for site safety offences. Of these, 15 were applications for registration as general building contractors or specialist contractors, and 14 were applications for registration as minor works contractors (company).

BD'S REGULATION OF REGISTERED CONTRACTORS

7.21 In respect of any registered contractor involved in building works that result in injuries, deaths or other serious incidents, BD may take the following regulatory actions:

- (1) disciplinary action;
- (2) reassessment of the contractor's competence and fitness in determining whether to approve the registration renewal application; and/or
- (3) prosecution.

Disciplinary Action

7.22 If a registered contractor has been convicted by the court of an offence relating to building works, has been negligent or has misconducted himself in building works, or has deviated in a material manner from a supervision plan without reasonable cause, BD may refer the case to the Registered Contractors' Disciplinary Board³⁷ in accordance with section 13 of BO. Where, after an inquiry, the Disciplinary Board is satisfied that the registered contractor has been convicted of the offence or is guilty of negligence or misconduct, it may impose punitive measures under section 13(4) of BO, including ordering the removal of the contractor's name from the register, either permanently or for a specified period, imposing a maximum fine of \$250,000, or ordering a reprimand.

Referral Mechanism Established with LD

7.23 In 2002, BD and LD established a referral mechanism for disciplinary action against registered contractors with poor performance in construction safety. According to relevant guidelines, BD considers two criteria in determining whether

³⁷ According to section 11 of BO, depending on the subject of the disciplinary inquiry, the Disciplinary Board consists of selected members of the Registered Contractors' Disciplinary Board Panel; selected members of the Authorised Persons', Registered Structural Engineers' and Registered Geotechnical Engineers' Disciplinary Board Panel; and persons nominated by such bodies as the Building Authority thinks fit.

disciplinary action should be taken against a registered contractor:

- (1) **Criterion 1:** the contractor has been convicted of five or more site safety offences relating to building works in the same construction site in six consecutive months (“Criterion 1”); or
- (2) **Criterion 2:** the contractor has been convicted of site safety offences relating to building works which involved serious accidents (including death, amputation of limbs or serious damage to works or property) (“Criterion 2”).

7.24 Each month, LD provides BD with a summary table via email listing contractors convicted of OSH offences, regardless of whether the convictions are related to building works, involve registered contractors, or pertain to public or private construction projects. Since April 2007, at BD’s request, the information provided by LD has also included whether the convictions involved fatal accidents. Upon receiving the information, BD assesses whether disciplinary action against the relevant contractors is warranted based on the criteria outlined above.

7.25 For example, in 2023, LD referred a total of 1,529 conviction records for site safety offences to BD, of which 1,103 were related to building works. After analysis, BD did not identify any cases that met Criterion 1. Nevertheless, 11 cases involved fatal site accidents and thus met Criterion 2.

Disciplinary Case

7.26 Between 2011 and 2021, under the referral mechanism established with LD, BD took disciplinary action against one registered contractor. The details of the case are as follows:

- November 2010 and April 2011 • A registered contractor was convicted of multiple site safety offences committed between September and November 2009, and was fined a total of \$856,000. Some of the convictions were related to the collapse of a working platform at a construction site, which resulted in the deaths of several workers
- May 2011 • BD received the contractor’s conviction records from LD via the monthly referral mechanism
- August 2012 • BD’s analysis revealed that the contractor had been convicted of five or more site safety offences (22 in total) at the same construction site in six consecutive months, thereby meeting Criterion 1 under the disciplinary mechanism

- BD requested all relevant information from LD, including the accident investigation report, case summary and witness statements
- September 2012 • LD provided the requested information to BD
- April 2013 • At BD's request, LD confirmed that the registered contractor had not filed an appeal against the convictions
- August 2013 • After reviewing the information, BD considered that there was sufficient evidence to pursue disciplinary action. Legal advice was sought from the Department of Justice ("DoJ")
- February 2014 • Having sought legal advice, BD applied to the Registered Contractors' Disciplinary Board to initiate a disciplinary hearing
- December 2015 • After the Registered Contractors' Disciplinary Board was constituted, one member was unable to continue serving. As a result, a replacement needed to be appointed under BO to hear the case. The hearing was held in December 2015. In the same month, the Board ordered the registered contractor to be reprimanded and to pay a total of \$141,300, being the costs of the Board and BD for conducting the inquiry
- November 2016 • The disciplinary hearing and its outcome were published in the Gazette

Review of the Disciplinary System

7.27 In the above case, BD explained that the process had been prolonged due to the need to manage multiple procedural steps, but agreed that these procedures could be streamlined. To improve the handling of similar cases, BD conducted an internal review in 2016 on the workflow and progress monitoring for referred cases. It developed guidelines for analysing conviction records provided by LD, and enhanced oversight by developing a computerised monitoring system and establishing a progress chart for disciplinary cases. Following its review of the above disciplinary case, DEVB also concluded that there was both room and a need to simplify the disciplinary procedures, particularly for convicted cases, to achieve greater deterrence.

7.28 Some of the amendments to BO proposed by DEVB related to enhancement of the disciplinary system, which include:

- (1) revising the existing provisions to increase the number of members of the disciplinary board panel and simplify the composition of the disciplinary boards of registered contractors;
- (2) increasing the maximum fine for disciplinary sanction from \$250,000 to \$400,000; and
- (3) allowing the disciplinary board to impose more than one sanction for each charge.

7.29 Meanwhile, BD is exploring the feasibility of initiating preliminary disciplinary procedures alongside criminal prosecutions by LD. BD is also reviewing Criterion 1 to consider whether lowering the threshold for initiating disciplinary action would be appropriate for more effective prevention.

Review of the Referral Mechanism

7.30 Between 2011 and 2021, BD took disciplinary action against a registered contractor in one case. In response to our Office's inquiry, LD stated that, during that period and upon BD's request, it had provided information on two convicted contractors who met Criterion 1³⁸. Additionally, between 2003 and 2008, LD had provided BD with information on seven convicted contractors who met Criterion 2. LD further explained that prior to the establishment of referral mechanism guidelines with BD in 2002, it had clarified to BD that it was not the authority responsible for enforcing BO, and that initiating disciplinary action against contractors under BO did not fall within its jurisdiction. Nevertheless, LD confirmed that it could, upon BD's request, provide relevant information to facilitate BD's disciplinary action against contractors under BO.

7.31 We randomly selected nine convicted cases from LD's referrals to BD between 2012 and 2014, which were all fatal accidents relating to building works (i.e. cases meeting Criterion 2). We found that after receiving LD's monthly conviction summary tables, BD neither requested further information from LD nor considered initiating disciplinary action. BD later admitted that it had mistakenly assumed LD would proactively provide details of convictions involving serious site accidents, and as a result, its staff did not actively follow up with LD to obtain further information.

7.32 Following the launch of this direct investigation operation, BD and LD reviewed the referral mechanism in October 2022. To expedite disciplinary action for convicted cases involving serious accidents, both departments agreed that BD would

³⁸ According to BD, in the remaining case, the contractor's conviction record had already been considered during the assessment of his registration renewal application. BD accepted the Contractors Registration Committee's recommendation to reject the renewal application and subsequently removed the contractor from the register in 2016. As a result, disciplinary action was neither necessary nor possible.

proactively request further information from LD regarding relevant cases listed in LD's monthly conviction summary tables. The information includes case particulars, evidence, case summaries, accident reports, summonses, and trial and conviction records. Since October 2023, BD has put in place new arrangements whereby, under normal circumstances, it would seek legal advice within four months of receiving a referral from LD to consider whether disciplinary action should be taken against the registered contractor involved. In early 2025, BD introduced time indicators for handling cases of disciplinary action to enhance monitoring. These indicators include: to identify fatal construction site accidents relating to building works and registered contractors and request information from LD within one month of receiving LD's monthly conviction list; for general cases, to seek legal advice from DoJ within one month of receiving the relevant information from LD; and to refer cases to the Registered Contractors' Disciplinary Board within two months to initiate disciplinary proceedings upon DoJ's confirmation of sufficient legal grounds..

7.33 Following the enhancement of the referral mechanism, BD proactively requested LD to provide further information on 34 cases convicted between 2020 and 2023 involving fatal construction site accidents related to building works and registered contractors. The information requested included investigation reports, case summaries and other relevant materials for BD's investigation and consideration of disciplinary action. After seeking legal advice, BD referred 16 of these cases to the Registered Contractors' Disciplinary Board to initiate disciplinary proceedings. For another 11 cases, BD decided not to pursue disciplinary action following legal advice or internal review. BD is currently seeking legal advice on the remaining seven cases with prima facie evidence. Upon receiving the legal advice, BD will promptly refer cases warranting disciplinary action to the Registered Contractors' Disciplinary Board for further handling.

7.34 Regarding cases prior to 2020, BD took initiative to request details from LD on 24 cases involving convictions between 2015 and 2019. After considering the relevant legal advice and principles, BD decided not to pursue disciplinary action in 15 of these cases. BD has reviewed the remaining nine cases with prima facie evidence, and is currently seeking legal advice to assess whether they should be referred to the Registered Contractors' Disciplinary Board for disciplinary proceedings.

7.35 After strengthening the follow-up on cases referred by LD, BD announced on 13 September 2024 that a registered specialist contractor had been disciplined. The case involved a fatal industrial accident that occurred in March 2019. In January 2020, the contractor was convicted by the court for OSH offences and was fined \$108,000.

7.36 In response to the conviction, BD, in accordance with BO, notified the Registered Contractors' Disciplinary Board for its consideration of disciplinary action against the contractor. The Board conducted a disciplinary inquiry in June 2024 and decided that the contractor, having been convicted by the court of offences relating to building works, should be disciplined. The Board ordered the contractor to be reprimanded and fined \$340,000, and to pay a total of \$99,199, being the costs of the

Board and BD for conducting the inquiry. The Board's written decision and order issued on 30 August 2024 was published in the Gazette on 13 September.

7.37 BD supplemented that, in addition to the referral mechanism established with LD, it also refers registered contractors to the Registered Contractors' Disciplinary Board under BO if they have been convicted, have been negligent or have misconducted themselves in building works, or have deviated in a material manner from a supervision plan without reasonable cause. Between 1989 and 2024, BD referred a total of 25 cases concerning industrial accidents at construction sites involving registered contractors to the Registered Contractors' Disciplinary Board (including the 16 cases mentioned in **paragraph 7.33**). Of the 11 cases where inquiries had been completed, the registered contractors involved in two cases were removed from the register for three and six months respectively. The remaining cases resulted in either fines or reprimands, with the highest fine imposed being \$340,000.

Renewal of Registration

7.38 When applying for renewal of registration, a registered contractor must submit a declaration of convictions to BD. If the contractor has been suspended from tendering for public works due to deficiencies in site safety, technical competence or management, or has been convicted of a serious site safety offence, such as one involving death or amputation of limbs, BD may, pursuant to section 8C(4) of BO, refer the application to the Contractors Registration Committee for interview and assessment. The Committee will provide its recommendations to assist BD in determining whether to approve or reject the application.

7.39 Between 2011 and November 2024, according to conviction summary tables provided by LD, there were 78 fatal site accidents relating to building works, involving 68 registration renewal applications:

- (1) 39 applications were approved, primarily because the authorised signatories were able to explain the causes of the accidents, propose clear and specific improvement measures, and commit to implementing those measures;
- (2) 9 applications were rejected;
- (3) in 13 applications, the authorised signatories were removed from the register as the Contractors Registration Committee, following interviews, was not satisfied that the authorised signatories were suitable to act on behalf of the contractors under BO. However, as the contractors had other suitable authorised signatories, the renewals were granted. One such contractor is mentioned in **paragraph 7.26**;
- (4) 1 application was withdrawn after submission; and

- (5) 6 applications remain under processing.

7.40 Since late 2022, BD has progressively implemented a series of enhanced measures:

- (1) effective from 1 January 2023, where a registered contractor involved in a fatal accident related to building works applies for renewal of registration, BD will refer the application to the Contractors Registration Committee for interview and assessment, regardless of whether LD has completed its prosecution and legal proceedings against the contractor (i.e. regardless of whether the contractor has been prosecuted or convicted). Following the interview and assessment, BD will only consider approving the renewal application if the contractor has at least one suitable authorised signatory in place;
- (2) on 18 October 2023, BD announced the rejection of a registration renewal application submitted by a registered general building contractor, who was removed from the register the following month. This case was handled in accordance with the enhanced regulatory measures described in paragraph (1) above; and
- (3) in March 2023, BD strengthened its notification mechanisms with the Works Branch of DEVB and LD to ensure that information on fatal or serious site accidents is duly taken into account when assessing contractors' registration renewal applications and vetting their eligibility to tender for BD's works contracts. In addition to forwarding records of suspension from tendering for public works to BD under the established mechanism, the Works Branch will promptly notify BD by email of any fatal or serious accident at a public works site, regardless of whether the contractor has been convicted. Separately, in addition to providing monthly updates on contractors convicted of OSH offences, LD will email BD a monthly summary of all fatal accidents at construction sites across Hong Kong—whether they are related to building works or to machinery and plant operations, whether they occur in public or private works, whether prosecution has been initiated by LD, or whether a conviction has been made.

7.41 DEVB has proposed amendments to BO to enhance the registration system, including:

- (1) empowering the Building Authority to consider shortening the renewal period (currently three years) for contractors who have caused serious injury or death due to breach of duty in order to strengthen monitoring. In cases where a renewal application is rejected, the contractor will not be allowed to apply for re-registration or submit any fresh application in the same capacity within a specified period (e.g. 12 months); and

- (2) empowering the Building Authority to impose conditions on registration renewal based on the contractor's individual circumstances (in particular their past performance), such as requiring the implementation of a more stringent site supervision system.

Prosecution

7.42 If, following an investigation, it is found that the manner in which building works were carried out has caused or is likely to cause injury to any person or damage to any property, BD may initiate prosecution under section 40(2B) of BO against any person directly involved in the works (including authorised persons, registered structural engineers and registered contractors). Upon conviction, such persons are liable to a fine of \$1 million and to imprisonment for 3 years.

7.43 Between 2019 and 2023, BD initiated a total of 58 prosecutions under section 40(2B) of BO against persons directly involved in building works, averaging about 12 cases per year. Of these, 41 resulted in convictions, representing an average of approximately eight successful prosecutions per year. The total fines imposed amounted to around \$370,000, with an average fine of about \$9,000 per case.

7.44 Under DEVB's current proposals to amend BO, the penalties for the aforementioned offences were proposed to be increased. It was proposed that, on summary conviction, the maximum fine be raised from \$1 million to \$3 million, while the maximum term of imprisonment shall remain at three years. Separately, DEVB proposed, by making reference to OSHO, introducing an indictable offence for persons directly involved in building works that result in serious injury or death. The proposed maximum fine would be \$10 million, aligned with OSHO, while the maximum term of imprisonment would remain at three years.

8

DEVB'S MONITORING OF PUBLIC WORKS

8.1 DEVB stated that it has always attached great importance to site safety of public works³⁹. In public works contracts, DEVB requires contractors to implement a site safety plan that meets specified standards to safeguard frontline workers. DEVB reviews the safety management system for public works from time to time and adopts multi-pronged measures in respect of project design, tender evaluation and approval, contract terms, project supervision, technology application and contractor regulatory regime to enhance site safety.

STATISTICS ON PUBLIC WORKS ACCIDENTS

8.2 According to DEVB's information, the accident rate for public works has decreased significantly by more than 90%, from a peak of 57 accidents per 1,000 workers in 1999 to approximately 6 accidents per 1,000 workers in 2023. The statistics on public works accidents between 2018 and 2023 are tabulated below:

³⁹ Public works refer to works carried out at construction sites under the Architectural Services Department, the Drainage Services Department, the Electrical and Mechanical Services Department, the Highways Department, the Water Supplies Department and the Civil Engineering and Development Department.

Table 14: Figures on accidents taken place at construction sites of public works

Year	No. of sites of public works in progress	No. of public works sites with accidents # (the percentage in brackets refers to public works sites with accidents relative to all public works sites in progress)	Accident rate per 1,000 workers in the entire construction industry (the number in brackets refers to fatal cases)	Accident rate per 1,000 workers in public works (the number in brackets refers to fatal cases)
2018	956	104 (10.9%)	31.7 (14)	11.6 (1)
2019	1,011	79 (7.8%)	29.0 (16)	6.7 (0)
2020	1,074	105 (9.8%)	26.1 (18)	6.0 (4)
2021	1,496	94 (6.3%)	29.5 (23)	6.9 (3)
2022	1,735	99 (5.7%)	29.1 (17)	5.3 (1)
2023	2,310	112 (4.8%)	27.6 (20)	6.1 (6)

Referring to reportable cases of injury resulting in incapacity for work over three days.

8.3 As shown in the table above, the number of construction sites with public works in progress increased steadily between 2018 and 2023, from around 950 to more than 2,300 sites in 2023. During the same period, the entire construction industry recorded 108 fatal industrial accidents, of which 15 (13.9%) took place at construction sites of public works. In 2023, six fatal industrial accidents took place at construction sites of public works, accounting for 30% of all fatal accidents (20 in total) in the construction industry that year. Nevertheless, the percentage of public works sites with accidents relative to all public works sites in progress showed a downward trend, declining from 10.9% in 2018 to 4.8% in 2023. The accident rate per 1,000 workers in public works (ranging from 5.3 to 11.6 accidents) was also lower than that in the entire construction industry (ranging from 26.1 to 31.7 accidents).

APPROVED LISTS OF CONTRACTORS

8.4 DEVB maintains the approved lists and operates a regulatory regime to ensure that contractors of public works meet specified standards in such areas as financial capability, professional expertise, project management and site safety. Between 2018 and 2023, the number of contractors on the approved lists ranged from 800 to 870 annually (see **Table 17**).

8.5 According to the Contractor Management Handbook, contractors applying for admission to the approved lists must satisfy a series of criteria in respect of project experience, site safety, financial capability, management, employment of qualified personnel and integrity. Since January 2021, DEVB has enhanced the requirements for admission to the approved lists with specific criteria related to site safety:

- (1) the contractor shall employ qualified safety personnel, including a safety supervisor or a safety manager; and
- (2) the contractor shall not have been convicted of five or more site safety offences within any six-month period during the 12 months preceding the application date.

Applicants for admission to the approved lists must declare their safety performance in the application form, disclosing any conviction of site safety offences within the preceding 12 months.

8.6 DEVB and LD have established a standing mechanism whereby LD submits monthly notifications of cases involving site safety offences. These notifications include the names of the contractors involved, the locations and dates of the incidents, the offences committed, the dates of sentencing and the penalties imposed. When processing applications for admission to the approved lists, DEVB and relevant works departments will verify the declared information against the records. Applicants failing to meet the criteria related to site safety will be rejected by DEVB for admission to the approved lists.

8.7 According to DEVB's records, a total of 302 contractors applied for admission to the approved lists between 2011 and 2023. The numbers of applications rejected for failing to meet the criteria related to site safety were nil in 2011 to 2021, one in 2022 and two in 2023.

8.8 Upon admission to the approved lists, contractors must continue to comply with relevant site safety requirements to retain the status. These requirements include employing qualified safety personnel continuously and arranging site safety training annually for management and technical personnel. Contractors are required to submit to DEVB every three years the updated information (including records and declarations confirming that their management and technical personnel have completed safety training). DEVB will spot check the information (with a sampling rate of no less than 5%). Should any non-compliance be found in the information, DEVB will take appropriate follow-up action against the contractor, including suspension from tendering or removal from the approved lists.

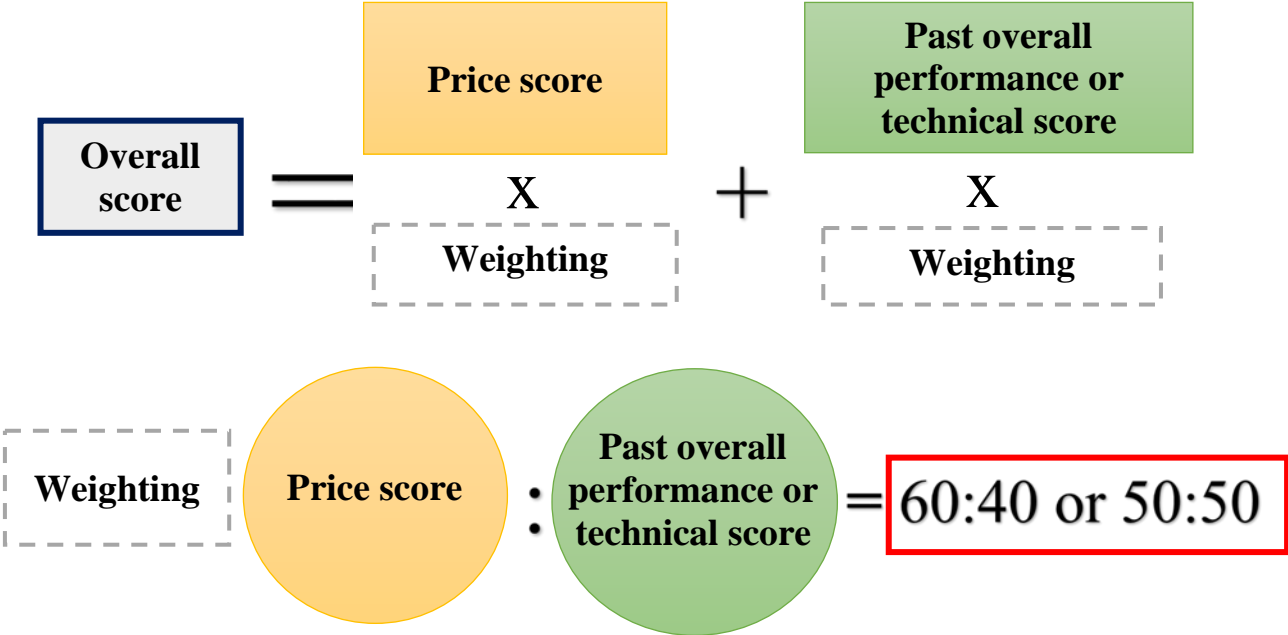
8.9 In response to concerns that a contractor having been rejected admission to or removed from the approved lists can set up a new company to circumvent scrutiny of its past site safety performance, DEVB explained that a newly established company will not be approved for admission to the approved lists unless it possesses, in its own right,

sufficient project experience, employ qualified senior management, safety and technical personnel, and meet financial requirements regarding employed capital and working capital (including the submission of audited financial statements for the preceding three years). As a newly established company at best has only limited project experience and cannot count on another contractor’s experience as the basis for its application, it cannot satisfy the criteria about project experience. DEVB considered it not viable for a contractor to solely rely on setting up a new company for successful admission within a short time frame after having been rejected or removed from the approved lists.

TENDER EVALUATION

8.10 DEVB stated that in the tender evaluation system for public works, the Government has always considered the tenderers’ technical capability, past performance in public works and tender price. Scores are given on a contractor’s past safety performance and site accident rates in public works. The current tender evaluation method is as follows:

Figure 16: Tender evaluation method for public works



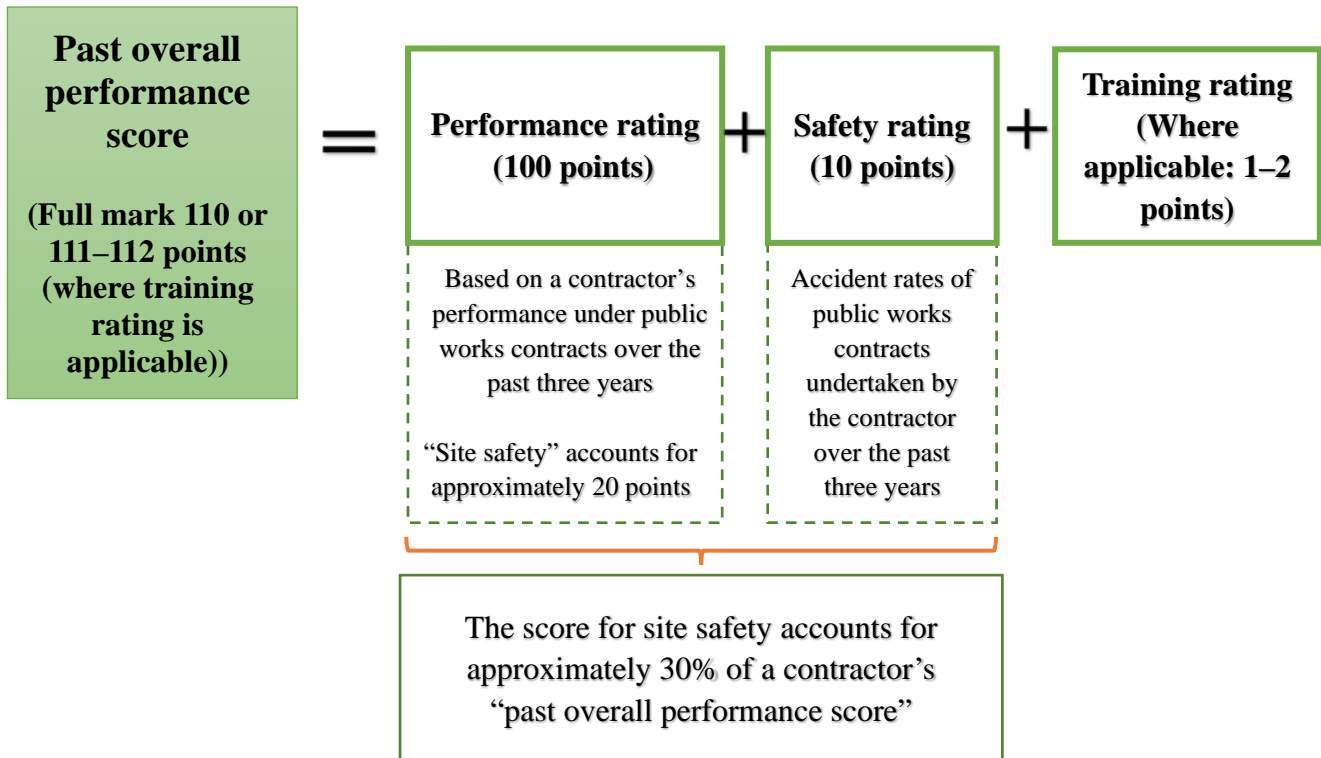
8.11 Depending on the works nature, the “past overall performance score” or “technical score” may account for 40% or 50% of the overall score.

8.12 Two tender evaluation approaches have been developed for public works contracts, namely the Formula Approach and the Marking Scheme Approach.

Formula Approach

8.13 The Formula Approach is applicable to projects of general complexity. A tenderer's "past overall performance score" is equal to the sum of its performance rating, safety rating and training rating (where applicable).

Figure 17: Formula Approach

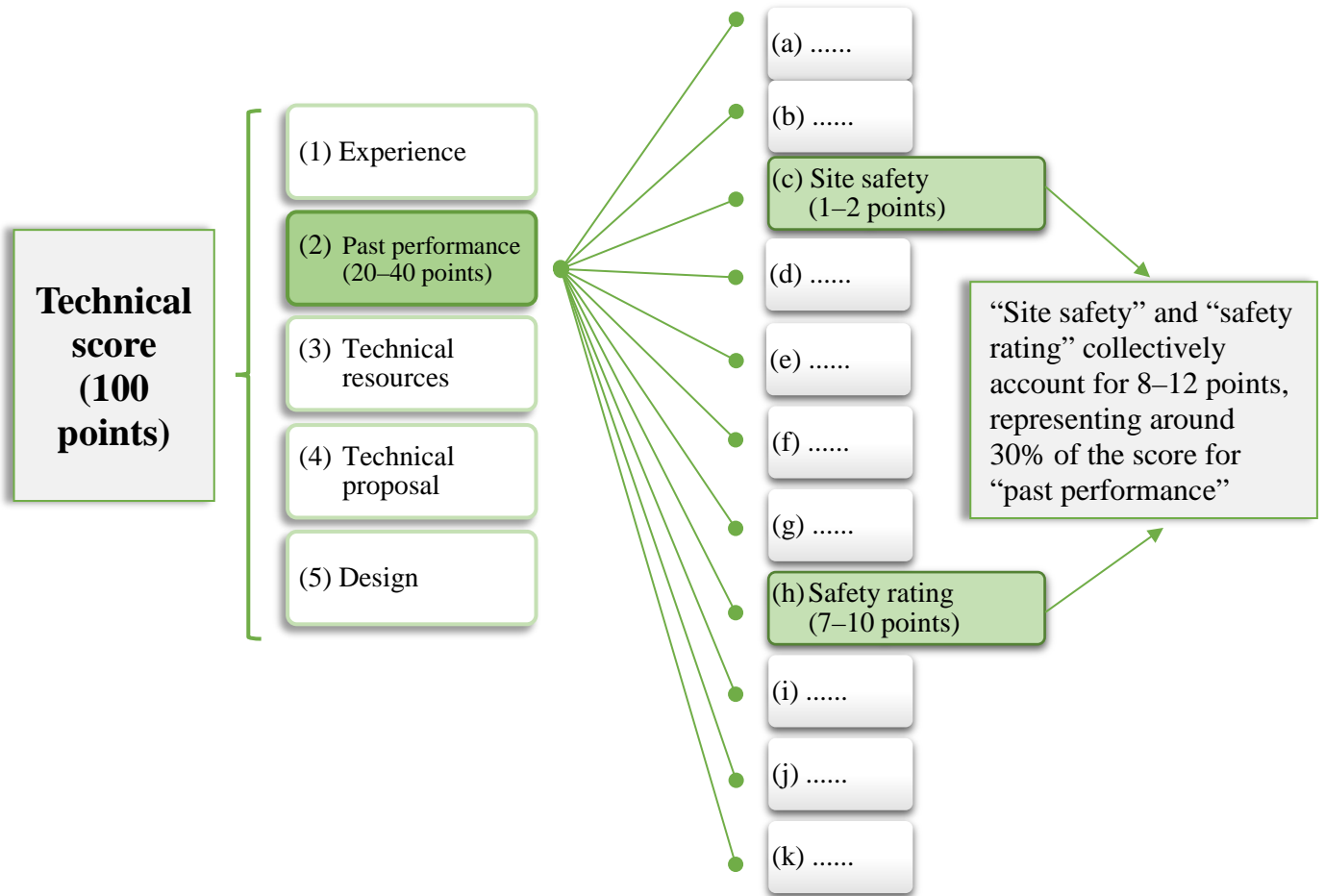


8.14 Performance rating is based on a contractor's performance under public works contracts over the past three years, with site safety being an element of this rating. Safety rating is based on the accident rates of public works contracts undertaken by a contractor over the past three years. Collectively, the score for site safety accounts for approximately 30% of a contractor's "past overall performance score".

Marking Scheme Approach

8.15 The Marking Scheme Approach is applicable to works contracts which are large-scale, more complex or require closer coordination. The works department will evaluate multiple attributes of a tenderer, including its experience, past performance and technical proposal. The score for "past performance" includes "safety rating" and "site safety".

Figure 18: Marking Scheme Approach



8.16 Under the Marking Scheme Approach, assuming the full score of “technical score” is 100 points, “site safety” and “safety rating” collectively account for 8 to 12 points, representing approximately 30% of the score for “past performance” (out of 20 to 40 points).

Criteria for Tender Evaluation

8.17 DEVB noted that in procuring public works contracts, it has always adhered to the principle of best value for money and open and fair competition, with clear procedures and methodologies adopted. DEVB does not follow the principle of “the lowest bid wins” in tender evaluation. In addition to the tender price, it also examines the technical capability and past performance (including past site safety performance) of tenderers. Regardless of which approach is used for tender evaluation, a tenderer’s past safety performance in public works is reflected in the relevant rating. It also takes LD’s prosecution records into account to evaluate a tenderer’s safety performance. Consequently, contractors’ unsatisfactory safety performance in past public works will directly affect their prospect of being awarded public works contracts in future.

8.18 Furthermore, DEVB has a mechanism in place to prevent price undercutting. The assessment panel rigorously scrutinises each item comprising the tender price. Should any unreasonably low tender be identified, it will not be recommended for award of contract even if its overall score is the highest. This mechanism has been operating effectively. Between 2018 and 2023, a total of 21 tenders for public works contracts with the highest overall scores were rejected for being considered unreasonably low price.

8.19 On the other hand, where the works contracts involve larger or more complex projects, tenderers must submit a technical proposal that meets the specified requirements. If the project requires the contractor to provide designs for part of the works in the tender, the safety considerations of such designs will be included as one of the evaluation items. Moreover, depending on the nature and requirements of a project, the works department may require tenderers to elaborate in their technical proposals on how they will formulate countermeasures against recognised safety hazards during the construction stage in accordance with the framework of the Guidance Notes of Design for Safety (see **para. 8.39**), which will also be included as one of the evaluation items.

8.20 DEVB added that contractors would receive higher technical scores for proposing adoption of innovative technologies in their technical proposals to enhance OSH standards, or presenting safety-focused design solutions, or suggesting proper countermeasures against recognised safety hazards, thereby increasing their chances of winning the tender.

Review of the Tender Evaluation System

8.21 DEVB stated that it attaches great importance to the site safety performance of public works contractors and regularly reviews and improves the tender evaluation system. In tenders conducted prior to 15 May 2014, the safety rating was not assessed separately. Under the former system's Formula Approach, a tenderer's overall site safety performance was reflected solely through the performance rating. Under the former Marking Scheme Approach, a score was given for "site safety and accident rates" to reflect a tenderer's overall site safety performance, accounting for approximately 15% of the past performance score. In 2014, DEVB increased the weighting of site safety under the past performance score and introduced a separate item of "safety rating". Under the current tender evaluation system, site safety accounts for approximately 30% of a contractor's past overall performance score (applicable to the Formula Approach) or past performance score (applicable to the Marking Scheme Approach).

8.22 As both the Formula Approach and the Marking Scheme Approach solely consider contractors' past safety performance under public works contracts, DEVB introduced a new evaluation mechanism for these approaches in November 2023 to further enhance contractors' focus on site safety:

- (1) Where a contractor has a good safety record in both public works and private construction projects (within one year from the first date of the

14th month prior to the tender closing date), a merit point of 1 is given to its past overall performance score (applicable to the Formula Approach) or past performance score (applicable to the Marking Scheme Approach).

- (2) Conversely, if a contractor was involved in a serious site safety incident (within one year from the first date of the 14th month prior to the tender closing date) and DEVB considers that the contractor might be liable for the incident, even if it did not occur on a public works site, a demerit point of 0.5 (for serious injury accident) or 1 (for fatal accident) is given to its past overall performance score (applicable to the Formula Approach) or past performance score (applicable to the Marking Scheme Approach).

Public Works Sites Involving Fatal Accidents

8.23 The Office has selected 12 public works projects involving fatal industrial accidents between 2020 and 2023 (accounting for 86% of all fatal industrial accidents in public works projects during that period) and examined the scores given to the relevant contractors (i.e. successful tenderers) regarding site safety performance in the tender evaluation.

Works Contracts Awarded under the Formula Approach

8.24 Under the Formula Approach, a tenderer's past overall performance score is equal to the sum of the performance rating, safety rating and training rating (if applicable). Of the 12 public works contracts selected by the Office, four were evaluated under the Formula Approach. Details are as follows:

Table 15: Safety performance scores in tender evaluation of contractors of public works projects involving fatal accidents (Using Formula Approach)

Contract No.	No. of conforming tenders	Score ratio of “past overall performance” to “tender price”		Successful tenderer’s “performance rating” (“site safety” being one of the considerations) (Successful tenderer’s ranking)	Successful tenderer’s “safety rating” (Successful tenderer’s ranking)
		Successful tenderer’s weighted score of “past overall performance” (Successful tenderer’s ranking)	Successful tenderer’s weighted score of “tender price” (Successful tenderer’s ranking)		
D	14	40:60		57.79# (7)	8.73# (9) [The full score was 10 points] (Scores of all tenderers: 3.50, 7.00, 7.75, 8.50, 8.73, 8.73, 8.75, 9.25, 10.00, 10.00, 10.00, 10.00, 10.00)
		35.39 (6)	59.64 (2)		
F	10	40:60		56.73# (5)	6.97# (4) [The full score was 10 points] (Scores of all tenderers: 4.25, 6.00, 6.25, 6.75, 6.75, 6.97, 6.97, 8.25, 8.75, 8.75)
		36.21 (5)	60 (1)		
G	15	40:60		62.07 (9)	8.50 (8) [The full score was 10 points] (Scores of all tenderers: 3.00, 3.00, 4.25, 6.50, 7.50, 7.58, 7.58, 8.50, 8.75, 8.75, 8.75, 9.50, 10.00, 10.00, 10.00)
		35.68 (10)	60 (1)		
H	8	40:60		63.61 (1)	6.75 (3) [The full score was 10 points] (Scores of all tenderers: 2.00, 6.44, 6.44, 6.44, 6.44, 6.75, 8.25, 8.75)
		40 (1)	58.69 (3)		

“Performance rating” or “safety rating” were not available (the latter being unavailable because the accident rate could not be calculated) as the contractor concerned had not been awarded any public works contract in the preceding three years. Under such circumstances, the works department will, according to the tender evaluation guidelines, assign the contractor a “performance rating” or “safety rating” based on the average score of all conforming tenderers.

8.25 For all the four contracts listed above, the ratio of weighting between “past overall performance” and “price” was 4:6. As shown in the table, only Contract H among the four contracts had a higher ranking for “past overall performance” (first place among eight tenders) than for “price” (third place among eight tenders).

8.26 For the other three contracts (namely Contracts D, F and G), the successful tenderers ranked higher in terms of “price” than “past overall performance”. As the successful tenderers for Contracts D and F had not been awarded any public works contracts in the preceding three years, their “performance rating” and “safety rating” were based on the average score of all conforming tenderers. Consequently, the successful tenderers for Contracts D and F ranked in the middle range for “past overall performance”. They were awarded the contracts due to their better tender prices (ranking second and first respectively).

8.27 Regarding Contract G, the successful tenderer ranked ninth out of fifteen tenderers for “performance rating”, eighth for “safety rating” and tenth for “past overall performance”. However, it was awarded the contract for ranking first in terms of “price”, which carried a weighting of 60%.

8.28 It is noteworthy that for all four contracts listed above, the full score for “safety rating” was 10 points. In Contracts D and G, the successful tenderers scored 8.73 and 8.50 for this item, although they only ranked ninth and eighth respectively. This shows that the score gaps among tenderers regarding “safety rating” were insignificant.

Works Contracts Awarded under the Marking Scheme Approach

8.29 The Office also examined eight public works contracts evaluated under the Marking Scheme Approach. Under this approach, the “technical score” relating to “past performance” includes “safety rating” and “site safety”. Relevant details are as follows:

Table 16 : Safety performance scores in tender evaluation of contractors of public works projects involving fatal accidents (Using Marking Scheme Approach)

Contract No.	No. of conforming tenders	Score ratio of “technical score” to “tender price”		Successful tenderer’s “safety rating” (Successful tenderer’s ranking)	Successful tenderer’s score of “site safety” (Successful tenderer’s ranking)
		Successful tenderer’s weighted “technical score” (Successful tenderer’s ranking)	Successful tenderer’s weighted score of “tender price” (Successful tenderer’s ranking)		
A	6	50:50		5.10# (3) [The full score was 7 points] (Scores of all tenderers: 3.85, 4.38, 5.00, 5.10, 5.81, 6.48)	0.25 (6) [The full score was 1 point] (Scores of all tenderers: 0.25, 0.40, 0.50, 0.50, 0.50, 1.00)
		50 (1)	44.5 (2)		
B	5	40:60		7.25 (4) [The full score was 10 points] (Scores of all tenderers: 7.00, 7.25, 8.75, 10.00, 10.00)	1.00 (4) [The full score was 2 points] (Scores of all tenderers: 1.00, 1.00, 1.15, 1.30, 1.50)
		39.88 (2)	48.82 (5)		
C	2*	50:50		5.75 (2) [The full score was 10 points] (Scores of all tenderers: 5.75, 10.00)	N/A*
		50 (1)	48.82 (2)		
E	8	40:60		5.75 (8) [The full score was 10 points] (Scores of all tenderers: 5.75, 6.75, 6.75, 8.73, 8.73, 9.11, 10.00, 10.00)	0.50 (8) [The full score was 2 points] (Scores of all tenderers: 0.50, 1.00, 1.00, 1.30, 1.30, 1.49, 1.49, 1.64)
		40 (1)	60 (1)		
I	3@	40:60		31.746@ (3) [The full score was 45 points] (Scores of all tenderers: 31.746, 36.947, 45.000)	3.927@ (2) [The full score was 7 points] (Scores of all tenderers: 3.916, 3.927, 5.950)
		306.42 (3) [The full score was 400 points]	600 (1) [The full score was 600 points]		

Contract No.	No. of conforming tenders	Score ratio of “technical score” to “tender price”		Successful tenderer’s “safety rating” (Successful tenderer’s ranking)	Successful tenderer’s score of “site safety” (Successful tenderer’s ranking)
		Successful tenderer’s weighted “technical score” (Successful tenderer’s ranking)	Successful tenderer’s weighted score of “tender price” (Successful tenderer’s ranking)		
J	3*	50:50		7.50 (2) [The full score was 10 points] (Scores of all tenderers: 6.25, 7.50, 8.00)	N/A*
		49.57 (2)	50 (1)		
K	4	40:60		4.05 (4) [The full score was 6 points] (Scores of all tenderers: 4.05, 5.25, 5.25, 5.25)	1.30 (4) [The full score was 2 points] (Scores of all tenderers: 1.30, 1.37, 1.37, 2.00)
		40 (1)	57.37 (3)		
L	6	40:60		5.000 (1) [The full score was 5 points] (Scores of all tenderers: 1.299, 2.750, 4.450, 4.800, 5.000, 5.000)	0.590 (2) [The full score was 1 point] (Scores of all tenderers: 0.373, 0.500, 0.500, 0.500, 0.590, 0.790)
		40 (1)	54.74 (4)		

* Prequalification was adopted in the tendering for these contracts. A “marking scheme approach” was applied in tender evaluation of prequalified tenderers, and score of “site safety” was reflected in the “performance rating”.

@ Tenderers’ “safety rating” and score of “site safety” were assessed during the initial stage of prequalification for this contract.

“Performance rating” or “safety rating” were not available (the latter being unavailable because the accident rate could not be calculated) as the contractor concerned had not been awarded any public works contract in the preceding three years. Under such circumstances, the works department will, according to the tender evaluation guidelines, assign the contractor a “performance rating” or “safety rating” based on the average score of all conforming tenderers.

8.30 Of the eight contracts listed above, the weighting of “price” was 60% for five contracts and 50% for the remaining three. As shown in the table, except for Contract I, the other seven successful tenderers ranked first or second in terms of “technical score”. For Contract I, the successful tenderer ranked last among the three prequalified tenderers in terms of both “technical score” and “safety rating”, but ranked first in term of “price”. It was awarded the contract due to the higher weighting (60%) given to “price”.

8.31 For several contracts (including Contracts A, B, C, E and K), the successful tenderer scored relatively poorly in terms of “safety rating” and “site safety”, and even ranked last for these items. Yet, given other considerations in the tender evaluation, the successful tenderer still managed to rank first or second in terms of the overall “technical score”. In particular, the successful tenderers of Contracts E and K were given the lowest score among all the tenderers in terms of “safety rating” and “site safety”.

8.32 According to DEVB, the successful tenderers of Contracts A and E were given lower scores for “site safety” because they were rated “poor” or “very poor” for “site safety” in about 13% and 15% of the quarterly assessment reports during the five-year period before the closing of the tender. DEVB pointed out that the relevant assessment reports showed that the two successful tenderers were given poor ratings because of minor accidents happened at their works sites and inadequacies in the safety measures implemented. According to the records, they took the initiative to implement improvement measures after receiving the quarterly assessment reports, with site safety performance improved significantly in the following quarters. On the other hand, the two successful tenderers were given higher scores in terms of other items, including experience, technical resources and technical proposal, and hence were recommended for award of contracts based on the total scores and overall performance.

8.33 The Office noted that for several contracts, the score gaps regarding “safety rating” and “site safety” among the tenderers were insignificant. For example, the full score of “site safety” for Contract B was 2. Among the five tenderers, the highest score was 1.5 and the lowest 1.0. The gap between the two was only 0.5. Another example is Contract K with the full score of “safety rating” set at 6. Among the four tenderers, the highest score was 5.25 and the lowest 4.05. The gap between the two was only 1.2.

SAFETY REQUIREMENTS FOR PUBLIC WORKS CONTRACTS

8.34 In the Construction Site Safety Manual, DEVB has set out the contract terms and conditions for the site safety of public works. To ensure that contractors put in sufficient resources for site safety, the Government introduced the Pay for Safety Scheme in public works contracts in 1996. The scheme mainly comprises the inclusion of a set of pre-priced site safety items in the bill of quantities under the contract, for which tenderers are not required to offer a price. The purpose is to incentivise contractors to properly implement the relevant site safety items.

8.35 In addition to the statutory requirement for workers to undergo mandatory safety training recognised by LD and obtain a certificate (commonly known as “Green Card”), the contracts for public works also require contractors to provide workers with safety training as follows:

- (1) Induction safety training: On the worker's first working day on site, the contractor is required to provide a one-hour induction safety training which covers the contractor's safety policy, site conditions, environment and potential hazards, use of personal protective equipment, emergency procedures and first aid facilities, and reporting of work injuries. Refresher training should be provided every six months in the light of changes in the site environment;
- (2) Hazard identification session of the morning assembly: Before the commencement of work every day, the contractor should explain to the workers the work arrangements of the day, including a hazard identification session, for workers to understand the potential hazards and check the preventive measures and equipment;
- (3) Toolbox training: The contractor provides workers with a toolbox training every two weeks related to their work; and
- (4) Safety Training Course for Construction Workers of Specified Trades (commonly known as "Silver Card" course): Workers of 14 specified trades (namely painter and decorator, carpenter, demolition worker (building), plumber, bar bender and fixer, plasterer or tiler, bamboo scaffolder or metal scaffolder, curtain wall installer, lift mechanic, tower crane worker, construction materials rigger, tunnel worker, rigger and signaller, and concreter) are required to attend the "Silver Card" course organised by CIC. The course covers safety laws and regulations, general safety knowledge of high-risk work, safety codes of practice, common accidents and their causes, hazard identification, etc.

8.36 In addition, the contracts for public works also require the site supervisors and site management personnel of the contractors to complete specified safety training, including:

- (1) site supervisors are required to complete a 43-hour Course for Construction Safety Supervisors, which covers safety legislation, safety management and training techniques, accident prevention principles, safety code of practice and site safety inspection techniques; and
- (2) site management personnel (including project managers, site agents and resident engineers) are required to complete a 27-hour Safety Training Course for Site Management Staff, which covers safety legislation and safety management techniques, risk assessment and safety inspection, accident prevention and accident investigation, safe design, work safe behaviour and safety climate index.

8.37 The costs for the above training of workers, site supervisors and site management staff are included in the contract sum for public works.

8.38 In the event of a serious accident, DEVB will also issue safety warnings to the works departments and forward the safety warnings issued by other organisations (such as LD or CIC). After receiving the safety warning forwarded by the works department, the management of the contractor will explain to frontline site staff and workers what happened and the points to note in the morning assembly and toolbox training, so as to avoid the recurrence of similar accidents. DEVB and the works departments will also organise seminars according to the actual situation to share good practices of site safety with the management of contractors and frontline site staff.

8.39 In 2006, the then Environment, Transport and Works Bureau, which was responsible for public works policies, and the Hong Kong Housing Authority jointly formulated the Guidance Notes of Design for Safety, requiring works departments to thoroughly consider construction and maintenance work safety during the design stage. In 2016, DEVB updated the Guidance Notes to demarcate the roles and responsibilities of different stakeholders more clearly at various stages of a works project. At present, capital projects (excluding “design and build” contracts) costed more than \$500 million are required to implement Design for Safety.

CONSTANT MONITORING OF SITE SAFETY IN PUBLIC WORKS

8.40 Works departments normally engage resident teams (including resident engineers, site inspectors, site supervisors, etc.) through consultants to assist in monitoring the sites, vetting the safety plans, risk assessments and method statements submitted by contractors, and conducting regular and surprise site inspections to directly monitor the safety performance of contractors. Each works department has a Safety Advisory Unit to advise on site safety matters for its projects. Directorate officers also conduct regular site visits to keep abreast of site safety conditions, and will summon the senior management of the contractor whose safety performance is poor or substandard to express their concerns and ask for improvement.

8.41 Each improvement notice or suspension notice issued by LD to a contractor in respect of public works will be copied to the works department. The works departments will urge the contractor to adopt improvement measures immediately to rectify the unsafe items and report the progress to LD.

8.42 The works department responsible for the contract is required to assess the contractor’s performance, including site safety performance, on a quarterly basis, taking into account the results of inspections conducted by LD. The quarterly assessment reports of contractors are recorded in the Government’s Contractor Management Information System.

8.43 If a contractor’s site safety performance is rated as “poor” in the quarterly assessment, the overall score of its assessment report will be lowered, which will directly affect its chances of winning a tender in the future. If a contractor’s site safety performance is rated as “very poor” in the quarterly assessment, it will not only result in a lower overall score, but the assessment report will also be rated as failed. In general, DEVB will suspend a public works contractor with two consecutive failed quarterly reports from tendering in accordance with the mechanism. Moreover, DEVB may consider, having regard to the circumstances, suspending a contractor from tendering if it has received failed quarterly reports repeatedly, albeit not consecutively. In such situation, the works department will comprehensively review the contractor’s performance upon completion of the contract and take appropriate regulating action against the contractor, such as downgrading to probationary status or demotion to a lower group, or even removal from the approved lists.

8.44 If a contractor’s site safety performance is “poor” or “very poor”, the works department will, on the one hand, immediately require the contractor to make improvements, and on the other hand, step up site inspection and supervision of the contractor’s work to ensure site safety. In addition, if two reportable accidents occur at a contractor’s site within any three months while the average accident rate is more than 0.5 reportable accident per 100,000 man-hours⁴⁰, the works department will summon the senior management of the contractor to give instructions and require the contractor to submit a detailed report as soon as possible to explain the cause of the accidents and propose improvement measures.

REGULATING ACTIONS AGAINST CONTRACTORS

8.45 Under the existing regime, DEVB may initiate a panel of enquiry and take regulating action against a contractor on the approved lists if the contractor:

- (1) has recorded serious incidents⁴¹ in a construction site under its operation (regardless of whether the incidents took place in the construction sites of public works or private development projects); or
- (2) has been convicted of five site safety offences in any six-month period⁴².

⁴⁰ With effect from 1 January 2025, the requirement has been tightened to an average accident rate of more than 0.24 reportable accident per 100,000 man-hours.

⁴¹ Serious incidents refer to fatal incidents, amputation due to serious injuries, etc.

⁴² Since 1994, the former Works Bureau would take regulating actions against contractors who have been convicted of six site safety offences in any six-month period. The requirement was revised in 1999 to take regulating actions against contractors who have been convicted of five site safety offences in any six-month period.

8.46 DEVB and LD have established a standing mechanism whereby LD submits monthly report to DEVB on sites (including public works and non-public works sites) where serious incidents have occurred, including the names of contractors, the locations of incidents, and the nature and seriousness of the injuries sustained by the deceased or the injured. If the contractor concerned is on the approved lists, DEVB will seek further information on the serious incident from LD for the purpose of conducting an enquiry.

8.47 Taking the findings of LD's investigation into account, the panel of enquiry will recommend regulating action against the contractor in the light of its responsibility in the incident, such as issuing warning letters, requesting the contractor to conduct an independent safety audit, suspension from tendering, removal from the approved lists, downgrading to probationary status or demotion to a lower group.

8.48 DEVB can immediately suspend contractors with poor site safety performance (such as involving in a very serious incident or a series of serious incidents) from tendering for public works or even remove them from the approved lists. For example, after a very serious incident involving the collapse of a tower crane on 7 September 2022, even though it did not occur on a public works site, DEVB immediately suspended the contractor concerned from tendering for public works until the end of 2023.

8.49 Even though the suspension was subsequently lifted, DEVB will conduct an enquiry in light of the findings of LD's investigation into the serious site safety incident, and take further regulating action against the contractor in the light of its responsibility in the incident.

8.50 While some of the contractors are related companies or owned by the same parent company, each contractor on the approved lists is, by legal definition, an independent legal entity. Under OSH legislation, their safety management systems also operate independently. Hence, DEVB will take regulating action only against the contractor concerned after considering the seriousness of the site safety incident and the contractor's responsibility in the incident. However, should similar industrial accidents occur successively at construction sites operated by several contractors belonging to the same group, thereby causing DEVB to question the safety management capabilities of other companies within that group, DEVB will consider taking appropriate follow-up actions (including instructing the works department to step up inspection at construction sites under the related companies) even if there are insufficient grounds to take regulating action against those other companies.

Enhanced Regulatory Measures in Recent Years

8.51 In November 2022, DEVB issued the Technical Circular (Works) No. 4/2022 and updated the Contractor Management Handbook to strengthen the regulation of contractors on the approved lists for occurrence of serious incidents or conviction of site safety offences. The measures include:

- (1) the regulating action of suspending contractors from tendering has extended its effect from the suspension period to also covering works contracts tendered for but not yet awarded prior to the suspension period;
- (2) if DEVB finds that that a serious incident is contributable to systemic deficiencies of the contractor (i.e. the deficiencies in its safety management system are also found in the corresponding part of the safety management system under other works categories), the regulating action will apply not only to the category of that works project, but also to all relevant categories for which the contractor is listed.

For example, after a fatal industrial accident involving underground cooling pipes on 24 September 2023, DEVB immediately suspended the contractor concerned from tendering for public works under the category of “air-conditioning installation”. The regulating action was also applicable to all works categories (i.e. fire service installation and plumbing installation, in addition to air-conditioning installation) for which the contractor was listed on the List of Approved Suppliers of Materials and Specialist Contractors for Public Works; and

- (3) the contractors on the approved lists being regulated and the applicable categories are clearly marked on the website of DEVB to enhance transparency of information.

8.52 In July 2023, DEVB issued the Technical Circular (Works) No. 5/2023 to further strengthen the regulation of contractors on the approved lists. The measures include:

- (1) in the case that a serious incident occurs at the construction site (regardless of whether it is a site of public works or private development project) of a contractor on the approved lists, DEVB will immediately suspend the contractor from tendering for public works under the relevant categories, unless there is reason to believe that the contractor is not liable for the incident (such as where a suicide case is involved). In addition, the contractor is also required to conduct an independent safety audit to review its safety management system. Its site safety performance is subject to the submission of an improvement proposal and the implementation of improvement measures based on the results of safety audit. DEVB will only consider lifting the suspension after it is satisfied that the contractor has an effective safety management system in place. The suspension applies not only to future tenders but also to works contracts which the contractor has tendered for but not yet been awarded; and

- (2) in the case that a dangerous occurrence⁴³ occurs at the construction site (regardless of whether it is a site of public works or private development project) of a contractor on the approved lists, whether LD has issued an improvement notice or a suspension notice in respect of the occurrence or not, the contractor must conduct an independent safety audit to review its safety management system, and submit an improvement proposal and implement improvement measures based on the results of safety audit.

8.53 DEVB pointed out that the regulatory measures for “dangerous occurrences” are introduced to target some dangerous situations at construction sites that may not involve injury or death, with a view to managing the safety risks of contractors at an earlier stage and achieving better preventive effect.

Statistics

8.54 Between 2018 and 2023, DEVB took one to three regulating actions (including suspension from tendering for public works and request for conducting an independent safety audit) for site safety matters against 54 contractors on the approved lists and five regulating actions against one contractor⁴⁴. All cases involved serious incidents or poor site safety performance. Statistics on the regulating actions against contractors on the approved lists are as follows:

⁴³ Dangerous occurrences refer to those set out in Schedule 1 to the Factories and Industrial Undertakings Regulations or those in Schedule 1 to the Occupational Safety and Health Ordinance. For example, the collapse of a crane or any part thereof used in raising or lowering persons or goods; the overturning of a crane; electrical short circuit or failure of electrical machinery, plant or apparatus, attended by explosion or fire or causing structural damage thereto.

⁴⁴ Although DEVB had taken five regulating actions against the contractor concerned, no systemic deficiencies were found in the contractor’s safety management because the works categories involved, the nature of the incidents, the processes involved in the incidents and the safety measures of the processes involved were different, and the deficiencies in the serious incidents were isolated. No systemic deficiencies in the safety management system of the contractor were found. As a result, DEVB had not imposed a more serious penalty on the contractor, such as downgrading.

Table 17: Number of DEVB’s regulating actions against contractors on the approved lists

Year	No. of contractors on the approved lists in that year	No. of suspensions from tendering and the average suspension period (the number in brackets refers to the number of contractors involved)	No. of requests made to contractors for conduct of an independent safety audit (the number in brackets refers to the number of contractors involved)	No. of actions to downgrade or remove contractors from the approved lists
2018	800	7 4.1 months (7)	8 (8)	0
2019	824	9 5.6 months (9)	10 (10)	0
2020	839	8 5.4 months (7)	9 (8)	0
2021	840	11 6.2 months (10)	11 (10)	0
2022	858	12 6.6 months (9)	12 (9)	0
2023	870	23 5.6 months (22)	49 (44)	0

8.55 As shown in the above table, between 2018 and 2022, DEVB took regulating actions to suspend seven to ten contractors from tendering for public works each year, with the average suspension period ranging from 4.1 to 6.6 months. 8 to 12 requests were made to contractors for conducting an independent safety audit each year. With regard to **Cases 1 to 3** in the **Appendix** involving fatal industrial accidents in public works, DEVB has conducted an enquiry in accordance with the regulatory mechanism, suspended the contractors from tendering for four to nine months and requested them to conduct an independent safety audit.

8.56 Following the implementation of the strengthened regulatory measures, DEVB suspended 22 contractors from tendering for public works in 23 cases in 2023 (the average suspension period was 5.6 months). Among them, in nine cases suspension for at least three months (involving nine contractors) was imposed immediately after a serious site safety incident, which were regulating actions taken by DEVB before an enquiry. In the remaining 14 cases (involving 13 contractors) suspension was imposed after DEVB held an enquiry under the mechanism in response to serious site safety incidents. Between 2018 and 2023, DEVB did not take regulating action to downgrade or remove any contractors from the approved lists.

8.57 On the other hand, according to the information from DEVB, the number of regulating actions against contractors for conviction of five site safety offences in any six-month period dropped substantially from 27 cases between 1999 and 2008 to 1 case between 2009 and 2018, and further to nil between 2019 and 2023. DEVB explained that this regulating action is targeted at contractors on the approved lists with frequent convictions of relatively minor site safety offences. DEVB added that conviction of five site safety offences in any six-month period constitutes merely one of the criteria for it to take regulating actions, which do not reflect the full scope of regulating actions taken on site safety matters.

9

USE OF INNOVATION AND TECHNOLOGY

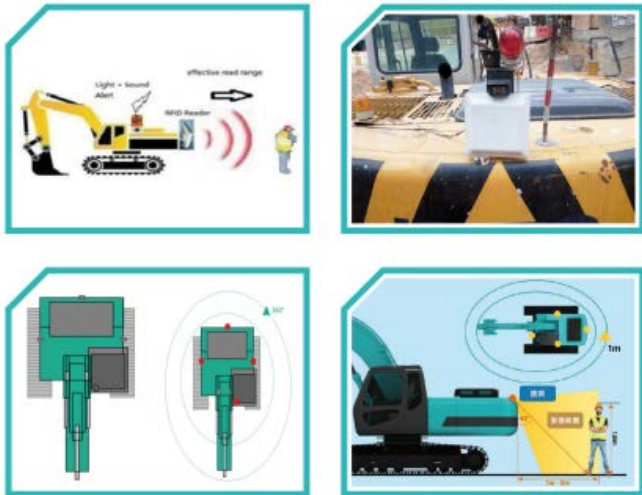
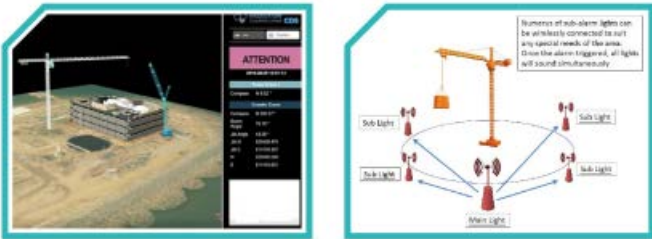

SMART SITE SAFETY

9.1 DEVB, in collaboration with relevant departments and statutory bodies, is committed to promoting the application of the Smart Site Safety System to enhance site safety. The system comprises three main components:

- (1) smart safety devices, such as smoke and fire detectors, temperature and humidity monitors, and hazard alert systems, to monitor site activities;
- (2) a communication network for collecting data from the smart safety devices on site; and
- (3) a centralised management platform for data analysis, report and generation of alerts.

9.2 According to CIC's Guide to Smart Safety-related Technologies for Use in Construction Works published in December 2022, the Smart Site Safety System encompasses 10 main categories, examples of which are as follows:

**Table 18: Examples of Main Categories within the Smart Site Safety System
(Extracted from CIC’s Guide to Smart Safety-related Technologies
for Use in Construction Works)**

Unsafe Acts or Dangerous Situation Alert System for Mobile Plant Operation Danger Zone	
 <p>Figure 19</p>	<p>In this system, adequate number of sensors are installed on the mobile plant chassis and movable parts (e.g. excavators, mobile cranes, etc.) to ensure full coverage around the mobile plant danger zone perimeter. Mobile plant operator and any site personnel encroaching the mobile plant danger zone perimeter of the risk being run over or hit by the plant moving components will be alerted by the system.</p>
Unsafe Acts or Dangerous Situation Alert System for Tower Crane Lifting Zone	
 <p>Figure 20</p>	<p>In this system, adequate number of sensors are installed on or around the tower crane to ensure a full coverage of all loading or unloading areas danger zone perimeter at all floor levels involved. Tower crane operator and any site personnel encroaching the tower crane loading or unloading danger zone perimeter of the risk of being hit by the moving load under the crane hook will be alerted by the system.</p>
Smart Monitoring Devices for Workers and Frontline Site Personnel	
 <p>Figure 21</p>	<p>Workers and frontline site personnel are provided with smart devices such as smart safety helmets and smart wristbands. The smart devices are connected through cellular, WiFi, etc. These smart devices have the following functions: outdoor and indoor location tracking and</p>

	recording of workers’ and frontline site personnel in different area and time; real-time detection of any standstill; real-time detection of body temperature and heart beat rate; detection and sending alert to workers and plant or machinery operators of moving plants or vehicles; and detection and sending alert to workers and frontline site personnel of unauthorised entry to restricted area.
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Public Works

9.3 In February 2023, DEVB issued Technical Circular (Works) No. 3/2023, requiring public works contracts with contract sum exceeding \$30 million to adopt the Smart Site Safety System. Since February 2023, DEVB has also incorporated a new assessment item on “adoption, implementation and maintenance of the Smart Site Safety System” in its contractor performance assessment reports, to duly reflect contractors’ performance in this area.

9.4 According to information provided by DEVB, following the issuance of the aforementioned Technical Circular (Works), the Smart Site Safety System has been implemented in all public works contracts with contract sum exceeding \$30 million, except those nearly completed or already completed. The number of public works contracts awarded between 2019 and 2023, and the number of contracts in which the Smart Site Safety System has been implemented, are as follows:

Table 19: Number of public works projects adopting the Smart Site Safety System and related casualties

Year	No. of contracts awarded*	No. of contracts with a value of over \$30 million	(a) No. of contracts with a value of over \$30 million which adopted the Smart Site Safety System	No. of sites in column (a) involving cases of injury		Number of sites in column (a) involving fatal accidents	
				Regardless of when the accident occurred	After adoption of the Smart Site Safety System	Regardless of when the accident occurred	After adoption of the Smart Site Safety System
2019	1,048	39	20	17	4	4	0
2020	1,096	64	49	26	6	2	0
2021	919	71	60	27	2	0	0

Year	No. of contracts awarded*	No. of contracts with a value of over \$30 million	(a) No. of contracts with a value of over \$30 million which adopted the Smart Site Safety System	No. of sites in column (a) involving cases of injury		Number of sites in column (a) involving fatal accidents	
				Regardless of when the accident occurred	After adoption of the Smart Site Safety System	Regardless of when the accident occurred	After adoption of the Smart Site Safety System
2022	796	61	57	5	2	0	0
2023	639	50	50	3	0	0	0
Total	4,498	285	236	78	14	6	0

* The majority of the contracts are small-scale mechanical and electrical works with a value ranging from some ten thousand to a few million dollars, such as installation of projectors, installation of CCTV, replacement of air-conditioners, replacement of lighting systems, replacement of PA system and replacement of backup uninterruptible power supply system.

9.5 Between 2019 and 2023, the number of awarded public works contracts with a value of over \$30 million ranged from 39 to 71, totalling 285 contracts. Of these, 236 contracts (about 83%) had the Smart Site Safety System adopted. Among the sites where the Smart Site Safety System was adopted, there were 78 sites where accidents occurred during the five-year period regardless of when the accidents occurred. After full adoption of the Smart Site Safety System, the number of sites where accidents occurred dropped to 14, representing approximately 6% of all sites with contracts whose value exceeded \$30 million and in which the Smart Site Safety System had been adopted. Following full adoption of the Smart Site Safety System in public works contracts with a value of over \$30 million, no fatal accidents occurred in such sites.

9.6 DEVB considered that adoption of the Smart Site Safety System at public works sites has effectively enhanced site safety performance. The Bureau pointed out that the adoption of the Smart Site Safety System has led to a marked decrease in workplace accidents, significantly enhancing site safety and offering more robust protection for workers. For example, a worker wearing a smart wristband had his abnormal heart beat rate detected early at a construction site, enabling him to rest and undergo a timely check-up, thus successfully safeguarding his life. Furthermore, the danger zone alert system provides instant warnings to workers who unintentionally enter the zone and the moving plant operator concerned, thereby preventing accidents.

9.7 According to DEVB, accidents at certain construction sites where the Smart Site Safety System has been adopted may be attributed to unsafe acts of workers. Nevertheless, the adoption of the Smart Site Safety System in some high-risk operations—such as lifting operations and confined spaces, has led to a reduction in associated accidents. The Bureau indicated it would continue efforts to enhance and promote the adoption of the Smart Site Safety System across various construction sites to improve site safety.

Private Works Projects

9.8 To encourage the industry to adopt the Smart Site Safety System in private construction sites, DEVB and CIC have introduced a new measure since 1 April 2023 to increase the amount of subsidy per company under the Construction Innovation and Technology Fund⁴⁵ from \$6 million to \$7.5 million, where the additional \$1.5 million must be dedicated to the Smart Site Safety System. The Construction Innovation and Technology Fund offers over 70 pre-approved product options to applicants. CIC noted that other technologies supported by the fund, such as the Modular Integrated Construction method, though not primarily designed to enhance safety, reduce the risk of accidents on site through off-site prefabrication and thereby contribute to improved safety.

9.9 Since 2024, the Government has successively introduced various measures to intensify efforts in promoting the adoption of the Smart Site Safety System in private development projects, with the following key initiatives:

- (1) in May 2024, the funding scope of the Construction Innovation and Technology Fund was expanded to cover additional costs associated with adoption of various aspects of the Smart Site Safety System. This includes upgrading network capacity required for system operation, additional staffing for maintenance, technical support, procurement support, etc. Furthermore, to facilitate industry adoption, particularly among small and medium-sized enterprises, DEVB and CIC have prepared multiple product packages for the Smart Site Safety System tailored to different types and scales of private construction works. A list of product suppliers is provided for industry selection and adoption;
- (2) in May 2024, DEVB, in collaboration with CIC, launched the Smart Site Safety System Labelling Scheme. Construction sites that have adopted the Smart Site Safety System are eligible to apply to CIC. Following an on-site inspection and assessment to confirm proper adoption, CIC will issue labels to be displayed in prominent locations around the site for identification and easier monitoring. A list of labelled sites will also be uploaded to CIC's relevant webpage for public information. The Government expected to have approximately 500 sites (including public and private works projects) to participate in the labelling scheme by the end of 2024, representing over 60% of the current total number of construction sites. According to CIC's website, as of early March 2025, a total of 521 public and private

⁴⁵ In October 2018, DEVB launched the \$1 billion Construction Innovation and Technology Fund to promote wider adoption of innovative construction methods and technologies in the industry with a view to promoting productivity, uplifting built quality, improving site safety and enhancing environmental performance. DEVB entrusted CIC to manage the fund. In 2022, the fund received an additional injection of \$1.2 billion to support its continued operation and implementation of enhancement measures.

construction sites had passed the assessment and been issued with labels. CIC and government departments will conduct regular spot checks on labelled sites. If a site is found to be misusing its label, the label will be revoked and CIC will make a public announcement;

- (3) BD has introduced mandatory measures since 1 July 2024, imposing conditions under BO on relevant building works when granting the first approval or major revision of superstructure plans of private development projects. For building works with an estimated construction cost exceeding \$30 million involving the use of mobile plant and tower cranes, registered contractors must adopt relevant alert systems of the Smart Site Safety System to provide qualified supervision; and
- (4) from September to November 2024, eligibility of the Construction Innovation and Technology Fund was extended to cover local mobile plant or tower crane rental companies. As most contractors lease such equipment from rental companies, subsidising these companies at source to install the systems will accelerate the adoption of the Smart Site Safety System at construction sites. The industry response has been enthusiastic, and applications for the Construction Innovation and Technology Fund have been received for installing the Smart Site Safety System on 5,400 pieces of machinery, which significantly increased the adoption of the Smart Site Safety System.

9.10 Since the establishment of the Construction Innovation and Technology Fund in October 2018 to July 2024, CIC had approved 270 applications for funding to adopt the Smart Site Safety System, which involved a total funding of \$60 million. DEVB believes that under the above multi-pronged measures, more private development projects will adopt the Smart Site Safety System.

NEW WORK EQUIPMENT

9.11 OSHC is committed to developing various new types of work equipment to enhance site safety. Key examples include:

- (1) Improved “I” Shape Truss-out Metal Bracket
Given that the quality of angle brackets currently used in renovation and maintenance work varies greatly, OSHC commissioned the Hong Kong University of Science and Technology to conduct research and design an improved “I” shape truss-out metal bracket. Its advantages include helping to reduce the risk of workers falling from height due to excessive outward extension of the upper limbs outside during installation of anchor points. In May 2024, OSHC introduced the Sponsorship Scheme for Fall Arresting Equipment for Renovation

& Maintenance Work and Construction Industry for purchasing improved “T” shape truss-out metal brackets to help the industry with implementation of fall prevention measures.

**Figure 22: Improved “T” shape truss-out metal bracket
(Source: OSHC website)**



(2) Pilot Partnership Scheme 2.0 on Provision of Light-duty Working Platform for Property Management Companies

In 2018, OSHC and LD launched the Pilot Partnership Scheme on Provision of Light-duty Working Platform for Property Management Companies. That was followed by the Pilot Partnership Scheme 2.0 in 2022, which offers property management companies free-of-charge light-duty working platforms such as step platforms and hop-up platform that comply with safety specifications. These platforms are available for lending to contractors working within the managed estates.

**Figure 23: Step platform
(Source: OSHC website)**



Figure 24: Hop-up platform
(Source: OSHC website)



(3) Rapid Demountable Platform

Truss-out scaffolding is extensively used for external wall repair and maintenance work. Its erection and dismantling are high-risk tasks, often requiring workers to lean out of windows and work on external walls. OSHC has initiated research into a rapid demountable platform, whose components are primarily constructed from aluminium alloy offering both rigidity and lightness. The new design enables workers to erect and dismantle suspended working platforms while standing indoors or on a working platform with guardrails, thereby reducing the risk of falls from height;

Figure 25: Rapid demountable platform
(Source: OSHC website)



(4) Telescopic Scaffold Tower Sponsorship Scheme

To further enhance safety standards for work-above-ground, OSHC, in collaboration with LD, launched the Telescopic Scaffold Tower Sponsorship Scheme in January 2024 to subsidise small and medium-sized enterprises in purchasing and installing elevated work equipment that is easy to assemble, safety-certified, and designed for diverse work scenarios.

Figure 26: Telescopic scaffold tower
(Source: OSHC website)



OTHER PROMOTIONAL MEASURES

9.12 LD organises the Construction Industry Safety Award Scheme annually (see **Chapter 11** for details). During on-site assessments of construction sites, assessors award additional points based on whether contractors have provided, developed or applied innovative safety technology equipment or arrangements. The 2024-25 Scheme introduced the Lifting Operation Safety Innovation Award to encourage participating construction sites to proactively enhance lifting operation safety by applying innovative technology. Moreover, to further promote the adoption of the Smart Site Safety System among construction sites in the Building Sites (Private Sector) category, sites participating in the Smart Site Safety System Labelling Scheme within this category will receive additional points.

9.13 LD and OSHC jointly organised the first OSH Innovation and Technology Expo in March 2024, showcasing innovative solutions, products and technologies in OSH. This enabled the industry, practitioners and the public to gain first-hand knowledge and experience of the latest OSH technologies. Furthermore, the Expo

featured keynote speeches by local, mainland and international experts exploring how innovative technologies can enhance OSH standards across various industries, including construction.

Figure 27: OSH Innovation and Technology Expo in March 2024
(Source: OSHC website)



10

SAFETY EDUCATION

10.1 Training in the construction industry generally falls into two main categories: skills and safety. Skills training is governed by the Construction Workers Registration Ordinance (“CWRO”), which ensures that workers possess the requisite professional expertise and craftsmanship for their respective trades. Safety training, comprising mandatory courses prescribed under FIUO and its subsidiary regulations and overseen by LD, is supplemented by enhancement courses offered by statutory bodies and industry organisations.

WORKER REGISTRATION

10.2 CIC is responsible for administering worker registration. All persons entering construction sites for carrying out construction work, whether local or imported workers, must first complete the construction safety training course required under FIUO and obtain a certificate (commonly known as “Green Card”) (see **para. 10.21**). Upon obtaining the certificate, they must register as construction workers under CWRO.

10.3 Construction workers must comply with the requirement of “designated workers for designated skills”. This means that unless they have passed the assessment conducted by CIC or the former Construction Industry Training Authority and are registered as semi-skilled or skilled workers of the relevant trade, they must carry out such work on construction sites only under the instruction and supervision of registered semi-skilled or skilled workers. Enforcing the “designated workers for designated skills” requirement not only ensures that construction work is performed to the prescribed technical standards but also safeguards compliance with relevant safety requirements.

10.4 The eligibility criteria for registration as general workers, semi-skilled workers and skilled workers are as follows:

Table 20: Worker registration categories and eligibility criteria

Registration category	Eligibility criteria
Registered general worker	(a) holds a certificate referred to in section 6BA(2) of FIUO (commonly known as “Green Card”) in respect of his attendance at a safety training course that relates to construction work within the meaning of that Ordinance; (b) is a Hong Kong permanent resident or is not subject to any conditions of stay that he shall not take up any paid or unpaid employment in Hong Kong.
Registered semi-skilled worker	(a) meets the eligibility criteria for registration as a general worker; and (b) holds a relevant intermediate trade test certificate issued by CIC or the former Construction Industry Training Authority, or other qualifications, as specified in Schedule 1 to CWRO.
Registered skilled worker	(a) meets the eligibility criteria for registration as a general worker; and (b) holds a relevant trade test certificate issued by CIC or the former Construction Industry Training Authority, or other qualifications, as specified in Schedule 1 to CWRO.

10.5 According to CIC, as of December 2024, there were approximately 667,000 registered workers, including those currently employed in the industry as well as those who have retired or changed professions. Among them, about 412,000, 54,000 and 201,000 were registered general, semi-skilled and skilled workers respectively.

10.6 Construction workers working in construction sites must comply with relevant safety regulations, while their skill levels are governed by CWRO. Pursuant to CWRO, CIC conducts site inspections and enforcement actions, including verifying the validity of workers’ registrations and checking compliance with the “designated workers for designated skills” requirement. CWRO also requires the person in charge of a construction site to establish and maintain a daily attendance record. This record must contain details of registered construction workers employed on the site, including their registration card numbers, the dates and times of their entries and exits, and their designated trade divisions.

Renewal Requirements

10.7 The validity period of construction workers’ registration is generally five years. Under CWRO, workers must demonstrate continued compliance with the registration requirements when renewing their registration. This includes completion

of the safety training course specified in the eligibility criteria for registration as general workers and possession of a Green Card. A Green Card is generally valid for three years. To obtain a renewed Green Card, holders must complete a revalidation course recognised by the Commissioner for Labour. Where CIC has specified a development course applicable to a worker's registration, the worker must also provide proof of completion of that course when applying for renewal.

10.8 In addition, workers who are required to hold relevant mandatory safety training certificates by reason of their engagement in designated high-risk trades, activities, or machinery operations (see **para. 10.22**) must complete a revalidation course following the expiry of their certificate.

WORKER TRAINING

10.9 CIC and OSHC, as statutory bodies promoting OSH in the construction industry, provide a wide range of training courses for the industry.

CIC

10.10 The Hong Kong Institute of Construction under CIC, formerly known as the Construction Industry Training Authority, offers full-time programmes (including Advanced Diplomas, Diplomas in Construction, Certificates in Construction and short-term training courses) and part-time programmes (including skills upgrading programmes, specialised technical and management courses, safety training courses and courses related to machinery testing). Additionally, the Institute collaborates with trade unions and chambers of commerce to provide various cooperative training programmes.

10.11 CIC's Committee on Construction Safety has been committed to developing and advancing measures that foster a positive safety culture. The Committee and its sub-committees, comprising members from different sectors of the industry and relevant government departments (including LD), from time to time review and make recommendations on safety training programmes for the construction industry, including mandatory safety training courses administered by LD. These recommendations are considered by CIC and the relevant government departments, and the Hong Kong Institute of Construction enhances its programmes as appropriate.

10.12 To keep pace with industry development and evolving market needs, the Hong Kong Institute of Construction has in recent years incorporated the latest construction technologies, such as Building Information Modelling, Modular Integrated Construction, unmanned aerial vehicles and robotics, into its curriculum. The Institute has also launched the Approved Technical Talents Training Programmes, providing structured apprenticeship training. This initiative offers graduates a comprehensive pathway for professional development, enabling them to plan their further studies and career goals with greater flexibility and autonomy.

10.13 In 2022, DEVB allocated \$1 billion to CIC to implement targeted initiatives. These included enhancing short-term craft courses to train more new entrants to become semi-skilled workers, expanding the intake of the Approved Technical Talents Training Programmes in collaboration with the industry to cultivate skilled workers, and partnering with trade unions to strengthen skills upgrading programmes.

10.14 With the support of DEVB, CIC collaborates with trade unions and chambers of commerce to strengthen cooperative training. A total of 50 trades have adopted the “first-hire-then-train” approach, under which training is provided by contractors or trade unions, while CIC provides training allowances for trainees.

10.15 Through the aforementioned \$1 billion allocation and redeployment of internal resources, CIC has expanded the intake capacity of both the Hong Kong Institute of Construction and cooperative training. The total number of training places for trades workers was increased from 6,000 in the 2021/22 academic year to at least 12,000 per academic year from 2022/23 through 2027/28.

OSHC

10.16 OSHC offers a series of safety and health training courses tailored to the needs of the construction industry. These are broadly classified into six categories: general OSH courses, OSH supervisors courses, certificate of competence courses, OSH management courses, health and safety courses for graduate engineers, and registered safety officers courses recognised by LD.

10.17 The Construction Industry Safety and Health Committee under OSHC comprises representatives from employers, employees, professionals, academics and government departments (including LD). It holds regular meetings to exchange views and discuss OSH issues of concern to the industry, as well as ongoing initiatives. The Committee also provides advice to OSHC, enabling it to respond promptly to industry needs, including updating existing courses or introducing new ones.

10.18 OSHC currently operates 11 mandatory safety training courses recognised by LD. In developing course content, OSHC must ensure that all course materials comply with the conditions and standards prescribed by LD and incorporate OSH information provided by the Department, including Work Safety Alerts and systematic safety alerts. Trainers deliver courses through demonstrations, practical exercises and guided instruction, supplemented by analyses of real-life industrial accident cases. This approach helps trainees understand the importance of implementing adequate safety measures and the serious consequences that may result from unsafe behaviour or poor work practices.

10.19 In the fourth quarter of 2018, OSHC established the OSH Immersive Experience Hall at the Tsing Yi Occupational Safety and Health Academy, applying VR technology to create immersive virtual environments in OSH training courses, enabling trainees to safely experience, from a first-person perspective, the severe consequences

of unsafe practices, such as failing to wear a safety harness, through simulated scenarios such as falling from the external wall of a building under maintenance. This immersive approach is designed to heighten safety awareness.

10.20 OSHC shares observations gathered from training sessions with LD in a timely manner, enabling the Department to refine relevant courses. OSHC maintains close communication with LD and convenes regular meetings to exchange views on OSH education and training in response to evolving risks.

MANDATORY SAFETY TRAINING COURSES

10.21 FIUO and its subsidiary regulations empower the Commissioner for Labour to recognise six categories of mandatory safety training courses. Within these categories, completion of the Mandatory Basic Safety Training Course (Construction Work) and possession of the corresponding certificate (commonly known as the “Green Card”) is a prerequisite for all construction workers to be registered and employed. Workers engaged in designated high-risk trades, activities, or machinery operations are required to hold the relevant certificates for the remaining five categories of mandatory safety training courses.

10.22 The basic information on each category of training course is as follows:

**Table 21: Mandatory safety training courses
(Full courses for first-time enrollees)**

Course category		Relevant statutory provision	Minimum duration	Certificate validity
Green Card		Section 6BA(2) of FIUO	7.5 hours	3 years
Confined Spaces Operation	Certified workers	Section 4(1) of the Factories and Industrial Undertakings (Confined Spaces) Regulation	12 hours over 2 days	2 years
	Competent persons	Section 4(2) of the Factories and Industrial Undertakings (Confined Spaces) Regulation	20 hours over 3 days	
Crane	New operators	Section 15A(1)(b) of the Factories and Industrial Undertakings (Lifting Appliances and Lifting Gear) Regulations	2 weeks to 2 months, depending on crane type	5 years
	Experienced operators		3 days	
Loadshifting machine	New operators	Section 3 of the Factories and Industrial Undertakings (Loadshifting Machinery) Regulation	6 to 50 days, depending on machine type	5 or 10 years, depending on machine type
	Experienced operators		2 or 3 days, depending on machine type	

Course category	Relevant statutory provision	Minimum duration	Certificate validity
Persons working on suspended working platforms	Section 17 of the Factories and Industrial Undertakings (Suspended Working Platforms) Regulation	14 hours over 2 days	5 years
Gas welding	Section 3 of the Factories and Industrial Undertakings (Gas Welding and Flame Cutting) Regulation	7 hours	5 years

10.23 Workers enrolling for the first time must complete the full course. Upon expiry of their certificates, holders are required to complete a revalidation course (generally shorter than the full course taken by first-time enrollees) before applying for renewal.

Processing of Applications for Recognition of Mandatory Safety Training Courses and Trainer Nominations

10.24 Currently, various mandatory safety training courses are offered by multiple providers⁴⁶. For example, the “Green Card” course alone had as many as 125 providers as of the end of 2023. LD ensures the quality of these courses by vetting course recognition applications, approving nominated trainers and implementing subsequent monitoring mechanisms.

10.25 Organisations intending to offer mandatory safety training courses must submit an application for recognition to LD in accordance with the Guidance Notes on Application for Recognition of Mandatory Safety Training Courses. Applicants are required to meet the general approval conditions applicable to all courses as set out in Part I (Operation Code) of the Approval Conditions for Operating Recognised Mandatory Safety Training Courses. In addition, they must comply with the requirements specified in Part II (Course Design and Specifications) of the same document, depending on the category of course for which recognition is sought.

10.26 LD has developed assessment and inspection checklists to assist occupational safety officers in evaluating applications for recognition of mandatory safety training courses. According to LD, organisations are not permitted to offer courses prior to receiving recognition, and training venues are generally unstaffed during this stage. As such, inspections for recognition purposes are arranged by appointment. Before granting recognition, occupational safety officers will visit the provider’s premises to assess the suitability of the proposed training venue, equipment and facilities. Where necessary, applicants may be required to arrange trial use or testing of the training equipment and facilities.

⁴⁶ Course providers mainly are commercial course providers, organisations delivering in-house training programmes, trade unions, employer organisations, professional bodies, universities and statutory bodies (including CIC and OSHC).

10.27 Furthermore, course providers must nominate safety training course trainers for LD's approval, and such trainers may only conduct the courses once they have been approved. If an approved trainer ceases to teach safety training courses, the provider must notify LD accordingly.

10.28 LD may reject an application for course recognition if: (1) none of the nominated trainers meet the qualification requirements stipulated in the approval conditions; (2) all proposed training venues fail to meet the requirements stipulated in the approval conditions; (3) the proposed training equipment does not comply with the requirements stipulated in the approval conditions; or (4) the applicant fails to submit supplementary information requested by LD within the specified time frame.

Regulation of Course Providers and Trainers

10.29 According to LD, enhancing the quality of recognised safety training course providers and their trainers is an important part of its education and training strategy. While recognised courses and approved trainers are not subject to renewal, LD has put in place a rigorous monitoring mechanism, which oversees providers and trainers through various inspection modes, including surprise visits and covert inspections by officers posing as trainees.

10.30 Course providers are not required to report every complaint they receive to LD. However, under the approval conditions, they must establish an appropriate system for handling complaints from trainees and course applicants. LD also requires course providers to inform trainees, both verbally and in writing, that they may lodge complaints with LD about safety training courses, trainers or providers through channels such as hotlines, online complaint platforms and email.

10.31 Upon receiving a complaint, LD will promptly initiate a surprise investigation and take follow-up actions. During the investigation, trainees and staff members may be randomly interviewed, and relevant materials, such as audio and video records of practical training sessions and examinations, will be collected and reviewed. If any breaches of the approval conditions are identified, LD will issue written warnings or directives to the course provider or trainer concerned, requiring corrective measures. Failure to make improvements within the specified time frame will result in suspension of the course. In cases of serious non-compliance, LD may consider withdrawing the recognition granted to the provider to operate the training course. If a trainer is found to be in breach, LD may instruct the provider to suspend or revoke the trainer's approval to deliver the course.

10.32 Since April 2024, LD has carried out special inspection operations, deploying additional manpower to inspect recognised course providers, with the aim of monitoring their compliance with the approval conditions to ensure the quality of the courses.

10.33 In July 2024, LD put into effect the revised Approval Conditions for Operating Recognised Mandatory Safety Training Courses. Under these conditions,

providers of mandatory safety training courses must ensure that all approved trainers have, within four years before delivering any course, completed at least one online public lecture on “Professional Ethics and Conduct of Trainer of Mandatory Safety Training Courses”, jointly organised by LD, the Independent Commission Against Corruption (“ICAC”) and OSHC. This requirement is intended to ensure that all approved trainers deliver mandatory safety training in a professional and ethically sound manner.

10.34 In recent months, LD has announced a number of non-compliance cases involving recognised course providers:

- (1) On 21 August 2024, LD announced that a course provider had violated the approval conditions for operating the Green Card course by permitting trainees to discuss answers during the examination and subsequently issuing Green Cards to the trainees involved. LD suspended the provider’s recognition to operate the Green Card course for three months. The trainer concerned was likewise suspended from teaching the course at the provider for three months.
- (2) On 6 September 2024, LD announced that another course provider had been found in breach of the approval conditions for conducting the Green Card course. The breaches included insufficient teaching hours, teaching by unapproved trainers, failure by trainers to provide practical training in accordance with the prescribed syllabus, and allowing 21 trainees who had not completed practical training to take the examination and receive Green Cards. LD withdrew the recognition granted to the provider to operate the Green Card course, as well as the approval of the trainers concerned to teach the course. In compliance with LD’s directive, the provider recalled and invalidated 15 Green Cards, while the remaining 6 were also rendered invalid.
- (3) ICAC earlier arrested staff members and trainees of course providers offering the Mandatory Safety Training Course for Excavator Operators. These individuals were suspected of offering and accepting advantages to assist unqualified persons in enrolling in the training course. Following ICAC’s enforcement action, LD conducted an investigation and announced on 12 December 2024 that it had withdrawn and suspended the recognition of the two course providers concerned for conducting the relevant courses. LD found that the two providers had breached the approval conditions for operating the courses, which include failing to take all reasonable steps to ensure that admitted trainees met the prescribed admission requirements, failing to prohibit their employees from soliciting or accepting advantages as defined under the Prevention of Bribery Ordinance, and failing to discharge their supervisory and management responsibilities.

10.35 LD indicated that it is reviewing the admission mechanism for mandatory safety training course providers and will further enhance this mechanism with reference to ICAC's recommendations. Measures include improving existing admission procedures and reviewing whether providers have strictly complied with the approval conditions in conducting courses.

Course Development

Green Card

10.36 We noted views that the Green Card course content should be enriched and its duration extended to help workers better acquire safety knowledge. LD stated that the course content had been reviewed and enhanced in 2018 in collaboration with CIC and OSHC. This was followed by detailed discussions and consideration involving representatives of employers, employees, relevant trade unions and chambers of commerce. The revised programme incorporated accident analysis videos, interactive discussions and post-test reviews, as well as strengthening trainees' awareness of fall-from-height risks and their ability to eliminate such risks. The course duration was extended from 7 hours to 7.5 hours.

10.37 In 2023, LD again reviewed and updated the Green Card course to include case studies of serious accidents and their analyses, the responsibilities of employers and employees, and safety guidelines for newly recruited construction workers, with the aim of enhancing safety awareness. The updates also included course content on truss-out scaffolds, power-operated elevating working platforms, confined spaces, personal protective equipment, excavation works and working in hot weather. The revised course was launched in October 2023.

10.38 LD conducted a feasibility survey among key stakeholders in the construction industry, including trade unions, chambers of commerce, CIC, OSHC and major course providers, on whether it would be appropriate to extend the Green Card course to two days. LD stated that most respondents considered the current duration appropriate and did not support an extension. In addition, LD noted that increasing the duration would raise course costs and reduce training capacity, leading to higher tuition fees, longer waiting times and a heavier financial burden on applicants. Such an extension could even affect manpower supply in the construction industry, as some workers might be unable to complete the course on schedule.

Confined Spaces

10.39 In 2023, LD completed a review and revision of the mandatory safety training courses for confined spaces operation. The revisions included the duties of a "standby person", warning notices for confined space work, and case studies of serious accidents and their causes. The revised course was rolled out at the end of December 2023. In 2024, LD further enhanced the course by updating its content, extending its duration and shortening the validity period of the relevant safety certificates. The updated course

was launched at the end of November 2024.

TRAINING INVOLVING BAMBOO SCAFFOLDING

10.40 LD noted that many past fatal and serious accidents involving falls from height were associated with the erection or dismantling of bamboo scaffolding, with some cases arising from workers' failure to use appropriate fall protection equipment. In collaboration with CIC, LD reviewed the component of the skills or trade tests for bamboo scaffolders (including truss-out scaffolders) that addresses the use of fall protection equipment.

10.41 In January 2023, CIC launched a new three-day (18-hour) training programme leading to the Certificate in Safety Enhancement for Erecting and Dismantling "Truss-out Bamboo Scaffolds". It also introduced the "Truss-out Scaffold Safety Training" for truss-out scaffolders. The revised Code of Practice for Bamboo Scaffolding Safety, effective from 19 October 2024, requires truss-out scaffolders, in addition to their existing qualifications, to obtain either the Advanced Level Truss-out Scaffold Safety Training Certificate or the Intermediate Level Truss-out Scaffold Safety Training Certificate issued by CIC before undertaking specified scaffolding work. This requirement is intended to enhance safety in truss-out scaffolding operations.

10.42 In response to concerns raised by some members of the public over scaffolding training, LD stated that although current legislation does not stipulate a mandatory training course specifically for scaffolding work, current legislation and the Code of Practice for Bamboo Scaffolding Safety require contractors to ensure that only workers with adequate experience and training, working under the supervision of a "competent person", may erect, alter or dismantle scaffolds. LD currently has no plans to make scaffolding training a mandatory course.

INDUSTRY ENHANCEMENT COURSES

10.43 To further enhance safety awareness and knowledge across the industry, CIC offers supplementary safety programmes in addition to the mandatory safety training courses prescribed by legislation. These programmes are available to practitioners who wish to pursue further training or meet the requirements of public works contracts, and include the following:

Foundation Certificate in Construction Safety

10.44 The Foundation Certificate in Construction Safety is a two-day full-time or four-day part-time evening programme launched by CIC in September 2021. The course is recognised by LD as qualifying for the award of the Green Card. Compared with the Green Card course, this programme provides more comprehensive safety

training. It integrates technology into teaching through virtual reality safety exercises at the Safety Experience Training Centre, and requires trainees to engage in safety reflection and sign a safety commitment letter, thereby offering more in-depth content.

Safety Training Course for Construction Workers of Specified Trade

10.45 At present, a number of trades of works in the construction industry are not yet covered by mandatory safety training courses. The Hong Kong Institute of Construction, under CIC, offers the Safety Training Course for Construction Workers of Specified Trade (commonly known as the “Silver Card” course). This programme covers 14 trades that currently have no statutory safety training requirements, including:

- Painter and decorator;
- Carpenter;
- Demolition worker (building);
- Plumber;
- Bar bender and fixer;
- Plasterer or tiler;
- Bamboo scaffolder or metal scaffolder;
- Curtain wall installer;
- Lift mechanic;
- Tower crane worker (erecting, dismantling, telescoping and climbing);
- Construction materials rigger;
- Rigger and signaller;
- Tunnel worker; and
- Concretor.

10.46 The Silver Card course is offered as a part-time programme, with most sessions lasting seven hours in a single day⁴⁷. This arrangement makes it easier for workers in the relevant trades to attend. Under public works contracts, contractors are required to provide workers with safety training beyond the Green Card course, including the Silver Card course for designated trades. The costs of such training are incorporated into the contract sum.

⁴⁷ The courses for “tower crane workers (erecting, dismantling, telescoping and climbing)” and “construction materials riggers” are delivered as two-day programmes, each comprising 15 hours of training.

EXPLORING EXTENSION OF SAFETY TRAINING FOR PUBLIC WORKS PROJECTS TO PRIVATE PROJECTS

10.47 DEVB considers that the safety training required under public works contracts (see **Chapter 8** for details), including the 27-hour Safety Training Course for Site Management Staff, the 43-hour Course for Construction Safety Supervisors and the Silver Card course, helps enhance site safety. To this end, CIC is taking the lead in coordinating efforts and engaging stakeholders to promote these three courses and related good practices. Measures include encouraging private developers to implement such practices, discussing with professional bodies the inclusion of the Safety Training Course for Site Management Staff as one of their continuing professional development courses, and exploring with stakeholders the feasibility of incorporating selected components of the Silver Card course (e.g. trades with higher safety risks) into the “development courses” under CWRO. This would require relevant practitioners to complete the training and pass the examination before renewing their worker registration. With respect to the Course for Construction Safety Supervisors, CIC will also consult relevant stakeholders and recommend that practitioners and employees complete the course and pass the examination, with incentives provided where appropriate.

FRONTLINE PERSONNEL SAFETY PERFORMANCE RECORDING SCHEME

10.48 To further raise safety awareness among industry stakeholders and foster a safety culture, CIC is exploring the establishment of a “Frontline Personnel Safety Performance Recording Platform” for site personnel and workers, and is consulting various stakeholders on the details. The platform, initiated and led by CIC as an industry-driven measure, aims to enhance the safety performance and awareness of frontline personnel, recognise and reward those with outstanding performance, and arrange appropriate additional safety training for those whose safety performance requires improvement.

10.49 According to media reports, the construction industry introduced a safety performance demerit points system on a voluntary, pilot basis in April 2024. 15 relatively uncontroversial items have been selected as criteria for point deductions. For example, failing to wear a safety helmet or safety harness results in a deduction of three points. When the accumulated points reach a specified threshold, frontline personnel are required to attend safety improvement courses to offset the deducted points. To safeguard privacy, the records of point deductions are kept solely by the employing contractor and are not disclosed to other contractors. By July 2024, approximately 130 construction sites had participated in the pilot scheme. CIC has stated that it plans to formally launch the “Frontline Personnel Safety Performance Recording Scheme” in April 2025.

11

PUBLICITY AND PROMOTION

11.1 To achieve the vision of construction safety, the Government and relevant organisations disseminate OSH messages through diverse channels, enabling stakeholders to clearly understand their responsibilities and work hazards, and supporting them in diligently fulfilling their respective roles. In response to the industry's OSH performance and changes in risk profile, the Government and relevant organisations will promptly formulate and adjust publicity and promotion initiatives according to a risk-based approach.

11.2 In recent years, promotional initiatives have been undertaken to enhance OSH standards within the construction industry, as outlined below.

DISSEMINATING OSH INFORMATION THROUGH VARIOUS PLATFORMS

Traditional Mass Media

11.3 LD has broadcast announcements in the public interest on television and radio, and published feature articles in newspapers on OSH. Announcements in the public interest are also disseminated on public transport systems (such as print advertisements displayed at bus stops and on screens at MTR station platforms or concourses) and broadcast at off-course betting centres.

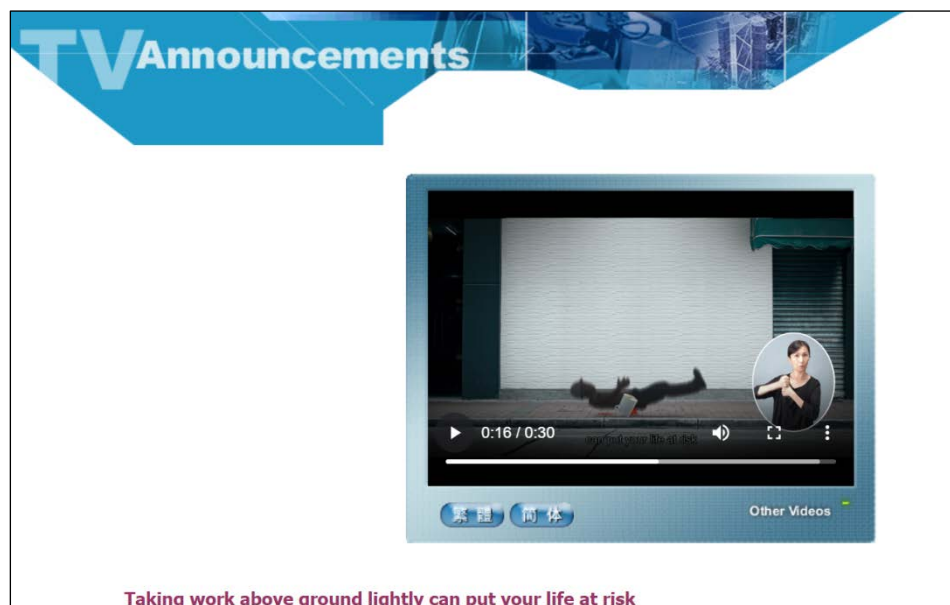
11.4 In recent years, LD has issued Work Safety Alerts in the form of animation video to help the industry better understand the circumstances of accidents and the safety measures required to prevent similar incidents from recurring. To date, LD has produced 28 such animation videos.

Figure 28: Animation video of Work Safety Alerts
(Source: LD website)



11.5 To prevent accidents involving falls from height, LD launched in January 2022 a new series of television and radio announcements in the public interest titled “Taking Work above Ground Lightly Can Put Your Life at Risk”. Employers and workers are reminded that even seemingly simple tasks at height should not be taken lightly.

Figure 29: Announcement in the public interest titled “Taking Work above Ground Lightly Can Put Your Life at Risk”
(Source: LD website)



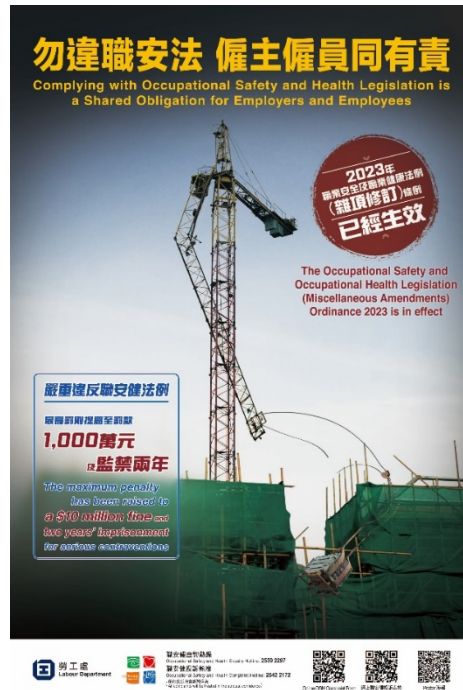
11.6 After the Occupational Safety and Occupational Health Legislation (Miscellaneous Amendments) Ordinance 2023 came into effect on 28 April 2023, LD launched a comprehensive publicity campaign to enhance awareness of the new penalties. In December 2023, LD, in collaboration with OSHC and television media, commenced production of a series of five-episode television programme titled “Both Workers and Employers Shall Abide by the Law to Ensure Occupational Safety”. Each two-minute episode featured interviews and sharing of the Secretary for Labour and Welfare, the Commissioner for Labour, the Chairman of OSHC, Legislative Council Members, employers and employees, advocating for concerted efforts from both employers and employees to ensure occupational safety. Broadcast across various television channels and media platforms from January 2024, the programme highlighted such key OSH messages as the mutual responsibility of employers and employees to prioritise OSH, refuse dangerous work and report potential hazards on construction sites.

Figure 30: Television programme titled “Both Workers and Employers Shall Abide by the Law to Ensure Occupational Safety”
(Source: OSHC website)



11.7 For physical advertising, LD displays promotional banners at prominent and busy locations in the community. OSH messages are broadcast on large screens on the exterior walls of shopping centres, and affixed to post boxes. LD also displays promotional posters at locations managed by the Information Services Department in various districts, displays OSH messages at the Home Affairs Enquiry Centres under the Home Affairs Department, and organises roving exhibitions at shopping centres.

**Figure 31: Poster titled “Complying with Occupational Safety and Health Legislation is a Shared Obligation for Employers and Employees”
(Source: LD website)**



11.8 From time to time, LD disseminates the latest OSH information, guidelines, Work Safety Alerts and precautionary measures to industry practitioners by email or letter. It also operates an OSH Enquiry Hotline (2559 2297) to address public enquiries.

Digital Platforms

11.9 LD releases extensive OSH information, including guidelines to legislation, codes of practice and operational guidelines, through its website.

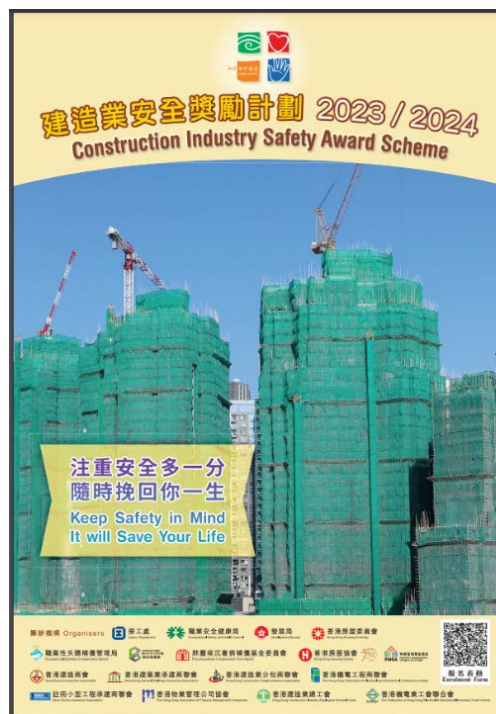
11.10 LD also utilises other digital promotion platforms, including the self-learning software OSH e-Quiz, which outlines common hazards and safety measures of various construction processes, with a quiz game for self-assessment. In March 2024, LD launched the OSH 2.0 mobile application, enhancing the user interface and adding such features as Work Safety Alerts (in text and animation), an online OSH complaint form, OSH training and systematic safety alerts.

ORGANISING THEMED EVENTS

Construction Industry Safety Award Scheme

11.11 Since 1999, LD has co-organised the large-scale territory-wide Construction Industry Safety Award Scheme with 16 organisations every year. The Scheme aims at enhancing OSH awareness and the standards of safety culture within the construction industry through open competitions. The Scheme also features a variety of publicity and promotional activities, including quiz competition for individual and group categories, to disseminate OSH messages to industry practitioners and the public.

Figure 32: Promotional poster for Construction Industry Safety Award Scheme 2023/2024
(Source: LD website)



11.12 For example, a total of 191 construction sites participated in the Construction Industry Safety Award Scheme 2023/2024, with 83 contractors and 131 safety teams competing for awards in the two categories of “Construction Site” and “Safety Team”. Moreover, 30 workers were nominated for the “Safety Worker” awards during the assessment period.

Construction Safety Week

11.13 Since 2012, DEVB and CIC have jointly organised the Construction Safety Week. A series of activities, including the Safety Week summit, conference, site visits, roving exhibitions, signing of a joint declaration, the Considerate Contractors Site Award Scheme and the Zero Accident Declaration, are held to raise safety awareness

within the industry, with the aim of uniting stakeholders in their commitment to site safety and pursuit of “Zero Accident”.

Figure 33: Promotional poster for Construction Safety Week 2024
(Source: Construction Safety Week website)



ORGANISING COURSES, SEMINARS AND CONFERENCES

11.14 LD’s OSH Training Centre offers complimentary courses and seminars, covering such topics as construction safety legislation and codes of practice, safety regulations and codes of practice for working at height, and analysis of industrial accident cases. Personnel from all public and private organisations are eligible to enrol.

11.15 From time to time, LD partners with organisations such as OSHC, CIC, trade associations, labour unions and contractors to co-organise OSH seminars on different themes. LD staff members are assigned as speakers to brief industry practitioners on safety knowledge, legislation and codes of practice, supporting them in strengthening OSH performance.

11.16 In addition to conducting promotional visits to construction sites, LD also supports labour unions and organisations in organising site safety talks. It arranges for family members of victims of construction accidents to visit sites and speak to frontline workers about the causes of accidents, precautionary measures and the trauma caused to families, thereby raising workers’ awareness of work safety.

PRODUCTION OF PROMOTIONAL MATERIALS IN DIFFERENT LANGUAGES

11.17 LD has produced OSH leaflets with plenty of illustrations and concise, easy to understand text in various languages, including Hindi, Nepali and Urdu. It has also

translated the animation video subtitles of Work Safety Alerts into different languages, and disseminated OSH messages in newspapers and magazines read by different ethnic groups. OSH information is accessible to construction workers from different ethnic backgrounds for enhancing their safety awareness.

11.18 Furthermore, LD, through CIC and other organisations, has distributed card holders printed in Chinese, English and six ethnic minority languages to workers. This serves to widely publicise LD’s OSH complaint channels, facilitating their lodging complaints about unsafe working conditions.

PROMOTING OSH MESSAGES THROUGH CONSULTANCY SERVICES AND SAFETY ACCREDITATION SCHEMES

Consultancy Services

11.19 OSHC provides different organisations with various consultancy services, including independent safety audits, safety management advisory services, risk assessments or preliminary hazard analyses, to facilitate their continuous improvement of OSH standards and knowledge.

Safety Accreditation Schemes

11.20 In light of several fatal industrial accidents involving confined spaces and renovation and repair works, OSHC has launched the “OSH Star Enterprise – Confined Space Safety Accreditation Scheme” and the “OSH Star Enterprise – Repair, Maintenance, Alteration and Addition Industry Safety Accreditation Scheme”.

OSH Star Enterprise – Confined Space Safety Accreditation Scheme

11.21 OSHC’s “OSH Star Enterprise – Confined Space Safety Accreditation Scheme” aims at providing enterprises specialising in confined space work with customised OSH consultancy services, supporting them in establishing safety management systems and formulating control measures against accidents. The Scheme also offers complimentary training on confined space safety and training allowances, and subsidises enterprises to purchase such safety equipment as approved breathing apparatus, tripods and winches, rescue harnesses, basket stretchers and resuscitation equipment. Upon accreditation by OSHC, enterprises become Confined Space OSH Star Enterprises and listed on the register for identification purposes. As of October 2024, there were 12 Confined Space OSH Star Enterprises operating drainage services, cleaning services, electrical and mechanical engineering, etc.

OSH Star Enterprise – Repair, Maintenance, Alteration and Addition Industry Safety Accreditation Scheme

11.22 OSHC, in collaboration with LD, launched the “OSH Star Enterprise –

Repair, Maintenance, Alteration and Addition Industry Safety Recognition Scheme”. The Scheme adopts a three-pronged approach to enhance enterprises’ OSH standards, namely subsidising the purchase of safety equipment, providing safety training and offering free consultancy services. Upon accreditation by OSHC, enterprises become Repair, Maintenance, Alteration and Addition Industry OSH Star Enterprises and listed on the register for property owners, management companies, etc., to identify contractors with better OSH performance.

11.23 As of October 2024, there were 63 such OSH Star Enterprises, operating businesses as truss-out scaffolding works, repair of external wall or pipe works, air-conditioning works and interior renovation works. OSHC has also launched the Charter on Preferential Appointment of OSH Star Enterprise, encouraging organisations to select in accordance with their business needs and specific requirements Repair, Maintenance, Alteration and Addition Industry OSH Star Enterprises for preferential appointment to enhance safety performance. Currently, nearly 1,300 organisations have participated in the Charter.

PUBLICITY TARGETING OWNERS’ CORPORATIONS, OWNERS, RESIDENTS AND PROPERTY MANAGEMENT COMPANIES

11.24 As many accidents of falling from height involve renovation and repair works, LD has not only strengthened cooperation with property management companies but also targeted publicity at owners’ corporations, owners and residents. The objective is to raise their awareness of common hazards in renovation and repair works, prompting them to urge their contractors to ensure construction safety.

11.25 Between 2023 and May 2024, LD organised and participated in 31 safety seminars via the Home Affairs Department’s platforms. Moreover, LD supported labour unions and organisations in holding roving exhibitions near renovation and repair works sites across all districts and conducting seminars at construction sites.

11.26 LD has produced separate leaflets on Occupational Safety for Repair, Maintenance, Alteration and Addition Works, targeting owners and tenants of commercial and residential units, owners’ corporations and property management companies. These leaflets clearly remind them of their respective responsibilities and essential safety measures, including the importance of selecting safety-conscious contractors. LD has compiled the guidebook titled “Occupational Safety and Health Management in Renovation and Maintenance Works for the Property Management Industry” to help property management companies understand the OSH concerns involved in renovation and repair works.

PROMOTING DESIGN FOR SAFETY

11.27 The Design for Safety concepts enable stakeholders (such as owners,

designers and relevant building professionals) to incorporate OSH considerations into the planning and design stages of construction projects, thereby eliminating or reducing OSH risks in future construction and maintenance.

11.28 To further promote the integration of the Design for Safety concepts by the industry in construction projects, CIC has set up a Task Force on Design for Safety to explore how to effectively apply these concepts in Hong Kong. In November 2022, CIC completed the compilation of Reference Materials on the Design for Safety Management System for the Hong Kong Construction Industry to facilitate the implementation of Design for Safety in construction projects. In September 2024, CIC also launched the Pilot Scheme on Design for Safety, providing participating projects with consultancy services on the application and implementation of the Design for Safety Management System for the Hong Kong Construction Industry. CIC is organising a sharing session on Design for Safety in the second quarter of 2025 to share with the industry examples of good safety design developed under the Pilot Scheme and effective implementation of the Design for Safety Management System. CIC will regularly organise webinars and masterclasses on Design for Safety to raise the industry's awareness in this area.

11.29 OSHC also regularly organises a training course titled “Design for Safety Workshop”, elaborating on the Hong Kong experience in implementing Design for Safety, the roles and responsibilities of key stakeholders, the benefits of Design for Safety to the entire life cycle of building structures, and the kits and tools to facilitate actual implementation. The Workshop is targeted at both government works projects and private development projects.

12

OUR COMMENTS AND RECOMMENDATIONS

OVERALL COMMENTS

12.1 Engaging in works projects of different scales ranging from major infrastructures, public works, housing development and building repairs to small-scale flat renovation works, the construction industry makes significant contribution to the economic development of society and improvement of people's living environment. In recent years, OSH in the construction industry has attracted widespread public concern. While the Government is duty bound to carry out effective regulation, stakeholders within and outside the industry also have a role to play.

12.2 In this direct investigation operation, the Office has thoroughly examined various aspects of OSH in the construction industry, covering LD's inspections and enforcement actions, monitoring of registered safety auditors and registered safety officers, regulation of high-risk operations, and follow-up action on accidents; BD's regulation of registered contractors; DEVB's monitoring of public works and contractors; the use of innovation and technology; safety education and training; as well as publicity and promotion.

Improvement Measures Introduced by Current-term Government

12.3 We are pleased to note that during our direct investigation operation, the current-term Government has introduced a number of effective measures to enhance OSH in the construction industry. Key measures include:

LD

- (1) amending the OSH legislation to increase the overall level of penalties for greater deterrent effect;
- (2) revising the Code of Practice for Bamboo Scaffolding Safety and the Code of Practice for Safety and Health at Work in Confined Spaces to enhance technical requirements;

- (3) conducting a number of special enforcement operations to curb unsafe operations;
- (4) updating the content of Green Card courses and the mandatory safety training courses for confined space operations to raise workers' safety awareness;
- (5) conducting special inspection operations and increasing manpower to inspect providers of mandatory safety training courses to ensure the quality of such courses;
- (6) stepping up publicity to promote a culture of safety among different stakeholders through various channels;

BD

- (7) collaborating with LD to review the referral mechanism for disciplinary actions against contractors, with a view to streamlining procedures and enhancing efficiency;
- (8) improving the mechanism for processing renewal of contractors' registration to strengthen the regulation of contractors with unsatisfactory safety performance;
- (9) collaborating with DEVB to formulate proposed amendments to BO to tighten the regulation of contractors;

DEVB

- (10) rolling out a series of measures to promote the adoption of the Smart Site Safety System, including mandating its use in public works projects that meet a specified scale threshold, and using a multi-pronged approach to encourage and support its adoption across the industry;
- (11) introducing a new tender evaluation mechanism for public works whereby a merit or demerit point would be applied having regard to the tenderer's previous performance of site safety; and
- (12) strengthening the regulation of contractors on the approved lists with unsatisfactory safety performance.

12.4 The proactive efforts of LD, BD and DEVB in implementing improvement measures are highly commendable. Nevertheless, we continue to see occurrence of fatal industrial accidents, and the situation is worrying. The Government must explore ways of further enhancing OSH in the construction industry to better safeguard the safety of site workers. Based on our findings, we consider that the three authorities

still have room for improvement in the areas outlined below.

OUR COMMENTS

(I) LD'S REGULATION OF HIGH-RISK OPERATIONS

12.5 The construction industry involves high-risk operations (see **Table 3** in **para. 2.4**) such as scaffolds (including bamboo scaffolds), suspended working platforms, lifting operations and confined spaces, which can only be carried out after a “competent person” or a “competent examiner” (collectively referred to as “competent persons”) has certified their safety pursuant to relevant legislation (see **Chapter 5** for details).

Strengthening Monitoring of “Competent Persons” Engaging in Various High-risk Operations

12.6 Our investigation revealed a number of cases where the “competent persons” signed a prescribed form without properly inspecting the high-risk plant or machinery, or even signed the form in advance. In a case that occurred in 2022, a “Form 5” signed by a “competent person” certifying that a bamboo scaffold had been inspected and that it was in safe working order was displayed on the scaffold, but the date of inspection shown on the form was a future date (see **para. 5.65**). In another case in 2024, we joined LD staff for a site inspection of a erected bamboo scaffold at a construction site and found a similar situation (see **para. 5.66**). There were also cases where a “Form 5” had already been signed before the completion of the bamboo scaffolding (see **para. 5.61**) or no inspection date was recorded on the form (see **para. 5.63**). Obviously, in practice, “Form 5” is unable to show that the subject scaffold has been inspected and is in safe working order.

12.7 In a case where a worker died after falling from height (**Case 8**), the deceased had been provided with a safety harness that had been examined. LD’s investigation, however, revealed that the metal wire of the harness failed to provide adequate fall protection. A registered professional engineer, acting as the “competent examiner”, had examined the safety harness at a hardware shop and had no idea of the intended use of the metal wire at the construction site.

12.8 In its investigation into a fatal industrial accident concerning a lifting appliance, LD found that two registered professional engineers acting in the capacity of “competent examiners” signed prescribed forms certifying that the lifting appliance was in safe working condition, but they actually had not carried out the required tests and examination (see **para. 5.60**).

12.9 We understand that even with a full-fledged regulatory regime and diligent performance by all parties, accidents cannot be completely avoided. That said, some “competent persons” did fail to carry out inspections or examinations properly but irresponsibly signed forms to certify the safety of the equipment. Such reckless acts

put the safety of workers and the public at risk. These persons failed to live up to their obligation and the public's expectation, and should be ashamed of themselves for failing on their part as professionals.

12.10 LD has put in place codes of practice for different kinds of high-risk operations to provide guidelines on how "competent persons" should carry out inspections or examinations, but the codes of practice generally do not contain any inspection checklists. We note that, regarding work in confined spaces, LD has revised the Code of Practice for Safety and Health at Work in Confined Spaces (see **para. 5.55**), adding a designated template for "competent persons" to use when conducting safety assessments and completing risk assessment reports. The template sets out all the items that have to be assessed, and "competent persons" have to document the assessment results for the items required by law. We consider the template a valuable reference that assists "competent persons" in conducting assessments and ensures that no critical item is overlooked.

12.11 We recommend that LD explore formulating templates of inspection checklist for different types of high-risk operations and attach them to the relevant codes of practice for use by "competent persons" during inspections or examinations to tighten control.

12.12 Moreover, we consider that LD should strengthen the requirements for "competent persons" to maintain inspection records. The prevailing legislation only requires various kinds of "competent persons" to sign a prescribed form to state the result of inspection or examination, i.e. whether the plant or machinery is in safe working condition, and to deliver the signed form to the contractor for record and inspection by LD's occupational safety officers upon request. As regards the actual inspection or examination records of "competent persons", LD's requirements for various kinds of high-risk operations differ pursuant to the risk-based principle.

12.13 For lifting appliances and lifting gear, the relevant code of practice stipulates that "competent persons" should maintain a logbook to record inspection or examination results and any deficiencies found (see **para. 5.40**). In the code of practice relating to suspended working platforms, LD only recommends that "competent persons" keep a logbook to facilitate their record-keeping (see **para. 5.25**). As for bamboo scaffolds, the relevant code of practice contains neither a requirement nor a recommendation for "competent persons" to maintain inspection records.

12.14 "Competent persons" should base their judgement on facts and evidence, and they should provide evidence to prove that they have duly conducted the inspection or examination. In practice, without a requirement to maintain inspection records, it is often difficult for LD to verify facts when complaints are received, due to the lack of corroborative evidence. We have examined multiple complaints received by LD concerning bamboo scaffolds that were allegedly not properly inspected. In many cases, LD officers conducted site inspections and found no workers using the scaffolds. Subsequent follow-up checks or inquiries revealed that the scaffolds were no longer in

use, and the cases were therefore closed (see **para. 5.64**).

12.15 We recommend that LD conduct a comprehensive review of the existing requirements for maintenance of inspection records by “competent persons” regarding different types of high-risk operations, specifying the inspection records to be maintained and the need to produce such records upon the instruction of LD officers. As we understand, in early February 2025, DEVB issued administrative instructions to works departments to enhance safety when working on scaffolds. These instructions require “competent persons” involved in public works to submit photographs or video footage as evidence that they have properly inspected the scaffolds prior to signing the “Form 5”. We consider that LD should extend similar practices to all types of works.

12.16 Furthermore, we are of the view that LD should consider implementing a random checking system to examine the inspection records of “competent persons” during visits to construction sites so as to enhance monitoring. In case of any breach of OSH legislation by “competent persons” found, LD should continue to take stringent enforcement actions. Apart from instituting prosecutions, LD should also refer cases of misconduct of “competent persons” to the organisations responsible for their registration for examining their professional qualifications or taking disciplinary action.

12.17 To ensure safe conduct of high-risk operations in construction sites, the proper discharge of duties by “competent persons” is indispensable. We believe that the multi-pronged measures outlined above will help enhance both the performance and work quality of “competent persons”. We understand that these new requirements are closely tied to the daily responsibilities of relevant practitioners, and therefore LD should maintain close communication with the industry to explore ways to implement our recommendations. In the long run, LD should explore the development of an electronic platform for contractors and “competent persons” to upload inspection records and forms to facilitate monitoring and random checking so as to curb unprofessional or even fraudulent conduct such as filling in the inspection date in advance.

Utilising Experience from Special Enforcement Operations to Enhance Effectiveness of Routine Safety Inspections

12.18 In recent years, apart from various types of planned special enforcement operations as preventive measures, LD has also carried out a number of special inspection or enforcement operations subsequent to fatal industrial accidents. Each operation usually lasted for two weeks during which LD would intensively conduct a round of territory-wide inspections at construction sites undergoing the same work processes involved in those accidents. Past operations have targeted high-risk operations such as bamboo scaffolds, confined spaces and lifting operations (see **para. 6.9**).

12.19 We note that these special enforcement operations of LD have revealed multiple cases of irregularities and on each occasion, LD issued a large number of

statutory notices and instituted prosecutions (see **para. 6.9**), reflecting serious non-compliance in the industry.

12.20 In our opinion, LD should examine how to utilise the experience gained in the special enforcement operations against high-risk operations in further enhancing the effectiveness of routine safety inspections so as to identify and handle unsafe operations in construction sites as soon as possible.

(II) LD'S INSPECTIONS

Reviewing Guidelines on Inspections

In-depth Surprise Inspections

12.21 LD arranges in-depth surprise inspections at construction sites with poor safety performance and suspected deficiencies in the safety system (see **para. 4.13**). It aims to carry out such inspections at 40 construction sites each year.

12.22 We note that in **Case 8**, LD had conducted an in-depth surprise inspection at a construction site and issued a number of improvement notices and instituted prosecutions, but a fatal incident of falling from height still happened. In **Case 4**, although LD had received many complaints and issued a number of improvement notices within two years prior to the fatal accident, and the construction site involved incidents resulting in injuries, LD still did not conduct any in-depth surprise inspection.

12.23 We understand that accidents may result from multiple causes and cannot be prevented by LD's inspections alone. However, LD puts in a great amount of resources in conducting in-depth surprise inspections (see **para. 4.16**) and should strive to ensure their effectiveness. We recommend that LD review the operational guidelines on the conduct of in-depth surprise inspections for more precise selection of high-risk construction sites and proper follow-up on sites inspected to ensure systemic improvement of site safety.

Area Patrols

12.24 As LD may not be notified of some renovation and repair works under the notification mechanism, its occupational safety officers conduct regular area patrols so as to ensure site safety (see **para. 4.10**). In this regard, LD has not issued any guidelines on how occupational safety officers should identify high-risk construction sites systematically and prioritise the sites to be inspected. Hence, occupational safety officers can only identify high-risk sites by their own professional judgement and prioritise the sites according to the risk-based principle. In contrast, LD has issued detailed guidelines for other types of inspections, including routine safety inspections and in-depth surprise inspections.

12.25 We recommend that LD provide guidelines on area patrols to occupational safety officers to guide the identification of construction sites with higher risk for inspection.

Improving Site Inspection Records and Their Compilation

12.26 When inspecting construction sites, LD’s occupational safety officers record results of inspections and follow-up recommendations on inspection worksheets, site information tables, machinery lists, inspection checklists and file notes (see **para. 4.19**). Among these, inspection checklists are the most important, as they set out the items to be inspected for high-risk work processes. Occupational safety officers are required to record whether each item has been inspected and followed up.

12.27 Having scrutinised the files provided by LD, we noticed that not all occupational safety officers would complete the inspection checklists and that the file notes were very brief, usually containing only the number of workers and a general description of the processes undergone at the construction sites. However, the work processes, equipment and documents that had been inspected were not specified, and the inspection results were not recorded. For example, in **Case 2**, the occupational safety officer did not complete the inspection checklist during the inspection conducted prior to the accident. In **Case 5**, before the fatal accident, LD visited the construction site three times that month—twice for investigating work injury cases and once for safety inspection. During the safety inspection, the occupational safety officer recorded only the number of workers on site, the types of work being carried out (such as formwork, cement or bar fixing works), and the general categories of items inspected (such as “work-at-height” and “electrical safety”) on the day of inspection, without specifying what had been examined under those items.

12.28 In our view, the inspection records currently compiled by LD officers are too brief to provide an objective basis to facilitate internal review for improving the inspection quality. To ensure effective monitoring through inspections, LD should remind occupational safety officers of the importance of proper compilation of inspection records and provide guidance on ways of improvement so as to facilitate examination of the inspection quality by the management.

12.29 Further, in **Case 3**, a subcontractor failed to conduct safety audit as required by law and no safety committee was set up. However, the occupational safety officers had not noticed these breaches during routine inspections. We believe that this has to do with the absence of the item “Safety Committee” on the existing inspection checklist such that the occupational safety officers omitted to check for compliance during inspections. LD should thoroughly review and improve the inspection checklist to ensure that all important items are included, and require occupational safety officers to record the results of each item during inspections.

12.30 During our site inspections with LD, we noticed that occupational safety officers would make records of various items of information on paper and take

photographs. Upon returning to office, the occupational safety officers would tidy up the inspection records using computer, and the records would then be printed in physical file and submitted to senior officers for approval. Besides, when compiling certain statistical figures, LD has to collect and collate reports from frontline staff of different districts. The process consumes manpower resources.

12.31 We consider that LD should review the process of reporting work by occupational safety officers to identify areas for streamlining, and explore how to utilise information management systems to reduce document processing for efficiency enhancement. Furthermore, as the current-term Government is vigorously pursuing the development of digital government, LD should explore wider use of advanced technology and procurement of suitable electronic products to facilitate inspections and enforcement actions by frontline staff. In this connection, LD is exploring the adoption of a speech-to-text system to assist with the recording of statements.

Selecting Suitable Construction Sites of Private Developments for Participating in Meetings of Safety Committees

12.32 Where the number of workers employed for a construction site or the contract value of a construction works project reaches a prescribed number or amount, the contractor is required by law to set up a safety committee. Offering a platform for the principal contractor, subcontractors, registered safety officers, worker representatives, etc. to exchange views on OSH matters, the safety committee plays an important role in ensuring OSH of construction sites. The contractor should make sure that the committee holds a meeting at least once every three months (see **para. 3.25**).

12.33 In **Case 3**, a subcontractor failed to set up a safety committee. In **Case 5**, a subcontractor was frequently absent from meetings of the safety committee. These examples show that some contractors ignore the importance of safety committees.

12.34 LD assesses the compliance with the requirement of setting up safety committees through vetting the audit reports compiled by registered safety auditors and checking the minutes of meetings of safety committees during occupational safety officers' site inspections. In our view, LD's current monitoring places too much emphasis on checking of documents and is of limited effectiveness. We note that LD has been actively participating in safety management committee meetings of public works projects⁴⁸. LD should consider devising a mechanism for selecting suitable construction sites of private developments to participate in meetings of safety committees, so as to stay in tune with the safety risks of the sites and give advice and urge contractors to manage site safety.

⁴⁸ In addition to safety committees required by law, site safety management committees are generally established for public works projects. Most members of safety committees represent site workers, while site safety management committees comprise management personnel of contractors and representatives from the government departments overseeing the projects. LD has actively participated in site safety management committee meetings of public works projects to more effectively and efficiently keep close tabs on the projects' OSH conditions. In 2023, LD participated in 671 such meetings.

Enhancing Statutory Notification Mechanism for Construction Works As Soon As Possible

12.35 Having analysed previous fatal industrial accidents in the construction industry, LD found that many of them involved high-risk operations of a shorter construction period or hiring a small number of workers. Under current legislation, contractors of such construction sites are not required to report to LD.

12.36 Considering that some works of a short construction period or hiring a small number of workers may also involve high-risk operations (such as truss-out scaffolds), LD started in 2021 to formulate a proposal to expand the scope of statutory notification of construction works and to shorten the time frame for such notifications. We recommend that LD continue to pursue the legislative amendment work to enhance the statutory notification mechanism for construction works.

Reviewing Methods of Calculation and Maintenance of Data Regarding Construction Sites and Inspections

12.37 Upon receipt of a contractor's statutory notification of construction works, the occupational safety officers of LD are required to conduct the first inspection within a stipulated period (see **para. 4.3**). LD stated that contractors may submit the notification forms to either its headquarters or one of its district offices. Without a designated office to coordinate the processing of notification forms received, LD has not maintained the number of construction sites reported under the statutory notification mechanism, the number of construction sites where the first inspection was conducted within the stipulated time frame, or the compliance rate.

12.38 Construction sites reportable under the law are generally of a certain scale and tend to have higher safety risks. During their first inspections, LD officers give specific OSH advice and determine the frequency of subsequent inspections according to the situation of the sites. Therefore, these first inspections play a critical role. However, LD has not maintained the number of construction sites reported under the statutory notification mechanism. Nor has LD compiled the compliance rate for the conduct of the first inspection, making it difficult to monitor staff's performance.

12.39 We recommend that LD maintain the number of construction sites reported under the statutory notification mechanism through an information computer system, and compile the compliance rate for the conduct of the first inspection for monitoring purposes. We are pleased to note that LD is seeking resources to develop a new intranet system, which is intended to gradually replace the existing OSH information management system to enhance operational efficiency. LD may consider leveraging the new system to compile the relevant statistics.

12.40 Meanwhile, LD currently maintains only the number of routine safety inspections conducted but not the corresponding number of construction sites inspected. Also, the inspection figures are calculated on the basis of the number of LD staff

involved in the inspections (see **para. 4.23**). In our view, such calculation method could not demonstrate the relationship between the actual number of inspections conducted and the number of construction sites involved. Moreover, while LD has maintained data on the number of unfinished construction works (a total of 35,971 construction sites as at the end of 2024), no breakdown figures on “new works” and “renovation and repair works” are available. Overall, we do not find LD’s current mode of data calculation and maintenance useful for analysis purposes.

12.41 We recommend that LD review and improve the current mode of calculation and maintenance of data regarding construction sites and inspections to ensure effective analysis for formulation and adjustment of work strategies.

(III) LD’S ENFORCEMENT ACTIONS AND PROSECUTIONS

Taking More Proactive Steps to Handle Construction Sites Subject to Multiple Improvement Notices

12.42 In case of irregularities found, LD will issue an improvement notice to the contractor concerned to demand rectification. In **Case 4**, LD had issued 12 improvement notices to the contractor regarding unsafe operations of different situations of work-at-height prior to the occurrence of the accident. But the contractor still had not made improvement and the fatal accident of falling from height happened.

12.43 The improvement notices issued by LD in this case involved various scenarios and types of work, but overall, they were all related to work-at-height. Occupational safety officers should have recognised the generally unsatisfactory situation and raised their level of concern accordingly. In our opinion, when the same kind of irregularities (such as unsafe operations of work-at-height) has been found repeatedly in a construction site, LD should, in addition to issuing improvement notices to demand rectification of individual irregularities, strengthen the intensity of enforcement and even adjust its strategies so as to urge systemic improvement of the construction site. For example, LD may meet with the contractor’s management to emphasise the importance of compliance, warn of the consequences of neglecting OSH, and request greater participation by management in the construction site’s safety committee meetings.

Ongoing Review of Penalties for Convicted Cases

12.44 The average amounts of penalty imposed on offenders of OSH legislation in the construction industry between 2018 and 2023 ranged from \$8,127 to \$10,522 (see **Table 7 and paras. 4.41 to 4.43**), which is obviously inadequate to bring about deterrent effect. Among those offenders, the two contractors having the largest and the second largest numbers of convictions during the six years had been convicted for 77 and 56 times respectively. This reflects that some contractors in the construction industry are

repeated offenders, and their disregard for OSH was indeed staggering.

12.45 We are pleased to learn that the Occupational Safety and Occupational Health Legislation (Miscellaneous Amendments) Ordinance 2023, which took effect on 28 April 2023, has significantly increased the penalties for contravention of OSH legislation and extended the time limit for prosecution, so as to enhance the deterrent effect and allow LD more time to collect evidence (see **para. 3.38**). Since the Ordinance came into effect and until 31 May 2024, LD initiated 111 prosecutions in connection with eight fatal industrial accidents under the amended legislation. Among the cases already sentenced by court, the highest fine imposed was \$261,000. Regarding a fatal work accident that occurred in September 2023 in an underground cooling main at a construction site on Austin Road West, LD announced in June 2024 its decision to take out part of the prosecutions against the duty holders concerned by way of indictment for the first time. The legal proceedings are ongoing.

12.46 We note that some members of the community have expressed concern that, despite the increased penalties for OSH offences, fatal industrial accidents continue to occur in the construction industry, casting doubt on the deterrent effect of the new penalty levels. Since the new penalty levels have taken effect for only a short period of time, data on LD’s prosecutions brought under the amended legislation and court sentence is limited. For the time being, we are unable to comment on the deterrent effect of the new penalty levels.

12.47 Nevertheless, as the construction industry has still recorded fatal industrial accidents from time to time, LD should take stringent enforcement actions and make good use of the extended time limit for prosecution to collect evidence as well as institute prosecutions against suitable cases on indictment to increase the deterrent effect. Moreover, LD should, after the new penalties for OSH offences have been in force for a period of time, conduct a systemic analysis to review its prosecution work and the penalties imposed by the court in convicted cases.

(IV) LD’S MONITORING OF REGISTERED SAFETY AUDITORS AND REGISTERED SAFETY OFFICERS

Taking More Proactive Steps to Monitor Registered Safety Auditors and Registered Safety Officers

12.48 For larger-scale construction sites, contractors are required by law to employ a full-time registered safety officer to assist in promoting the safety and health of employees in the construction sites. The contractors are also required to appoint a registered safety auditor to carry out safety audit of the site’s safety management system at least once every six months and to make recommendations for improvement to the contractors. These two types of safety personnel are required to obtain registration from the Commissioner for Labour.

12.49 Under the current mechanism, LD will put any registered safety auditor or registered safety officer on a monitoring list for one year if they fail to properly perform their duties; serious or fatal industrial accidents have taken place at the construction sites where they work; they have been complained against for their performance or professional conduct; or LD has conducted in-depth surprise inspections at the construction sites where they work.

12.50 Our case studies revealed that LD's monitoring of registered safety auditors and registered safety officers on the monitoring list has been very passive. In **Cases 2, 3 and 4**, after the occurrence of fatal accidents, LD could only interview once the registered safety officers on the monitoring list because they had either resigned or taken up other positions, and thus no longer worked as safety officers. After one-year monitoring, LD removed the safety officers from the list in the absence of obvious inadequacy found on the part of the safety officers.

12.51 Similarly, when handling registered safety auditors on the monitoring list, LD was more concerned whether they have notified the Department of the commencement or completion of safety audit and submitted an audit report in a timely manner. Although LD used assessment forms to verify whether the documents submitted by registered safety auditors complied with statutory requirements, there was no concrete evidence that LD had followed up to ensure that the auditors had properly conducted safety audits at the construction sites. In two cases we examined involving registered safety auditors who were placed on the monitoring list and issued written warnings (see **para. 4.67**), LD's records contained only the documents submitted by the auditors, with no indication of any follow-up or verification efforts by the Department.

12.52 We reckon that LD should consider taking more proactive steps in following up on the performance of registered safety auditors and registered safety officers on the monitoring list by, for example, making close observations of their actual performance at construction sites and careful examination of the reports they submit so as to enhance the quality of their work.

12.53 Meanwhile, LD assesses whether registered safety auditors have duly performed their duties by scrutinising the safety audit reports submitted and inspecting the conduct of safety audits by registered safety auditors.

12.54 Between 2018 and 2023, LD received a yearly average of 3,253 safety audit reports involving 1,844 construction sites. During the period, LD, however, had only inspected four times the conduct of safety audit by registered safety auditors (see **para. 4.56**). In our view, the number of site visits made by LD was too low even taking into account the impact of the pandemic on its work. Safety audits are undoubtedly a crucial component of the site safety management system. LD is responsible for overseeing registered safety auditors; however, it would be difficult for the Department to exercise comprehensive and effective regulation simply by examining the reports they compiled.

12.55 LD should more proactively inspect the conduct of safety audit by registered safety auditors and consider setting a percentage of random checks. By doing so, LD can alert registered safety auditors to its random checks on their work in order to urge upon them the need to carefully perform their duties. It can as well enable LD to monitor safety auditors' performance and give advice on any areas for improvement through means other than scrutiny of audit reports.

Assisting Registered Safety Auditors and Registered Safety Officers to Enhance Quality of Work

12.56 Having examined a number of fatal accidents, we noticed that many of them are attributable to irregularities in site operations which were not easily detectable from routine safety inspections and such irregularities resulted in unsafe situation. For example, in **Case 3**, the accident occurred when a reinforcement bar structure at the construction site collapsed, sending the workers standing on it tumbling down. The incident resulted in one fatality and six injuries. According to LD's accident investigation report, the structure had not been erected in accordance with the drawings approved by a professional engineer. The deviation from the approved design was believed to have persisted for a considerable period.

12.57 We note that the site safety officer's routine inspections failed to discover that the contractor had allowed workers to work on the reinforcement bar structure not yet approved by a professional engineer. Furthermore, despite a safety audit conducted less than a week prior to the accident, the registered safety auditor failed to detect deficiencies in the work system, including the contractor's failure to implement preventive measures against the collapse of the reinforcement bar structure.

12.58 We consider that LD should, drawing on the painful lessons from previous fatal accidents, remind site personnel including registered safety officers and registered safety auditors of the issues to which they should pay attention during routine inspections or safety audit so as to strengthen their ability to detect irregularities in site operations and enhance the quality of their work.

(V) BD'S REGULATION OF REGISTERED CONTRACTORS

12.59 BD is responsible for regulating registered contractors and has established a referral mechanism with LD (see **para. 7.23**).

Omission of LD's Referrals for Consideration of Disciplinary Action

12.60 Our investigation revealed that BD had taken disciplinary action against a registered contractor in only one case between 2011 and 2021. Against the annual average of 20 fatal industrial accidents in the construction industry and even though not all such accidents related to building works, the caseload of disciplinary action taken by BD obviously could not reflect the actual situation. In fact, as revealed in the nine

convicted cases that we randomly selected from LD's referrals to BD between 2012 and 2014, which were all fatal accidents relating to building works (i.e. cases meeting Criterion 2), BD had failed to take necessary follow-up action (see **para. 7.31**).

12.61 We are glad to see that BD has responded positively to our observations by taking the initiative to clarify with LD the procedures for provision of information under the referral system and striving to process cases previously omitted. BD has now proactively requested LD to provide details of 58 convicted cases of site safety offences relating to building works and fatal incidents (see **paras. 7.33 and 7.34**). We recommend that BD speed up processing of the cases previously omitted and promptly refer those warranting disciplinary action to the Registered Contractors' Disciplinary Board so as to bring non-compliant contractors to account.

Cumbersome Procedures of Disciplinary Action

12.62 As regards the only case that BD had taken disciplinary action between 2011 and 2021 mentioned above, it took more than six years from the occurrence of the fatal accident to BD's completion of disciplinary action (see **para. 7.26**). We have identified multiple delays after examining the sequence of events of this case. BD took a year after receiving the referral to complete its analysis and ask LD for case details. It then took another year to seek legal advice after obtaining the requested information. We are glad to note that BD agreed with our observations that improvement should be made to enhance efficiency. BD has put in place new arrangements since October 2023 and implemented time indicators for handling cases of disciplinary action since early 2025 (see **para. 7.32**). We recommend that BD set up a mechanism for internal monitoring to ensure timely follow-up on all referrals from LD for consideration of disciplinary action against convicted contractors.

12.63 On 31 December 2024, DEVB launched a public consultation exercise for proposals to amend BO. Some of the proposed amendments related to enhancement of the disciplinary system, which include expanding the membership of the disciplinary board panel, simplifying the composition of the Registered Contractors' Disciplinary Board, increasing the maximum fine for disciplinary sanction from \$250,000 to \$400,000, and empowering the disciplinary board to impose multiple sanctions for each individual charge (see **para. 7.28**).

12.64 We reckon that these proposed amendments should be able to enhance the deterrent effect. DEVB and BD should expedite the amendment to BO to enhance the disciplinary system.

Reviewing the Criteria for Taking Disciplinary Action

12.65 The referral mechanism established with LD has been in place since 2002. In more than 20 years from 2002 to 2023, BD identified only three cases that met Criterion 1, i.e. where a contractor was convicted of five or more site safety offences relating to building works at the same construction site in six consecutive months,

thereby warranting consideration of disciplinary action. This shows that the threshold is too high to serve its purpose. In particular, this criterion only deals with a contractor’s convictions relating to one single construction site, barring circumstances where a contractor has repeatedly contravened OSH legislation in different construction sites.

12.66 In our view, BD should review Criterion 1 under the disciplinary system and consider whether the threshold should be lowered for more effective prevention.

Exploring Closer Collaboration with LD on Accident Investigations

12.67 Fatal industrial accidents in the construction industry may result in prosecutions instituted by LD pursuant to OSH legislation, and if they are related to building works, BD may also institute prosecutions under BO. While the focus of follow-up actions by BD and LD vary, there is room for collaboration between the two departments on investigation of facts including the cause of accidents. We note that in recent years BD and LD have enhanced their collaboration in this regard. Measures include establishing communication within one month following major incidents to facilitate investigation; sharing information and physical evidence, such as potential offences, suspects, witness lists, file inventories, contact personnel and sample test reports; considering joint prosecution where common suspects are identified; and BD sending a copy to LD when notifying DoJ of proposed prosecution matters, thereby enabling DoJ to provide comprehensive advice to both departments. We recommend that BD and LD explore any room for further collaboration on accident investigations to enhance the efficiency and effectiveness of their investigation work.

(VI) DEVB’S MONITORING OF PUBLIC WORKS

12.68 Site safety has obviously been better maintained in public works than in the entire construction industry (see **para. 8.3**). While it is not by luck but achieved by effective regulation, we consider that there is still room for improvement.

Adequate Consideration Not Given to Contractors’ Previous Performance of Site Safety under Tender Evaluation System for Public Works

12.69 We have randomly selected 12 public works projects involving fatal industrial accidents between 2020 and 2023 and examined the scores that the contractors concerned (i.e. the successful tenderers) were given regarding site safety performance in the tender evaluation (see **paras. 8.23 to 8.33**). We found in many contracts that the successful tenderer was given a rather low score regarding site safety performance, and some were even given the lowest score among all the tenderers. Yet, given other considerations in the tender evaluation, those successful tenderers still managed to win the bid because of their higher scores in respect of the tender price or technical performance.

12.70 For example, in Contract G (evaluated under the Formula Approach), the successful tenderer ranked ninth out of 15 tenderers in “performance rating”, eighth in “safety rating” and tenth in “past overall performance”. However, it was awarded the contract for ranking first in terms of “price”, which carried a weighting of 60%. Similarly, in Contracts E and K (evaluated under the Marking Scheme Approach), the successful tenderers received the lowest scores among all tenderers in both “safety rating” and “site safety”, yet they secured the contracts for ranking first in the overall “technical score”.

12.71 We note that in several of the above contracts, the score gaps regarding site safety performance among tenderers were insignificant. For example, in Contracts D and G (evaluated under the Formula Approach), the full score of “safety rating” was 10. Although the successful tenderers ranked ninth and eighth respectively in this category, they still received scores of 8.73 and 8.50. In Contract B (evaluated under the Marking Scheme Approach), the full score of “site safety” was 2. Among the five tenderers, the highest score was 1.5 and the lowest 1.0. The gap between the two was only 0.5.

12.72 Given its direct impact on contractor selection, the tender evaluation system must ensure that only contractors whose performance meets the site safety standards would be awarded contracts. Although the Office found no systemic occurrence of “the lowest bid wins” situation in the tender evaluation of public works, our case studies did show that adequate consideration had not been given to tenderers’ previous performance of site safety. The reason is that items relating to site safety did not weigh much and the score gaps between tenderers were narrow, thereby bringing insignificant impact on the overall outcome.

12.73 During this direct investigation operation, DEVB introduced a new tender evaluation system in November 2023 whereby a merit or demerit point would be applied having regard to the tenderer’s previous performance of site safety (see **para. 8.22**). DEVB’s proactive effort to implement improvement measures to enhance contractors’ awareness of construction site safety is commendable. We recommend that DEVB continue to review the tender evaluation system for public works in a timely manner to ensure that only contractors whose performance meets the safety standards would be awarded contracts.

Reviewing Requirements for Taking Regulating Action against Public Works Contractors

12.74 Between 2018 and 2023, DEVB took 169 regulating actions against 55 contractors on the approved lists due to serious site safety incidents or poor site safety performance (see **Table 17** in **para. 8.54**). These actions included suspension from tendering for public works contracts and requesting them to conduct an independent safety audit. Between 1999 and 2008, 27 regulating actions were taken against contractors for conviction of five site safety offences within any six-month period. The number of such actions drastically dropped to one between 2009 and 2018, and further dropped to zero between 2019 and 2023 (see **paras. 8.54 and 8.57**).

12.75 The above regulating requirement, targeting contractors who have repeatedly committed site safety offences, aims to allow early intervention by the authorities to urge contractors with poor safety performance to adopt improvement measures so as to avoid more serious accidents. Over the 14 years mentioned above, DEVB took regulating action against only one contractor under this requirement. We are concerned that the threshold of this requirement may be too high to be effective as a preventive measure.

12.76 We are pleased to note that in July 2023, DEVB further strengthened its regulation of contractors on the approved lists. One of the measures is to require contractors on the approved lists having recorded dangerous occurrences in their construction sites (regardless of whether the accidents took place in the construction sites of public works or private development projects) to conduct an independent safety audit to review their safety management system, irrespective of whether LD has issued an improvement notice or suspension notice in relation to the incident.

12.77 In our opinion, such amendment can help the authorities to address the safety risk of contractors as early as possible. That said, the number of fatal industrial accidents has not dropped, with six recorded for construction sites of public works in 2023. We consider it necessary for DEVB to continue to review the regulating requirement regarding contravention of legislation related to site safety for more effective prevention of accidents. For example, DEVB may consider initiating regulating actions when the number of accidents recorded, or the number of improvement notices or suspension notices issued by LD concerning a construction site of public works, reaches a specified threshold.

Instructing Works Departments to Learn from Previous Accidents and Strengthen Monitoring of Site Safety

12.78 We have examined three fatal accidents taken place in the construction sites of public works projects (see **Cases 1 to 3**). According to LD's accident investigation reports, there were a number of obviously unsafe operations but they went unnoticed.

12.79 In **Case 1**, a crane suddenly toppled while being operated by a worker to lift an excavator. Another excavator already placed on the crane's deck fell and fatally struck the worker. LD's investigation revealed that the crane had been parked on a sloping surface, the weight of the excavator exceeded the crane's safe working load, and no lifting supervisor was present to oversee the operation. In **Case 3**, a reinforcement bar structure collapsed suddenly, resulting in the death of one worker and injuries to several others. LD found that workers had to stand on or pass along the edges of the top layer of the structure, but it lacked adequate barriers, guardrails or safety nets. Nor were they provided with any fall protection equipment. These breaches should have been detected through proper site supervision.

12.80 Works departments are duty bound to ensure site safety of public works projects. We note that, after occurrence of serious incidents, DEVB would issue safety alerts to works departments and request them to convene seminars to share the circumstances of the serious incident and improvement measures implemented with all other works departments. This enables departments to draw lessons and step up their monitoring of contractors' site safety performance. Relevant safety alerts and seminar materials have also been uploaded to the works departments' intranet for reference. DEVB's management also holds regular meetings with the heads of works departments to review cases of serious incident, discuss improvement measures and supervise their implementation. In our view, conducting post-incident reviews and taking remedial measures are of paramount importance. DEVB should continuously instruct all works departments to learn from previous accidents and stringently monitor the site safety performance of contractors to ensure safety.

(VII) USE OF INNOVATION AND TECHNOLOGY

Encouraging and Supporting Wider Use of Smart Site Safety System

12.81 In recent years, DEVB has made great efforts to promote wider use of the Smart Site Safety System in the construction industry to provide workers with a safer working environment (see **para. 9.3**). Relevant data show that the adoption of the Smart Site Safety System has contributed to improvement in site safety in public works projects (see **paras. 9.4 and 9.5, Table 19**).

12.82 The system should also be actively promoted in the private sector (see **para. 9.9**). We recommend that after various promotional measures have been implemented for a period of time, DEVB review the adoption of the Smart Site Safety System and, with reference to the feedback from the industry, make greater efforts to encourage and support wider use of the system in private development sites so as to enhance site safety by means of technology.

Investigating the Cause of Accidents in Public Works Project Sites with Full Adoption of Smart Site Safety System

12.83 Meanwhile, there were accidents in certain public works project sites where the Smart Site Safety System has been fully adopted (see **Table 19** in **para. 9.4**). In our view, DEVB should thoroughly examine the causes of those accidents to identify the problem, implement improvement measures and share the lessons learnt with the industry, thereby maximising the effectiveness of the system in preventing accidents.

(VIII) SAFETY EDUCATION AND TRAINING

Exploring Extension of Safety Training in Public Works to Private Works Projects

12.84 Our case studies of fatal accidents revealed inadequate safety training for site personnel of private works projects including workers and foremen. In **Case 4**, a worker fell to his death from bamboo scaffolding while carrying out tile grouting work (i.e. filling the gaps between tiles with cement mortar) on a building's external wall. LD's investigation found that, prior to the accident, the worker had only received instructions on using a safety harness and about two hours of safety induction training, but no specific training for carrying out grouting work on bamboo scaffolding. Furthermore, the foremen of the principal contractor did not supervise the worker on the day of the accident.

12.85 In **Case 5**, a scaffolder was struck by a metal stanchion that fell unexpectedly during installation while he was erecting a bamboo scaffold on a building's external wall. He fell from a height and died. LD's investigation revealed that the contractor's foreman had modified the design of stanchions at the construction site without consulting his superior or a professional engineer, and did not supervise the installation at the time of the accident.

12.86 In **Case 6**, the ground beneath a piling plant suddenly subsided, causing both the plant and a site agent to fall. The site agent was crushed to death by the plant. LD's investigation revealed that the drilling machine operator simply relied on his own experience to control the progress of drilling and the air pressure applied, without being informed of the relevant standards.

12.87 In **Case 7**, a rigger was fatally struck by a pile of deck panels that suddenly loosened and slid down while he was operating a truck-mounted crane. LD's investigation revealed that it was his first day working at the construction site. Prior to the accident, he had not received any safety training from the contractor regarding the lifting of deck panels, and no personnel had been arranged on the site to guide and supervise his work.

12.88 As shown above, industrial accidents and resultant casualties are obviously less serious a problem in public works than in the entire construction industry. The Office reckons this may be attributable to the safety training of public works projects (see **paras. 8.35 to 8.37**). We recommend that DEVB share with CIC the experience of safety training in public works for its consideration of offering subsidies as incentive, with a view to extending such safety training to private works projects to enhance site safety.

Stepping up Monitoring of Mandatory Safety Training Courses

12.89 By law, construction site workers and workers engaging in specified high-risk industries, high-risk activities or machinery operation must attend mandatory safety training courses recognised by LD and obtain the relevant certificate. Apart from vetting applications for recognition of mandatory safety training courses and nominated trainers, LD also conducts surprise checks and handles complaints to ensure the quality of course providers and trainers.

12.90 In 2024, LD announced a number of cases involving serious irregularities among course providers. These included allowing course participants to discuss answers during examinations, insufficient teaching hours, teaching by unapproved trainers, and allowing individuals who had not completed practical training to take the examination (see **para. 10.34**). While LD has taken necessary actions, including withdrawing course recognition and disqualifying trainers from teaching the relevant courses, such cases inevitably affect public confidence in the quality of course providers and even the personnel working in the construction industry.

12.91 As an important part of LD's education and training strategy, mandatory safety training courses are crucial to improving OSH in the construction industry. We recommend that LD step up the monitoring of course providers and trainers engaging in mandatory safety training courses and carry out surprise checks in a timely manner to ensure their quality. In case of irregularities, LD should be decisive in taking regulatory action.

Continuously Enriching the Content of Safety Training Courses

12.92 LD conducts routine safety inspections to construction sites and investigates the cause of accidents after their occurrence. The Department has a full grasp of the safety performance of frontline site workers, and such information and analysis are very useful reference for training.

12.93 We recommend that LD continue to share with CIC and OSHC its observation from routine inspections and enforcement actions as well as lessons learnt from accidents for designing or reviewing the content of safety training courses.

(IX) PUBLICITY AND PROMOTION

Coordinating Release of Information on OSH in Construction Industry

12.94 Currently, LD, BD, DEVB, OSHC, CIC and the Property Management Services Authority are among the government departments and public organisations participating in the promotion of OSH in the construction industry. Each of them releases information through their website on their own. With no coordination, we find

current information rather disorganised. It may be difficult for the industry and the public to look for the information they need, thereby undermining the dissemination of messages.

12.95 For example, various departments and organisations have issued the following publications concerning scaffolding and accidents:

Scaffolding	
LD	Code of Practice for Bamboo Scaffolding Safety, and Guide on Construction and Work Safety of Truss-out Bamboo Scaffolds
LD and OSHC	Safety Measures for Use of Truss-out Bamboo Scaffold, and Safety Guide for Bamboo Scaffolding Work
BD	Guidelines on the Design and Construction of Bamboo Scaffolds
CIC	Guidelines on Planking Arrangement for Providing Working Platforms on Bamboo Scaffolds, and Guidelines on Safety Enhancement of and Notification Arrangement for Truss-out Bamboo Scaffolds
Property Management Services Authority	“Handling Scaffolding Works” Code of Conduct and Best Practice Guide on Handling Scaffolding Works
Accidents	
LD	Work Safety Alerts and Accident Casebooks
OSHC	Accident analyses in Green Cross
CIC	Safety messages issued after accidents and silent tribute notes

12.96 In our view, LD being the primary department responsible for the regulation of OSH in the construction industry should consider coordinating efforts of relevant departments and organisations to set up a thematic website on OSH in the construction industry to provide a convenient platform for various stakeholders and the public to look for information they need, saving them troubles of checking different channels. For example, workers may look for information on training courses, site safety and registration matters; industry personnel may seek process-specific information such as regulatory requirements, best practice guidelines, accident cause analyses and training opportunities; while owners’ corporations, owners or property management companies may find essential points to note for planning renovation or repair works.

12.97 We believe that setting up a thematic website on OSH in the construction industry can facilitate publicity and promotion among stakeholders. Recognising that setting up a one-stop website is a complicated task requiring massive resources and coordination, we opine that LD may, as a short-time measure, consider providing on its website hyperlinks to information from various departments and organisations in a systematic manner, categorised by topics relating to OSH in the construction industry, for reference by stakeholders and members of the public.

Raising Awareness of OSH in Renovation and Repair Works

12.98 Between 2018 and 2023, there were 45 fatal accidents relating to renovation and repair works in total, accounting for a significant 42% of the total number of fatal accidents (i.e. 108 cases) in the construction industry. Renovation and repair works for buildings often involve truss-out scaffolding which is a high-risk operation. Yet, as renovation and repair works usually require a shorter construction period and fewer workers to complete, they are often not subject to statutory notification to LD.

12.99 LD currently obtains information on renovation and repair works through a voluntary notification mechanism established with HKAPMC and HD. Upon receiving a notification, LD deploys officers to conduct inspections.

12.100 Based on the case studies of fatal accidents (see **Cases 9 to 13**) and LD's site visits that we joined (see **paras. 4.46 to 4.48, paras. 5.19 and 5.20**), our investigation identified many safety issues associated with renovation and repair works:

- (1) workers showed inadequate safety awareness, which was reflected in their failure to wear a safety helmet, or their wearing a full body harness in a wrong way or even not wearing it;
- (2) no "competent person" monitored scaffolding by workers on the site;
- (3) eye bolt was not examined by a "competent examiner";
- (4) some residents failed to provide workers with proper means of access and egress or secure anchorage points for safety harnesses;
- (5) staff of property management companies and residents did not know about the safety requirements for scaffolding; and
- (6) some residents were uncooperative with LD's inspection requests.

12.101 All these reflect serious inadequacies of safety measures for renovation and repair works and a lack of safety awareness among workers and even property management companies and residents. Of the 45 fatal accidents relating to renovation and repair works between 2018 and 2023, only 16 cases (36%) were reported via the statutory notification mechanism to LD for commencement of works prior to the accidents as required by law. As regards the remaining 29 cases (64%), LD had not received any voluntary notification (see **para. 4.9**). In our view, LD should step up its publicity and encourage owners' corporations, owners and residents engaging in renovation and repair works to notify LD of such works via property management companies for timely action by LD.

12.102 We recognise the sheer volume of renovation and repair works undergoing throughout the territory. In 2024, LD received a total of 9,179 notifications of works

from HKAPMC and HD. LD alone can hardly ensure the safety of this kind of works, and property management companies, owners' corporations, owners and residents should also take part in the monitoring. In fact, under OSH legislation, property management companies, owners' corporations, owners and residents have legal liability as "occupiers" of the premises (see **para. 3.2, footnote 5, and para. 3.5**). In the event of an accident, they may be subject to criminal liability and civil claims⁴⁹.

12.103 Nevertheless, based on our observation, members of the public have very limited understanding of their legal liability concerning renovation and repair works and the risk of claims arising from such works, mistakenly believing that only contractors would be liable. Although LD has published leaflets concerning renovation and repair works such as Safety Hints for Owners and Tenants of Commercial and Residential Units, Safety Hints for Owners' Corporations, and Safety Hints for Property Management Companies, which state that property management companies, owners' corporations, owners and residents may be legally liable to any accidents involving casualties that arise from renovation and repair works of buildings or flats and the pertinent claims, we have reservation whether the message has been effectively conveyed to the public.

12.104 We consider that LD should step up publicity and education among owners, owners' corporations, property management companies and residents through mass media and the platform of property management companies, stressing in particular their legal liability in relation to renovation and repair works and the legal consequence and loss in case of accidents. This is to ensure these stakeholders understand that it is in their interest to protect the safety of workers, and at the same time give them an incentive to engage contractors with good safety record, such as "Repair, Maintenance, Alteration and Addition Industry OSH Star Enterprises" recognised by OSHC (see **paras. 11.22 and 11.23**).

Utilising Lessons Learnt from Accidents

12.105 Currently, LD informs the public and the industry of the cause of fatal accidents and preventive measures by way of Work Safety Alerts and Accident Casebooks. For more effective sharing of lessons learnt from accidents, thereby educating different stakeholders on how to fulfil their responsibilities properly, we recommend that LD enrich the content of the publications and information on analysis of accidents, adding the role and responsibility of various stakeholders and how they can avoid accidents. We are pleased to note that LD is compiling a new overview covering the role and responsibility of various stakeholders in different construction

⁴⁹ For example, in *Aberdeen Winner Investment Co Ltd v. The Incorporated Owners of Albert House and Another* (Case No. CACV236/2004), the canopy of a restaurant at Albert House collapsed during demolition, along with an unauthorised fish tank mounted on top of it. The incident resulted in one fatality and multiple injuries, prompting the injured parties and the deceased's family to file civil claims. The court ruled that the owners' corporation of the building, the property management company, the licensed restaurant operator, the owner of the restaurant property and the demolition contractor were jointly liable to pay legal costs and compensation totalling over \$33 million to the plaintiffs.

works under OSH legislation.

OUR RECOMMENDATIONS

12.106 In sum, our recommendations are:

LD

- (1) explore formulating templates of inspection checklist for different types of high-risk operations and attach them to the relevant codes of practice for use by “competent persons” during inspections or examinations to tighten control (see **para. 12.11**);
- (2) conduct a comprehensive review of the existing requirements for maintenance of inspection records by “competent persons” regarding different types of high-risk operations, specifying the inspection records to be maintained and the need to produce such records upon the instruction of LD officers (see **para. 12.15**);
- (3) consider implementing a random checking system to examine the inspection records of “competent persons” during visits to construction sites so as to enhance monitoring (see **para. 12.16**);
- (4) continue to take stringent enforcement actions against any breach of OSH legislation by “competent persons” found. Apart from instituting prosecutions, LD should also refer cases of misconduct of “competent persons” to the organisations responsible for their registration for examining their professional qualifications or taking disciplinary action (see **para. 12.16**);
- (5) in the long run, explore the development of an electronic platform for contractors and “competent persons” to upload inspection records and forms to facilitate monitoring and random checking so as to curb unprofessional or even fraudulent conduct such as filling in the inspection date in advance (see **para. 12.17**);
- (6) examine how to utilise the experience gained in the special enforcement operations against high-risk operations in further enhancing the effectiveness of routine safety inspections so as to identify and handle unsafe operations in construction sites as soon as possible (see **para. 12.20**);
- (7) review the operational guidelines on the conduct of in-depth surprise inspections for more precise selection of high-risk construction sites and proper follow-up on sites inspected to ensure systemic

improvement of site safety (see **para. 12.23**);

- (8) provide guidelines on area patrols to occupational safety officers to guide the identification of construction sites with higher risk for inspection (see **para. 12.25**);
- (9) remind occupational safety officers of the importance of proper compilation of inspection records and provide guidance on ways of improvement so as to facilitate examination of the inspection quality by the management (see **para. 12.28**);
- (10) thoroughly review and improve the inspection checklist to ensure that all important items are included, and require occupational safety officers to record the results of each item during inspections (see **para. 12.29**);
- (11) review the process of reporting work by occupational safety officers to identify areas for streamlining, and explore how to utilise information management systems to reduce document processing for efficiency enhancement (see **para. 12.31**);
- (12) explore wider use of advanced technology and procurement of suitable electronic products to facilitate inspections and enforcement actions by frontline staff (see **para. 12.31**);
- (13) consider devising a mechanism for selecting suitable construction sites of private developments to participate in meetings of safety committees, so as to stay in tune with the safety risks of the sites and give advice and urge contractors to manage site safety (see **para. 12.34**);
- (14) continue to pursue legislative amendment work to enhance the statutory notification mechanism for construction works (see **para. 12.36**);
- (15) maintain the number of construction sites reported under the statutory notification mechanism through an information computer system, and compile the compliance rate for the conduct of the first inspection for monitoring purposes (see **para. 12.39**);
- (16) review and improve the current mode of calculation and maintenance of data regarding construction sites and inspections to ensure effective analysis for formulation and adjustment of work strategies (see **para. 12.41**);
- (17) when the same kind of irregularities (such as unsafe operations of work-at-height) has been found repeatedly in a construction site, in addition to issuing improvement notices to demand rectification of individual

irregularities, strengthen the intensity of enforcement and even adjust its strategies so as to urge systemic improvement of the construction site (see **para. 12.43**);

- (18) take stringent enforcement actions and make good use of the extended time limit for prosecution to collect evidence as well as institute prosecutions against suitable cases on indictment to increase the deterrent effect (see **para. 12.47**);
- (19) after the new penalties for OSH offences have been in force for a period of time, conduct a systemic analysis to review its prosecution work and the penalties imposed by the court in convicted cases (see **para. 12.47**);
- (20) take more proactive steps to follow up on the performance of registered safety auditors and registered safety officers on the monitoring list by, for example, making close observations of their actual performance on the site and careful examination of the reports they submit so as to enhance the quality of their work (see **para. 12.52**);
- (21) more proactively inspect the conduct of safety audit by registered safety auditors and consider setting a percentage of random checks. By doing so, LD can alert registered safety auditors to its random checks on their work in order to urge upon them the need to carefully perform their duties. It can as well enable LD to monitor safety auditors' performance and give advice on any areas for improvement through means other than scrutiny of audit reports (see **para. 12.55**);
- (22) drawing on the painful lessons from previous fatal accidents, remind site personnel including registered safety officers and registered safety auditors of the issues to which they should pay attention during routine inspections or safety audit so as to strengthen their ability to detect irregularities in site operations and enhance the quality of their work (see **para. 12.58**);
- (23) step up the monitoring of course providers and trainers engaging in mandatory safety training courses and carry out surprise checks in a timely manner to ensure their quality. In case of irregularities, the Department should be decisive in taking regulatory action (see **para. 12.91**);
- (24) continue to share with CIC and OSHC its observation from routine inspections and enforcement actions as well as lessons learnt from accidents for designing or reviewing the content of safety training courses (see **para. 12.93**);

- (25) consider coordinating efforts of relevant departments and organisations to set up a thematic website on OSH in the construction industry to provide a convenient platform for various stakeholders and the public to look for information they need (see **para. 12.96**);
- (26) as a short-term measure, consider providing on its website hyperlinks to information from various departments and organisations in a systematic manner, categorised by topics relating to OSH in the construction industry, for reference by stakeholders and members of the public (see **para. 12.97**);
- (27) step up its publicity and encourage owners' corporations, owners and residents engaging in renovation and repair works to notify LD of such works via property management companies for timely action by LD (see **para. 12.101**);
- (28) step up publicity and education among owners, owners' corporations, property management companies and residents through the mass media and the platform of property management companies, stressing in particular their legal liability in relation to renovation and repair works and the legal consequence and loss in case of accidents (see **para. 12.104**);
- (29) enrich the content of the publications and information on analysis of accidents, adding the role and responsibility of various stakeholders and how they can avoid accidents (see **para. 12.105**);

BD

- (30) speed up processing of the cases previously omitted and promptly refer cases warranting disciplinary action to the Registered Contractors' Disciplinary Board so as to bring non-compliant contractors to account (see **para. 12.61**);
- (31) set up a mechanism for internal monitoring to ensure timely follow-up on all referrals from LD for consideration of disciplinary action against convicted contractors (see **para. 12.62**);
- (32) review Criterion 1 under the disciplinary system and consider whether the threshold should be lowered for more effective prevention (see **para. 12.66**);

DEVB

- (33) continue to review the tender evaluation system for public works in a timely manner to ensure that only contractors whose performance meets

the safety standards would be awarded contracts (see **para. 12.73**);

- (34) continue to review the regulating requirement regarding contravention of legislation related to site safety for more effective prevention of accidents (see **para. 12.77**);
- (35) continuously instruct all works departments to learn from previous accidents and stringently monitor the site safety performance of contractors to ensure safety (see **para. 12.80**);
- (36) after various promotional measures have been implemented for a period of time, review the adoption of the Smart Site Safety System and, with reference to the feedback from the industry, step up efforts to encourage and support wider use of the system in private development sites so as to enhance site safety by means of technology (see **para. 12.82**);
- (37) as regards public works project sites having records of accidents despite full adoption of the Smart Site Safety System, thoroughly examine the causes of the accidents to identify the problem, implement improvement measures and share the lessons learnt with the industry, thereby maximising the effectiveness of the system in preventing accidents (see **para. 12.83**);
- (38) share with CIC the experience of safety training in public works for its consideration of offering subsidies as incentive, with a view to extending such safety training to private works projects to enhance site safety (see **para. 12.88**);

LD and BD

- (39) explore any room for further collaboration on accident investigations to enhance the efficiency and effectiveness of their investigation work (see **para. 12.67**); and

DEVB and BD

- (40) expedite the amendment to BO to enhance the disciplinary system (see **para. 12.64**).

ACKNOWLEDGEMENTS

12.107 The Ombudsman thanks LD, BD, DEVB, CIC, OSHC and other parties that had provided information for their cooperation and opinions during the course of this direct investigation operation.

Office of The Ombudsman
Ref: DI/464
March 2025

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Appendix

CASE STUDIES

Case 1 (A new public works project)	
(I) Incident	<ul style="list-style-type: none"> • Upon substantial completion of the water pipe laying works, an excavator (“E1”) was to be removed from the construction site. • Before lifting E1, the subcontractor had already removed another excavator (“E2”) from a different construction site and placed it on the deck of the hired truck-mounted crane. • The deceased, a crane operator employed by the subcontractor, parked the crane with E2 on its deck on a pedestrian path, with its driving cabin facing uphill. E1 was inside a construction site enclosed by wire mesh fencing to the right of the crane. • Prior to the lifting operation, the deceased extended the crane’s left and right outriggers, one on each side. After securing E1 with two-legged chain slings, he operated the crane to lift and move E1 horizontally over the wire mesh fence to a sloping road. While E1 was being lowered onto the sloping road, the right outrigger was suddenly broken, causing the crane to tilt sideways. E2 that had earlier been loaded onto the crane’s deck fell off and fatally struck the deceased.
(II) Labour Department (“LD”)’s findings	<ul style="list-style-type: none"> • The safe working loads were specified in “Form 3” under the Factories and Industrial Undertakings (Lifting Appliances and Lifting Gear) Regulations, signed by a registered professional engineer, but were not marked on the crane itself. • The overall safe working load of the crane’s two-legged chain slings was 4 tonnes, yet E1 being lifted at the time of the accident weighed 4.27 tonnes. In addition, the chain slings were not connected with shackles, rings or links of adequate strength. • No lifting supervisor was present on site to monitor and control the lifting operation. • The team of workers carried out the lifting operation based on their past experience. While E1 was being lifted and moved over the fence, the crane’s two outriggers were not fully extended. The risk of instability and overturning further increased as only the right outrigger was supported by a

Case 1 (A new public works project)

	<p>wooden block, whereas the left outrigger lacked any footing support.</p> <ul style="list-style-type: none"> • The crane was operated on a sloping surface with an inclination exceeding 6 degrees. Prior to the lifting operation, the crane had not been levelled horizontally in accordance with the operation manual to ensure that the inclination in every direction did not exceed 3 degrees.
(III)LD's follow-up	<ul style="list-style-type: none"> • A Work Safety Alert was issued, and the case was included in the Accident Casebook on Lifting Operation, the Brief Analysis of Site Accident Cases – Earth-moving Machinery, the Brief Analysis of Site Accident Cases – Material Hoist, and the Brief Analysis of Site Accident Cases – Mobile Crane. • Upon completion of the investigation, warning letters were issued to the duty holders, specifying areas requiring improvement, their legal liability under occupational safety and health (“OSH”) legislation, and the safety measures to be adopted. • Prosecution: The principal contractor and the subcontractor were prosecuted for contravening the Factories and Industrial Undertakings Ordinance and the Factories and Industrial Undertakings (Lifting Appliances and Lifting Gear) Regulations, and were fined \$17,000 and \$52,000 respectively by the court.
(IV)Our additional observations	<ul style="list-style-type: none"> • Several unsafe conditions existed during the lifting operation, including the crane being parked on a sloping surface, the weight of E1 exceeding the crane’s load capacity, and the absence of a lifting supervisor. However, these hazards went unnoticed by the three workers engaged in the lifting operation as well as other site personnel.

Case 2 (A new public works project)

(I) Incident

- At a construction site, the deceased, a wooden formwork worker employed by the formwork subcontractor, was assigned to formworking in the basement.
- Two electric arc welding transformers were placed on the ground level (i.e. the level above the basement) for welding work in the basement. An output cable from one of the transformers (“the Cable”), suspended from the ground level down to the basement, had a section wrapped in yellow polyvinyl chloride (“PVC”) tapes. On the day of the accident, the transformer connected to the Cable was not used for any welding work, but was energised for having not been switched off after use the previous day.
- After the hoses of a concrete pump truck were washed on the ground level, wastewater was discharged onto the floor and flowed down to the basement. The deceased’s work place and the Cable were wet as a result.
- For reasons unknown, the deceased grasped the section of the Cable wrapped in yellow PVC tapes and collapsed to the ground. He was pronounced dead upon arrival at the hospital. The autopsy report confirmed that the cause of death was electrocution.

(II) LD’s findings

- An electrical and mechanical engineering expert concluded that the accident was caused by the defective Cable with 12 damaged points found on its insulating sheath. A joint was wrapped in yellow PVC tapes to extend the Cable. It was believed that the deceased got an electric shock after holding the wet surface of the defective and energised Cable while standing on a wet floor at the time of the accident.
- The electric arc welding transformer was placed on the ground level, far from the basement level where welding work was carried out. It was difficult for workers to promptly switch off the transformer after use or cut off the power supply in the event of an emergency.
- A Hot Work Permit system was in place at the site for welding process, under which welding workers were required to inspect the welding equipment and safety measures on a checklist before commencing work. After verifying that all items were in order, workers would complete and submit an application form to the foreman, and welding work could only

Case 2 (A new public works project)	
	<p>proceed upon the foreman’s approval. However, this system was not implemented when electric arc welding work was carried out on the day before the accident.</p> <ul style="list-style-type: none"> • Checking the connections and conditions of cables was an item listed on the Hot Work Permit application form. However, the welding workers involved did not have the knowledge required, resulting in the system not properly implemented. • The foreman and safety personnel responsible for site supervision failed to take any action to remove the electric arc welding transformer or its cables. The unsafe welding equipment was also not identified during the relevant safety inspections. • Both the welding workers involved and the deceased were likely to be exposed to hazards arising from electric arc welding. However, the safety induction training and toolbox training they received did not cover electrical safety.
(III)LD’s follow-up	<ul style="list-style-type: none"> • A Work Safety Alert was issued, and the case was included in the Fatal Accidents Related to Electrical Work (Volume 1) and the Brief Analysis of Site Accident Cases – Gas and Electric Welding. • Upon completion of the investigation, warning letters were issued to the duty holders, specifying areas requiring improvement, their legal liability under OSH legislation, and the safety measures to be adopted. • Prosecution: The principal contractor and three subcontractors were prosecuted for contravening the Factories and Industrial Undertakings Ordinance, the Factories and Industrial Undertakings (Electricity) Regulations and the Factories and Industrial Undertakings (Safety Management) Regulation, and were fined \$13,000, \$69,000, \$59,000 and \$30,000 respectively by the court.
(IV)Our additional observations	<ul style="list-style-type: none"> • In the case submitted by LD to the court, the unsafe welding equipment involved in the incident was not identified despite the safety inspections conducted by the principal contractor (including checks by the safety supervisor and safety officer, weekly joint inspections by the safety officer and representatives from the works department, and inspections

Case 2 (A new public works project)

required under the Hot Work Permit system). Although LD had conducted site inspections prior to the incident, no records indicated whether or how LD had inspected the electrical and welding equipment, or whether any reminders had been issued to the contractor.

- During the first safety audit conducted in 2019, the safety auditor found that the electrical control panel had not been properly locked and recommended that electrical safety training be strengthened. The principal contractor subsequently submitted records showing that such training had been arranged for workers.
- In the monthly report completed one month prior to the incident, the safety officer recommended that a Hot Work Permit system be implemented. During inspections, the safety officer had also found electrical cables being placed on wet ground, as well as damaged cables.
- The site safety and health committee noted in its minutes that unsafe conditions had been identified, including “cables should be hung on I-beams”, “avoid water immersion” and “damaged cables”.
- Following the incident, LD only held the first interview with the site’s safety officer. A warning letter was issued to the safety officer for failing to submit a monthly report by the end of each month. During a subsequent follow-up inspection, LD found that the safety officer had already resigned. After reviewing the reports prepared by the officer prior to his resignation, LD confirmed that the reports complied with OSH legislation and relevant codes of practice. The officer was therefore removed from the monitoring list at the end of the one-year monitoring period.

Case 3 (A new public works project)

<p>(I) Incident</p>	<ul style="list-style-type: none"> • At a construction site, workers of different trades were carrying out tasks related to a reinforcement bar structure (“RBS”), which comprised top and bottom layers of reinforcement bars. • On the day of the incident, the foreman of the principal contractor assigned three workers—including the deceased, who was employed by the principal contractor—to install guardrails along the edge of the top layer of RBS. The deceased, a rigger, was standing on the ground adjacent to the RBS, handing metal components to his co-workers for installation on the top layer. • During the process, the main section of the top layer of the RBS—measuring 27.5 metres (length) by 15 metres (width)—suddenly collapsed and slid towards the side where the deceased was standing. He was trapped by the fallen reinforcement bars and certified dead later that afternoon. Several workers fell as a result of the collapse, with five sustaining injuries of varying severity. One worker was trapped between the top and bottom layers and sustained multiple injuries, including fractures.
<p>(II) LD’s findings</p>	<ul style="list-style-type: none"> • Workers had to stand on or pass along the edges of the top layer of the RBS, but it lacked adequate barriers, guardrails or safety nets. Nor were they provided with any fall protection equipment, such as safety harnesses, independent lifelines and fall arrestors. Certain areas of the top layer had voids large enough for construction materials and tools to fall through. Workers were also tasked with clearing materials left between the top and bottom layers. • The RBS was under construction and had not been inspected to verify its safety. • The injured workers, other workers and foremen had no idea of the maximum safe working load of the RBS’s top layer. No warning signage was displayed in the vicinity to alert workers to the associated risks. The injured workers had only received general safety training, such as induction sessions and safety briefings, which did not address the specific hazards related to their work. • Certain tasks were assigned and supervised on-site by foremen. However, these foremen themselves failed to

Case 3 (A new public works project)

	<p>recognise foreseeable risks and were therefore unable to provide adequate supervision.</p> <ul style="list-style-type: none"> • The principal contractor’s method statement did not specify the safe working load of the RBS. Prior to undertaking specific tasks, subcontractors were required to submit a written method statement and risk assessment to the principal contractor for approval. • Subcontractors were expected to establish effective communication channels to convey all relevant safety information to frontline workers. However, some subcontractors had never submitted any risk assessments or method statements related to their work to the principal contractor. • The two subcontractors involved had failed to conduct safety audits at least once every six months. Their first safety audits were only carried out after the incident. One of the subcontractors had not established a safety committee prior to the incident.
(III)LD’s follow-up	<ul style="list-style-type: none"> • A Work Safety Alert was issued. • Upon completion of the investigation, warning letters were issued to the duty holders, specifying areas requiring improvement, their legal liability under OSH legislation, and the safety measures to be adopted. • Prosecution: The principal contractor and the two subcontractors were prosecuted for contravening the Factories and Industrial Undertakings Ordinance, the Construction Sites (Safety) Regulations and the Factories and Industrial Undertakings (Safety Management) Regulation. The principal contractor was fined \$181,000, while the two subcontractors were fined \$80,000 and \$85,000 respectively.
(IV)Our additional observations	<ul style="list-style-type: none"> • The two subcontractors involved had been operating on-site for a considerable period prior to the incident. However, it went unnoticed that neither had conducted any safety audits. One of them had also failed to establish a safety committee. • Following the incident, LD held the first interview with one of the safety officers under monitoring. A warning letter was issued to the officer for failing to submit monthly reports

Case 3 (A new public works project)

in a timely manner. During a subsequent follow-up inspection, LD found that the officer was no longer the registered safety officer for the construction site. After reviewing the reports submitted by the officer prior to his departure, LD confirmed that the reports complied with OSH legislation and relevant codes of practice. The officer was therefore removed from the monitoring list at the end of the one-year monitoring period.

- A subcontractor's foreman modified the erection method of the RBS without prior consultation with the principal contractor's engineer. The deviation from the original design, which had persisted for a considerable period, was not detected by the foreman or through relevant inspections.
- The RBS had been modified without approval, and its load was further increased by the shear links placed on it. Before the RBS was confirmed as structurally safe, workers of various trades had already started working on it.

Case 4 (A new private works project)

<p>(I) Incident</p>	<ul style="list-style-type: none">• At a residential construction site, the deceased, who was employed by the second-tier subcontractor, was carrying out tile grouting work (i.e. filling the gaps between tiles with cement mortar) at various locations on the bamboo scaffold erected along the external wall between two flats on the 17th and 18th floors. He fell from the scaffold to the podium of the building, and passed away in hospital on the same day.
<p>(II) LD's findings</p>	<ul style="list-style-type: none">• The bamboo scaffold extended upwards from the podium level, covering the entire building. On the 17th floor, the scaffold had an uncovered opening (measuring 40 cm by 50 cm) and a gap (measuring 113 cm by 54 cm), neither of which was fitted with guardrails or toe-boards. No covering materials or fibre ropes were found in the vicinity either.• In certain areas on the 17th floor, 11 fibre ropes, spaced approximately two metres apart, were suspended between the inner side of the scaffold and the external wall. The upper ends of the ropes were knotted onto metal brackets fixed to the external wall. The fibre ropes and metal brackets had been inspected separately by a registered professional engineer and attached with "Form 6" and "Form 7" under the Factories and Industrial Undertakings (Lifting Appliances and Lifting Gear) Regulations. However, separate inspections of the ropes and brackets could not guarantee that the ropes were strong enough to arrest a fall. Knotting the ropes onto the brackets also significantly affected the effectiveness of the fall arresting system.• The deceased had been provided with a safety harness with a single lanyard (1 metre in length) and a fall arrestor, but he was not wearing the harness at the time of the incident. No safety net was installed beneath his work position, and no warning signs were put up in the area against using the scaffold.• On the day of the incident, a permit had been issued for tile grouting work on the external wall of the 17th and 18th floors. Application form for the permit was completed and submitted by the foreman of the subcontractor and approved by the foreman of the principal contractor. However, the former had only spent about one minute on inspecting the scaffold, while the latter merely checked whether workers were provided with safety harnesses. No inspection had been conducted on the scaffold and the other safety measures

Case 4 (A new private works project)

	<p>specified in the permit to ensure implementation. In fact, the scaffold was unsafe due to the presence of openings and gaps.</p> <ul style="list-style-type: none"> • The foreman of the principal contractor, who was responsible for supervising the workers (including the deceased), did not see the deceased working on that day, nor had he provided any safety briefing before allowing the deceased to work on the scaffold. • The second-tier subcontractor failed to ensure the provision and proper maintenance of safe and adequate access to and egress from the working areas on the bamboo scaffold erected along parts of the external walls from the 16th to the 18th floors. On the day of the incident, the scaffold layer on the 18th floor was accessible via four windows on the 17th floor and four windows on the 18th floor. However, workers had to pass through multiple gaps between the external wall and the scaffold, with the largest measuring 150 cm by 50 cm. The windows on the 16th floor were obstructed by large horizontal bamboo poles, and the vertical spacing between these poles was inconsistent, creating a risk of falling while climbing. The scaffold was therefore unsafe for climbing. To access the upper scaffold layer on the 16th floor, the deceased had to pass through a section with no guardrails and toe-boards on its outer side near the lift shaft. There was a risk of falling more than 24 metres to the sixth-floor podium through a vertical opening measuring 1 metre (height) by 0.5 metre (width). • Apart from receiving instructions to use a safety harness and approximately two hours of safety induction training, the deceased was not provided with any task-specific training for tile grouting work on bamboo scaffolds. At the time of the incident, no one was supervising his work.
(III)LD's follow-up	<ul style="list-style-type: none"> • A Work Safety Alert was issued. • Upon completion of the investigation, warning letters were issued to the duty holders, specifying areas requiring improvement, their legal liability under OSH legislation, and the safety measures to be adopted. • Prosecution: The principal contractor, its foreman and the second-tier subcontractor were prosecuted for contravening

Case 4 (A new private works project)

	<p>the Factories and Industrial Undertakings Ordinance and the Construction Sites (Safety) Regulations, and were fined \$105,000, \$15,000 and \$100,000 respectively.</p>
<p>(IV) Our additional observations</p>	<ul style="list-style-type: none">• Prior to the accident, LD issued 30 improvement notices to the principal contractor in relation to the site, including 12 notices concerning work-at-height and 3 concerning safe access and egress. LD also instituted four prosecutions, one of which involved work-at-height.• Before the accident, LD had investigated 14 injury cases that had occurred at the site.• LD issued an improvement notice regarding the unsafe work-at-height conditions of a glass canopy on the rooftop of a specific area of the site. During a follow-up inspection, LD considered the notice to have been complied with. However, the openings at another location of the site were found to have posed a risk of falling from height, which led to the issuance of another improvement notice. While a subsequent inspection confirmed that this notice had also been complied with, unsafe work-at-height conditions were again identified in a corridor on a floor, prompting LD to issue another improvement notice.• During a safety audit, the registered safety auditor found some guardrails and safety nets were damaged, and toe-boards were missing.• Prior to the accident, the site’s safety supervisor and safety officer had reported that some working platforms lacked guardrails, and immediate repairs were required for damaged guardrails. The safety committee also noted safety concerns in its minutes, including “all openings must be fenced on all sides”, “workers must wear safety harnesses when working at building edges” and “working platforms were unguarded”.• Following the accident, LD placed several registered safety officers of the site on the monitoring list and held the first interview with them. During subsequent follow-up, LD discovered that one of the registered safety officers had already resigned. Nonetheless, LD reviewed the reports prepared by the remaining officers and those by the former officer prior to his departure. Upon confirming that all reports complied with OSH legislation and relevant codes of

Case 4 (A new private works project)	
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	practice, LD removed them from the monitoring list at the end of the one-year monitoring period.
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Case 5 (A new private works project)

<p>(I) Incident</p>	<ul style="list-style-type: none">• At a residential construction site, two scaffolders (including the deceased) employed by a subcontractor (“SC1”) were erecting a bamboo scaffold along the external wall of the 17th floor. Simultaneously, two workers employed by another subcontractor (“SC2”) were installing metal stanchions. During the process, a stanchion under installation fell and struck the deceased, who was working on the scaffold. The deceased, together with the fallen stanchion and several broken scaffold components, fell to the second-floor podium and was pronounced dead at the scene.
<p>(II) LD’s findings</p>	<ul style="list-style-type: none">• The deceased was climbing up and down the scaffold while wearing a full-body safety harness, but the lanyard was only hooked on his own body. He had not been provided with any independent lifeline or fall arrest system, nor was a safety net installed beneath his work position. The “competent person” responsible for scaffolding was not present on site to supervise its erection as he was updating “Form 5” under the Construction Sites (Safety) Regulations before the accident.• The assembly of stanchions was required to follow the design drawings. Each stanchion was marked and sequenced accordingly. The components were first temporarily held together with bolts and nuts through connection plates, and then welded together after the alignment was adjusted.• Upon discovering that the configuration of the connection plates on the upper segment of a stanchion did not match the design, SC2’s foreman made a hasty on-site modification. As a result, only 20 pairs of bolts and nuts were used for the temporary connection—four pairs fewer than the original design. Prior to making this change, he consulted only a rigger and failed to inform any supervisors or engineers.• SC2 did not engage a professional engineer to ensure that the stanchions were properly installed and structurally stable. Nor were additional precautionary measures taken to prevent the temporarily connected structure from toppling. The independent registered engineer’s inspection did not cover the alignment process of the temporarily connected stanchions.• The mechanism for verifying the configuration of the connection plates on the upper stanchion segment failed. Neither site personnel nor senior professionals detected the incorrect configuration prior to the accident.

Case 5 (A new private works project)

	<ul style="list-style-type: none"> • On the afternoon of the accident, SC2’s foreman delegated his supervisory duties to a rigger without notifying his supervisors or other workers. The foreman only climbed on the working platform to supervise occasionally. At the time of the accident, no foreman was present on the 17th floor to oversee the alignment process. • The principal contractor failed to establish an effective communication channel between the subcontractors, nor was a permit-to-work system implemented to prevent the scaffolding work and stanchion installation from carrying out at the same time. No instructions were given to stop scaffolding work during stanchion installation.
(III)LD’s follow-up	<ul style="list-style-type: none"> • A Work Safety Alert was issued. • Upon completion of the investigation, warning letters were issued to the duty holders, specifying areas requiring improvement, their legal liability under OSH legislation, and the safety measures to be adopted. • Prosecution: The principal contractor, SC1 and the foreman of SC2 were prosecuted for contravening the Factories and Industrial Undertakings Ordinance and the Construction Sites (Safety) Regulations, and were fined \$165,000, \$113,000 and \$10,000 respectively. SC2 was also fined \$25,000 for contravening the Factories and Industrial Undertakings Ordinance.
(IV)Our additional observations	<ul style="list-style-type: none"> • SC1 was absent from three safety committee meetings prior to the accident. • The foreman of SC2 failed to discharge his supervisory duties and deviated from the original design without authorisation. • During the month of the accident, LD visited the construction site three times—twice for investigating work injury cases and once for safety inspection. LD’s record of that safety inspection only showed the number of workers on site, the types of work being carried out (such as formwork, cement or bar fixing works), and the general categories of safety items inspected (such as “work-at-height” and “electrical safety”) on the day of inspection.

Case 6 (A new private works project)

(I) Incident

- Where piling works were underway for site formation, the ground on which a piling plant sat suddenly subsided. The deceased, a site agent employed by the second-tier subcontractor, was fatally crushed by the plant after falling into the void along with it.

(II) LD's findings

- The first-tier subcontractor (for the installation works of sheet piles and socketed H-piles) and the second-tier subcontractor (engaged by the first-tier subcontractor to carry out part of the piling works) were sister companies. The deceased was a director of both companies.
- The installation process of socketed H-piles involved boring, inserting the H-piles and grouting, and extracting the casings when grout was pumped in. During the boring operation, a drilling machine used compressed air to flush out excavated materials by air and water pressure. If the air pressure applied was too high, too much soil would be extracted, creating an underground cavity that could develop into a sinkhole.
- One month prior to the accident, the Civil Engineering and Development Department ("CEDD") had issued a Technical Guidance Note outlining the risks of excessive ground loss and sinkhole formation associated with deep excavation and drilling. The note also provided mitigation guidelines and was widely circulated to engineering companies of all sizes in the industry.
- Excessive excavation and ground subsidence were identified in the principal contractor's method statement as one of five key risks requiring prevention. However, the site safety plan prepared by the principal contractor did not include any safe system of work or supervisory measures specifically addressing this risk.
- Pre-construction ground investigation did not reveal any underground voids or related signs.
- Civil engineering experts concluded that the sinkhole was caused by the boring operation for installing socketed steel H-piles. The use of excessive air pressure during the boring operation removed too much soil around the casing, creating an underground cavity. Under the weight of the surface

Case 6 (A new private works project)

	<p>layers, the soil above the cavity eventually collapsed, resulting in the sinkhole.</p> <p>No one was seen taking real-time record of air pressure during the boring operation. The boring progress and air pressure applied were solely controlled by the drilling machine operator based on personal experience. The operator had not been informed of any standard drilling rate, nor was he aware of the consequences of applying excessive air pressure.</p>
(III)LD's follow-up	<ul style="list-style-type: none">• A Work Safety Alert was issued.• Upon completion of the investigation, warning letters were issued to the duty holders, specifying areas requiring improvement, their legal liability under OSH legislation, and the safety measures to be adopted.• Prosecution: The principal contractor, the first-tier subcontractor and the second-tier subcontractor were prosecuted for contravening the Factories and Industrial Undertakings Ordinance, and were fined \$100,000, \$60,000 and \$80,000 respectively.
(IV)Our additional observations	<ul style="list-style-type: none">• The contractors failed to follow the Technical Guidance Note issued by CEDD, nor were they vigilant in mitigating the risk of sinkhole formation associated with excessive air pressure applied during the boring operation.

Case 7 (A new private works project)

<p>(I) Incident</p>	<ul style="list-style-type: none">• At a residential construction site, the second-tier subcontractor arranged for a truck-mounted crane operator (“the Operator”) and the deceased (a rigger) to use the crane to transport deck panels from the site’s storage area to a designated location.• While standing on the compartment of the truck-mounted crane and assisting in unloading a pile of deck panels lifted by the crane, the deceased was struck when the panels suddenly loosened and slid down. He fell to the ground and died of his injuries later that day.
<p>(II) LD’s findings</p>	<ul style="list-style-type: none">• The deceased had rigged six deck panels (each measuring 3 metres in length, 1 metre in width, 0.2 metre in thickness, and weighing approximately 600 kilograms) using a two-legged chain sling attached to the crane’s hook.• The deck panels were not adequately secured prior to lifting.• At the time of the accident, the deceased was positioned less than three metres from the load. The Operator did not have a clear and unobstructed view of the area surrounding the crane and was unable to see the deceased’s location.• The deceased was not a designated signaller, and no one on site was assigned to provide signals to assist the Operator during the lifting operation. At times, the Operator was unable to see the hand signals given by the deceased, and no communication devices such as walkie-talkies were used between them.• The second-tier subcontractor failed to implement the safety measures outlined in the risk assessment for lifting deck panels. These included assigning a signaller to assist with the lifting operation, appointing a lifting supervisor to oversee the process, and no lifting unless the rigger was outside the lifting zone. The second-tier subcontractor also failed to establish a permit-to-lift system for high-risk operations, nor did it adopt a safe rigging method and use tag lines to control the swing or rotation of the load.• The second-tier subcontractor did not inform the deceased or the Operator of the lifting method and route, their designated work positions during the operation, the associated hazards and the relevant safety precautions.

Case 7 (A new private works project)

	<ul style="list-style-type: none"> • The principal contractor and the first-tier subcontractor did not provide specific safety training for the workers involved in the lifting operation using truck-mounted crane (i.e. the Operator and the deceased), who relied solely on their own experience and work practices. • The second-tier subcontractor failed to provide induction training for the deceased, nor did it assign personnel to guide or supervise the work of the deceased and the Operator on site.
(III)LD's follow-up	<ul style="list-style-type: none"> • A Work Safety Alert was issued. • Upon completion of the investigation, warning letters were issued to the duty holders, specifying areas requiring improvement, their legal liability under OSH legislation, and the safety measures to be adopted. • Prosecution: The first-tier subcontractor and second-tier subcontractor were fined \$120,000 and \$128,000 respectively for contravening the Factories and Industrial Undertakings Ordinance, the Factories and Industrial Undertakings (Lifting Appliances and Lifting Gear) Regulations and the Factories and Industrial Undertakings (Safety Management) Regulation.
(IV)Our additional observations	<ul style="list-style-type: none"> • Approximately two weeks prior to the accident, LD received complaints alleging that unsafe lifting operations frequently occurred at the construction site, such as unauthorised or unappointed workers using walkie-talkies in place of signallers. In response, LD conducted an inspection, but no lifting operations were in progress at the time. Its investigation confirmed that the contractor had employed certified signallers, and the Department also checked various lifting appliances and the relevant specified forms. • The day of the accident was the deceased's first day at the construction site. He had commenced work without receiving any induction training.

Case 8 (Renovation and maintenance)

<p>(I) Incident</p>	<ul style="list-style-type: none">• During an inspection on the 39th floor of a building where addition and alteration works were underway, the foreman of the principal contractor saw the deceased, a formworker employed by a subcontractor, working at the wooden formwork on the 39th floor's rooftop while wearing a safety harness. No guardrail was installed along the edge of the formwork. The deceased suddenly fell from the edge to the 39th floor below and sustained injuries. He passed away two days later in hospital.
<p>(II) LD's findings</p>	<ul style="list-style-type: none">• The edge of the wooden formwork on the rooftop was approximately 5.45 metres above the 39th floor slab. There were no guardrails or toe-boards near the edge, nor was a safety net installed beneath it. A nylon rope was mounted horizontally one metre above the formwork surface.• Adjacent to the edge of the formwork was an access path constructed with reinforcement bars. This path of 52 cm wide had no guardrails and toe-boards. A horizontal metal wire ("the Wire") was installed along the path, but some vertical strips were tied on the Wire that obstructed the passage of safety harness lanyards. Workers had to detach their lanyards from the Wire to bypass the strips and then reattach them to continue moving along.• Although the deceased was provided with a safety harness, the Wire provided neither a continuous anchorage point nor adequate fall protection.• The principal contractor had conducted risk assessment and developed safe working procedures for wooden formworking on the 39th floor's rooftop, which required the installation of guardrails and toe-boards. Its internal safety regulations also stipulated that work-at-height platforms must be equipped with guardrails and toe-boards. However, these safety measures were not implemented in practice.• The subcontractor did not receive the principal contractor's risk assessment. Nor had it conducted its own risk assessment or developed safe working procedures.• The principal contractor did not require the subcontractor to submit a method statement outlining construction procedures and safety measures. Nor did it issue warnings for the subcontractor's insufficient attendance at safety meetings or

Case 8 (Renovation and maintenance)	
	<p>maintain records to evaluate the subcontractor’s safety performance.</p>
(III)LD’s follow-up	<ul style="list-style-type: none"> • A Work Safety Alert was issued. • Upon completion of the investigation, warning letters were issued to the duty holders, specifying areas requiring improvement, their legal liability under OSH legislation, and the safety measures to be adopted. • Prosecution: The principal contractor was fined \$245,000 for contravening the Factories and Industrial Undertakings Ordinance, the Construction Sites (Safety) Regulations and the Factories and Industrial Undertakings (Safety Management) Regulation. The subcontractor was fined \$210,000 for contravening the Factories and Industrial Undertakings Ordinance and the Construction Sites (Safety) Regulations.
(IV)Our additional observations	<ul style="list-style-type: none"> • Less than three months prior to the accident, LD had conducted an in-depth surprise inspection, resulting in 17 improvement notices issued and 13 prosecutions (including those related to work-at-height) brought against the principal contractor and three subcontractors (but not including the subcontractor involved in this fatal incident). • The Wire had been inspected by a registered professional engineer, who signed “Form 6” and “Form 7” under the Factories and Industrial Undertakings (Lifting Appliances and Lifting Gear) Regulations. However, the engineer stated that he had conducted the inspection at a hardware shop and was unaware of how the Wire would be used on site. • A mobile working platform was available at the site, but due to spatial constraints, it could not be deployed at all work locations. • The site’s safety committee noted in its minutes that “adequate gangways must be laid at the working area”, “suitable guardrails should be provided or personal fall protection equipment should be used for work at the edges”, and “working platforms must be erected and safety harnesses of appropriate specifications must be worn for work-at-height”. It also noted that the principal contractor had instructed all subcontractors to ensure their workers used fall

Case 8 (Renovation and maintenance)	
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	protection equipment when working on external wall scaffolds.
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	Incident	LD's investigation	LD's follow-up	Our observations
Case 9	<p>At a maintenance works site in a five-storey building, the deceased, a general worker employed by the third-tier subcontractor, was assigned to carry out plaster chipping work on the rooftop, bag and place the debris collectively on one side of the roof, and clean up rubbish and miscellaneous items.</p> <p>At the time of the accident, the deceased was working alone on the rooftop. After lunch, another worker returned to the site and found the deceased lying on the canopy of the first floor. She was seriously injured and passed away later that day.</p>	<p>Each floor of the building consisted of two separate flats, each with a balcony. The space between the two balconies formed an open lightwell. Scaffolding had been erected along the external walls of the building from the ground floor to the rooftop, and bamboo scaffolds were installed on all four sides of the lightwell.</p> <p>Within the bamboo scaffolding in the lightwell, there was a void measuring 110 cm (length) by 90 cm (width) with no safety net installed beneath it.</p> <p>The deceased had to pass through a bamboo platform in front of the rooftop canopy. The platform of 61 cm wide was not planked, with gaps between the bamboo poles ranging from 6 cm to 16 cm.</p> <p>The bamboo platform on the left side of the rooftop canopy was 50 cm wide, not fitted with any toe-boards or safety net. The wooden planks laid on the platform had deteriorated, with the outer layer peeling off.</p>	<p>A Work Safety Alert was issued.</p> <p>Upon completion of the investigation, warning letters were issued to the duty holders, specifying areas requiring improvement, their legal liability under OSH legislation, and the safety measures to be adopted.</p> <p>Prosecution: The principal contractor, the first-tier subcontractor, and the second-tier and the third-tier subcontractors were prosecuted for contravening the Factories and Industrial Undertakings Ordinance and the Construction Sites (Safety) Regulations, and were fined \$104,000, \$94,000, \$94,000 and \$100,000 respectively.</p>	<ul style="list-style-type: none"> ✘ Safety helmet ✘ Safety harness ✓ Independent lifeline

	Incident	LD's investigation	LD's follow-up	Our observations
		Working on this surface posed a risk of slipping and falling through the void into the lightwell.		
Case 10	<p>At a five-storey residential building undergoing renovation, the deceased, a general worker employed by a subcontractor, was assigned on the day of the incident to remove the protective sheets from the newly installed glass fence outside the building and to clear adhesive tapes.</p> <p>No one witnessed the accident. It was believed that the deceased fell from a height while removing the protective wooden sheets and landed in the garden on the lower floor. He sustained severe head injuries and passed away the following day.</p>	<p>The glass fence was 1.1 metres high, with a platform edge measuring only 14 cm in width outside the fence. The vertical distance from the fence to the garden below was 1.46 metres.</p> <p>According to the deceased's co-workers, the removal work required standing on the narrow platform edge outside the glass fence. One worker had seen the deceased standing on the 14 cm-wide edge, holding the top of the glass fence with one hand while pulling off the protective wooden sheets with the other.</p> <p>The day of the accident was the deceased's first day on the job. He was working alone without supervision.</p>	<p>A Work Safety Alert was issued.</p> <p>Upon completion of the investigation, warning letters were issued to the duty holders, specifying areas requiring improvement, their legal liability under OSH legislation, and the safety measures to be adopted.</p> <p>Prosecution: The principal contractor and the subcontractor were each fined \$123,000 for contravening the Factories and Industrial Undertakings Ordinance and the Construction Sites (Safety) Regulations.</p>	<ul style="list-style-type: none"> ✘ Safety helmet ✘ Safety harness ✘ Independent lifeline
Case 11	Renovation works, including the installation of a split-type air-conditioner, were carried out at an upper-floor unit of	The wooden ladder used at the scene was not equipped with any locking mechanism to secure its open position. It was held together only by a string tied to	<p>A Work Safety Alert was issued.</p> <p>Upon completion of the investigation, warning letters were issued to the duty</p>	<ul style="list-style-type: none"> ✘ Safety helmet ✘ Safety harness ✘ Independent lifeline

	Incident	LD's investigation	LD's follow-up	Our observations
	<p>an industrial building. The deceased, a scaffolder employed by a subcontractor, was working with three other workers to inspect the external wall and prepare for the erection of a truss-out scaffold.</p> <p>The deceased initially stood inside the unit and installed an eye bolt on the external wall through a window. He then stepped onto a wooden ladder and climbed out of the window to conduct the inspection.</p> <p>Shortly afterward, a worker heard the deceased scream and found him lying on the second floor of the building. He was injured and unconscious, and passed away later that day.</p>	<p>the lowest rungs on both sides, and its feet had no anti-slip devices.</p> <p>No working platform had been installed on the external wall of the unit. Beneath the window was an unfenced canopy, and no safety net was installed beneath the deceased's work position.</p> <p>The eye bolt had not been inspected by any "competent examiner" or registered professional engineer.</p> <p>When climbing out of the window, the deceased was not wearing the full-body safety harness provided by the principal contractor. As the carabiners on the two lanyards of the chest harness he was wearing, and the eye bolt installed on the external wall, were found intact, it was likely that he did not attach any part of the harness to the eye bolt or any other anchorage point during the climb.</p>	<p>holders, specifying areas requiring improvement, their legal liability under OSH legislation, and the safety measures to be adopted.</p> <p>Prosecution: The principal contractor was prosecuted for contravening the Construction Sites (Safety) Regulations and was fined \$56,000.</p>	

	Incident	LD's investigation	LD's follow-up	Our observations
Case 12	<p>At an upper-floor flat undergoing renovation works (including the replacement of window frames and external drainage pipes), the deceased, a self-employed scaffolder, was working with another worker to erect a truss-out scaffold on the external wall when he accidentally fell to his death onto the second-floor podium of the building.</p>	<p>Prior to the accident, the deceased and another worker climbed through a window located beneath the bedroom air-conditioner to reach the concrete air-conditioner hood on the lower floor. While the other worker remained on the hood to work, the deceased climbed further towards the washroom area and stood on a cylindrical drainage pipe fixed to the external wall, which did not provide adequate standing space.</p> <p>No full-body safety harness, eye bolt, independent lifeline, or other suitable anchorage point for securing harness lanyards was found at the scene. Nor was any safety net installed. The fall protection measures provided for the deceased were insufficient to prevent a fall from the scaffold under construction. Among the items found scattered on the podium following the fall was a climbing harness.</p> <p>Neither the deceased nor the other worker was qualified as a "competent person" to</p>	<p>A Work Safety Alert was issued.</p> <p>Upon completion of the investigation, warning letters were issued to the duty holders, specifying areas requiring improvement, their legal liability under OSH legislation, and the safety measures to be adopted.</p> <p>Prosecution: The principal contractor was prosecuted for contravening the Construction Sites (Safety) Regulations and was fined \$50,000.</p>	<ul style="list-style-type: none"> ✘ Safety helmet ✘ Safety harness ✘ Independent lifeline

	Incident	LD's investigation	LD's follow-up	Our observations
		supervise the erection of truss-out scaffolds. No "competent person" was present at the site to supervise their work.		
Case 13	<p>During renovation works at an upper-floor flat, the deceased, a scaffolder employed by the contractor, and another worker were assigned to dismantle two truss-out scaffolds ("TOS1" and "TOS2") on the building's external wall.</p> <p>At the time of the accident, all bamboo fencing on both scaffolds had already been removed. The deceased and the other worker remained on TOS1 to continue the dismantling work. As the deceased attempted to move from TOS1 to TOS2 to remove a supporting metal bracket of TOS2, one of the brackets supporting TOS1 suddenly detached from the external wall, causing him</p>	<p>Although both the deceased and the other worker were wearing safety harnesses, the contractor had not provided any suitable anchorage points for securing their lanyards. Furthermore, each harness had only a single lanyard, which could not provide continuous fall protection. No safety net had been installed beneath the scaffolds.</p> <p>On the day of the accident, the deceased had to climb from the building's corridor onto a windowsill, and then through a window to access TOS1 for the dismantling work. Throughout this process, he relied solely on gripping the window frame with his hands for support. No fall prevention measures were in place along the entire climbing route.</p> <p>The "competent person" responsible for scaffolding was stationed in the building's corridor to</p>	<p>A Work Safety Alert was issued.</p> <p>Upon completion of the investigation, warning letters were issued to the duty holders, specifying areas requiring improvement, their legal liability under OSH legislation, and the safety measures to be adopted.</p> <p>Prosecution: The contractor was prosecuted for contravening the Factories and Industrial Undertakings Ordinance and the Construction Sites (Safety) Regulations, and was fined \$115,000.</p>	<ul style="list-style-type: none"> ✘ Safety helmet ✓ Safety harness ✘ Independent lifeline

	Incident	LD's investigation	LD's follow-up	Our observations
	<p>to lose his footing and fall to his death.</p>	<p>assist in wrapping up the bamboo members, which prevented him from effectively supervising the dismantling work.</p> <p>According to the structural engineer's expert opinion, the possible cause of the accident was that the expansion anchors securing the bracket of TOS1 had not been installed deep enough into the concrete, resulting in the sudden detachment of the bracket.</p>		