

**立法會**  
**Legislative Council**

LC Paper No. CB(2) 445/00-01  
(These minutes have been seen by  
the Administration)

Ref : CB2/PL/MP/1

**LegCo Panel on Manpower**

**Minutes of meeting**  
**held on Thursday, 30 October 2000 at 4:30 pm**  
**in the Chamber of the Legislative Council Building**

**Members present** : Hon CHAN Kwok-keung (Deputy Chairman)  
Hon James TIEN Pei-chun, JP  
Hon Cyd HO Sau-lan  
Hon LEE Cheuk-yan  
Dr Hon LUI Ming-wah, JP  
Hon CHAN Yuen-han  
Hon LEUNG Yiu-chung  
Hon YEUNG Yiu-chung  
Hon Ambrose LAU Hon-chuen, JP  
Hon Andrew CHENG Kar-foo  
Hon SZETO Wah  
Hon Abraham SHEK Lai-him, JP  
Hon LI Fung-ying, JP  
Hon Tommy CHEUNG Yu-yan, JP  
Hon Michael MAK Kwok-fung  
Hon LEUNG Fu-wah, MH, JP  
Hon Frederick FUNG Kin-kee

**Members absent** : Hon LAU Chin-shek, JP (Chairman)  
Hon Kenneth TING Woo-shou, JP

**Public Officers :** Item III  
**attending**

Mrs Fanny LAW, JP  
Secretary for Education and Manpower

Mr Philip K F CHOK, JP  
Deputy Secretary for Education and Manpower

Mrs Pamela TAN, JP  
Commissioner for Labour

Mr Alfred CHAN, JP  
Deputy Commissioner for Labour (Labour Administration)

Mr Fred TING, JP  
Deputy Commissioner for Labour (Occupational Safety and Health)

Professor LEE Ngok, JP  
Executive Director  
Vocational Training Council

Dr Frederick MAK  
Deputy Executive Director  
Vocational Training Council (Training & Development)

Mr S S KWONG  
Executive Director  
Employees Retraining Board

Item IV

Mrs Pamela TAN, JP  
Commissioner for Labour

Mr Alfred CHAN, JP  
Deputy Commissioner for Labour (Labour Administration)

Miss Susie HO  
Deputy Secretary for Financial Services

Mr Rafael HUI, GBS, JP  
Managing Director  
Mandatory Provident Fund Schemes Authority

Mr Ernest LEE, BBS, JP  
Executive Director (Member Protection)  
Mandatory Provident Fund Schemes Authority

Ms Hendena YU  
Executive Director (ORSO Schemes)  
Mandatory Provident Fund Schemes Authority

**Clerk in attendance** : Mrs Sharon TONG  
Chief Assistant Secretary (2)1

**Staff in attendance** : Mrs Queenie YU  
Senior Assistant Secretary (2) 4

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As the Chairman was unable to attend the meeting, the Deputy Chairman took the Chair.

**I. Confirmation of minutes of meeting held on 10 October 2000 and matters arising**

(LC Paper Nos. CB(2) 117/00-01 and CB(2) 129/00-01(01))

2. The minutes of the meeting held on 10 October 2000 were confirmed.

List of follow-up actions required of the Administration

3. Members noted the list of follow-up actions required of the Administration (the List).

4. In response to Miss Cyd HO Sau-lan's enquiry on the progress of items (1) and (2) of the List, the Deputy Chairman said that the Administration had undertaken to report the findings of the study on the impact of China's accession to World Trade Organization (WTO) on local employment to the Panel before the end of December 2000.

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**II. Date of next meeting and items for discussion**  
(LC Paper No. CB(2) 129/00-01(02))

5. Members agreed that the following items proposed by the Administration be discussed at the next Panel meeting scheduled for 16 November 2000 at 2:30 pm -

- (a) Report on Manpower Projection to 2005 and Study on Employment Prospect of People Aged 40-49;
- (b) Recommendations of the bi-annual review on the levels of compensation under the Employees' Compensation Ordinance and the Pneumoconiosis (Compensation) Ordinance; and
- (c) Proposed amendments to clarify various provisions of the Employment Ordinance.

6. Deputy Secretary for Education and Manpower (DSEM) said that the Administration would report the results of the study on the impact of China's accession to WTO on local employment under the item as referred to in paragraph 5(a) above.

**III. Report on the progress of policy initiatives for the 1999-2000 session and policy programmes/ reviews for the 2000-01 session**  
(LC Paper No. CB(2) 129/00-01(03))

7. At the invitation of the Deputy Chairman, Secretary for Education and Manpower (SEM) highlighted the Administration's plan to introduce a number of bills into the Legislative Council in the 2000-2001 legislative session regarding employees' rights and benefits and occupational safety and health, as detailed in the Administration's paper.

Employees Retraining

8. Referring to the recurrent subvention of \$400 million to the Employee Retraining Board (ERB) committed by the Administration and the introduction of a Memorandum of Understanding with the ERB mentioned in paragraph 10 of Administration's paper, Mr Andrew CHENG Ka-foo asked how the Administration would ensure that the subvention would be used effectively. In his opinion, unlike school leavers who might want to receive training for further studies, trainees of the ERB hoped that they would find a job after their graduation. In this regard, he stressed that it would not be cost-effective for the Administration to spend \$400 million if trainees/graduates of the ERB were

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unable to find a long term job. He suggested that the Administration should formulate a policy and set out performance indicators in the Memorandum of Understanding with the ERB to ensure the effectiveness of retraining work.

9. Mr Andrew CHENG also expressed concern about the accuracy of the high employment rates of course trainees/graduates of the ERB as revealed in the results of some recent surveys conducted by the Government. He said some critics had pointed out that employment which lasted only for a week or less had also been counted in the employment rate.

10. SEM replied that there were isolated cases where course trainees/graduates of the ERB resigned after they had worked for one day or a few months, whereas the majority would stay in the same trade or continue working for the same employer. She said that a number of factors could lead to a high turnover such as employees' attitude and job expectation which had nothing to do with the quality of the ERB training.

11. Executive Director of ERB (ED/ERB) said that to his knowledge, workers who had been working for seven consecutive days with over an hour's work each day was defined as employed by the Census and Statistics Department. Nevertheless, the same definition of employment was not adopted by the ERB. Referring to the case reported in the newspaper concerning some soya bean production course graduates who quitted the job on the first day, he clarified that it was a special case which involved the Supplementary Labour Scheme and should not represent the general situation of trainees/graduates of the ERB.

12. ED/ERB further pointed out that 100 000 training places were provided by the ERB last year. Half of these training places were full-time and pre-employment courses. The employment rate of these graduates was 76% in 1999. The figure was supported by detailed employment records of individual graduates kept by the ERB.

13. SEM also informed members that ERB had in recent years included training on soft skills, such as work attitudes and social skills. ED/ERB added that there were improvements in the placement rates of course graduates. The training courses on soft skills were also welcomed by employers, for example, some employers in property management field had specifically asked course graduates of the ERB to fill job vacancies available in their companies.

14. Referring to the proposed Memorandum of Understanding with the ERB, SEM said that apart from the placement rate and the employment rate, the Administration would also collect information through surveys on the retention rate of course trainees/graduates after they were employed on 3-month, 6-month and 12-month intervals. She pointed out that it was by no means an easy task to

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keep track of the employment records of the individual graduates whose cooperation and consent were required.

15. ED/ERB said that information on the retention rate of trainees/graduates were being compiled for tailor-made courses for individual employers in property/security management, domestic services and health care services starting from the current year. On the basis of the information collected, the retention rate for trainees/graduates who had employment after 3 months and 6 months was over 85% whilst the retention rates for trainees/graduates who continued their employment with the same employer or in the same trade were about 50% and 65% respectively. He also said that random surveys on retention rates of trainees/graduates would also be extended to other full-time courses on 3-month, 6-month and 9-month basis. ED/ERB pointed out that under the ExCo Policy Directive, the ERB was not allowed to provide skill upgrading courses. Nevertheless, the ERB would as far as practicable provide follow-up service for individual graduates, for example, through group discussion activities organized by retraining resource centres. Given the general trend that workers in Hong Kong had a high turnover rate in employment, he held the view that some factors which determined the retention rates of course trainees/graduates were beyond the control of the ERB.

16. Referring to Mr Andrew CHENG's question on the usage of figures on employment rate, placement rate and retention rate by the Government, SEM said that the information would help the Administration in identifying problems and formulating improvement measures. She stressed that it might be counter-productive if the figures were merely used as performance yardsticks, for example, training institutes might choose to avoid the more difficult courses or trainees in order to maintain a good performance.

17. Mr Andrew CHENG further said that the Democratic Party had all along urged the Government to consider offering tax concessions to employers in private enterprises to increase employment opportunities for course trainees/graduates as it was a successful incentive in overseas countries. Given the present economic situation, he said that it was unlikely that employers in private enterprises would create new jobs. Moreover, he criticized that the Government had not taken the lead to offer jobs in government departments for course trainees/graduates. He expressed concern that resources spent on training courses would not be cost-effective. SEM responded that the proposal had recently been raised in the Members' motion on "Creating Employment Opportunities". She held the view that unless new jobs would be created, the proposal would only substitute workers who were currently employed with a different group of workers whose employment were induced though tax concessions.

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18. Mr LEE Cheuk-yan expressed concern on the negative impact of the present applicant requirements and procedures of the Supplementary Labour Scheme on the employment opportunities of course trainees/graduates of the ERB. He said that employers who wished to import workers from outside Hong Kong were referred to the ERB for assessment and arrangement of tailor-made training/retraining courses with a view to providing suitable workers from the local market. Very often, he had received cases alleging that employers had imposed harsh working conditions which eventually led to course trainees/graduates to resign shortly after their employment. The employers then claimed that they were unable to find suitable workers locally and proceeded with their application for imported workers under the Supplementary Labour Scheme. He cited a recent complaint case involving about eighteen graduates of a tailor-made course by the ERB for an employer in the electronic industry. The employer was alleged to have employed only a few course graduates and filled the remaining job vacancies by imported workers. In his opinion, employers would take a more practical view to employ course trainees/graduates of the ERB when the Supplementary Labour Scheme was abandoned. Miss CHAN Yuen-han concurred that there were indeed many similar complaints and questioned how many unemployed people had really benefited from retraining.

19. ED/ERB responded that according to the employer of the electronic enterprise, job vacancies had not been offered to the course graduates because of their negative working attitude. The employer had eventually employed three course graduates and offered the remaining job vacancies to workers referred by the Labour Department (LD) during the course period. The ERB had subsequently arranged majority of the remaining course graduates either for employment in the electronic industry or to other suitable retraining courses. He added that to his knowledge there were still about four to five course graduates pending for referral to suitable employment. SEM said that although trainees in this particular case were not employed by the same electronic enterprise, the unemployed trainees had acquired the relevant skills and were able to find employment elsewhere. She also pointed out that it would create difficulties for some trades/industries if the Supplementary Labour Scheme was abandoned.

20. ED/ERB also stressed that the Supplementary Labour Scheme was implemented under the principle that priority would always be accorded to workers available locally for employment. To encourage applicants to apply for training courses suitable to them, the ERB would arrange interested applicants to visit the workplace and organized briefings by the potential employers for certain industries such as pig-raising or rooster-raising industries before applications for the courses were received. In addition, potential employers would participate in the recruitment interview of course trainees. In general, employers would have undertaken to employ 80% of the course graduates before a course was arranged by the ERB. Based on past experience, some course graduates might quit their

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job shortly after they took up employment for various reasons, such as, the workplace was too far, the working conditions were beyond their expectation. Likewise, employers might find some course graduates unsuitable for the job but the number of such cases was usually small.

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21. To have a clearer picture on the employment situation of trainees of the ERB, Mr James TIEN requested the Administration to provide information on the percentage of course trainees/graduates who failed to turn up at job interviews referred by the LD and the percentage of course trainees/graduates who failed to take up employment referred by the LD. Commissioner for Labour (C for L) responded that LD would follow up the vacancy case to which trainee/graduate was referred by the LD for job interview. In recent years, of 10 trainees/graduates registered with LD, two succeeded in getting employed. ED/ERB added that about 68% of ERB course graduates had secured employment in the trade directly related to retraining. He also clarified that the employment rate would be counted on the basis of the number of retrainees succeeded in seeking employment rather than the number of jobs offered by different employers.

Pilot Project for Long-term Unemployed People

22. Miss CHAN Yuen-han welcomed the pilot scheme launched by the Government to help the long term unemployed people over the age of 40 as mentioned in paragraph 34 of the Administration's paper. She asked how the Administration would identify the target group and trim down the number of people to 2 000 to meet the service target. C for L replied that the Administration would invite unemployed people aged 40 and over who had registered with the LD for employment service to join the project. Priority would be given to unemployed workers who had been referred by the LD for many job interviews for more than 3 months and without success. She said the Administration estimated that there were over 10 000 people in this target group. The pilot project aimed to help 2 000 people and improve the placement rate of this age group to about 20% which would bring in line to the current placement rate of other age groups.

23. Miss CHAN further asked how the Administration would prevent employers from participating in the project for the purpose of receiving the monthly training allowance of \$2,800. C for L clarified that participating employers were also required to make arrangement for the provision of on-the-job training to the employee and the LD would follow up individual cases for three months.

24. The Deputy Chairman asked whether the Administration would consider providing service to more than 2 000 people. SEM reiterated that the

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Administration would accord priority to help unemployed people who needed the service most. She also said that the new project was implemented on a trial basis subject to further review. If it turned out to be successful, the Administration might consider expanding the scheme.

25. Given the provision of a recurrent subvention, Mr LEUNG Yiu-chung enquired whether the Administration would in the long run also provide services for people who were currently not covered within the service scope of the retraining policies, for examples, unemployed people aged below 30 and people with a high risk of being unemployed. SEM pointed out that as announced in the recent Policy Address, a Skills Upgrading Scheme would be introduced to help unemployed people with education level below Secondary 5 regardless of their age and to help workers in the small or medium sized enterprises to meet the changing needs of the economy. A Steering Committee to follow up Report on Manpower Projection to 2005 (Steering Committee) would be formed to work out the details.

26. ED/ERB added that although the ERB was set up mainly to assist unemployed people aged 30 or above with junior secondary education, the ExCo Policy Directive allowed the ERB to exercise flexibility in providing services to assist people with employment difficulties. Given the fact that the Administration would try out new training programmes and training modes for different clients, he agreed that it might be worthwhile reviewing the retraining policies in the future. Referring to services provided by the ERB, Mr LEUNG Yiu-chung requested the Administration to provide information on past cases which involved clients not normally covered within the service scope of the ERB.

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Skills Upgrading Scheme

27. Referring to the skills upgrading scheme mentioned in paragraph 13 of the Administration's paper, Miss Cyd HO Sau-lan enquired what kind of incentives the Administration would offer to employers in soliciting their cooperation and participation in the skills upgrading scheme. SEM said that employers would be invited to participate in the Steering Committee and consulted on the skills upgrading needs of their elementary workers before the Administration worked out the appropriate programmes and training mode. Subcommittees might also be formed under the Steering Committee to specifically deal with the training needs of individual trades/industries. In addition, employers would be encouraged to arrange training for their employees at workplace. SEM reiterated that offering financial incentives to employers would only shift the problem of unemployment between different groups of workers in the economy. It was more important for the Administration to help employees and employers to adapt to new mode of working in the face of the ongoing economic restructuring and

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increasing application of technologies in different production processes. Miss Cyd HO requested the Administration to keep the Panel informed of the work progress of the Steering Committee.

28. Mr LEUNG Fu-wah asked which particular trades/industries had been identified by the Administration as being affected by the economic restructuring. SEM said that the Administration would provide more detailed information at the next meeting when the findings of the Manpower Projection to 2005 and the Study on Employment Prospect of People Aged 40-49 would be discussed.

29. Mr LEUNG suggested that the Administration should keep separate employment figures for those unemployed trainees/graduates who were seeking employment and those trainees/graduates who were upgrading their skills in anticipation of unemployment in order to reflect a clearer picture on the employment rates. ER/ERB replied that separate figures were in fact kept by the ERB.

Review on the Employees Compensation Assistance Scheme

30. Referring to the review on the Employees Compensation Assistance Scheme (the Scheme) mentioned in paragraph 26 of the Administration's paper, Miss LI FUNG-ying pointed out that it would be unfair to employees if the review only confined to dealing with the financial problem of the Scheme as the fault rested on the employers who failed to take out insurance for their employees. She asked whether the review would also cover inspection checks and the level of fines against employers who had failed to comply with the requirement of taking out employees' compensation insurance.

31. DSEM said that the Scheme was faced with financial difficulties. The review was to prepare a reform package to modify the Scheme with a view to enabling it to be financially viable in the long term. He pointed out that self-employed business, such as, home-decoration industry was commonly found in breach of the compulsory insurance requirement. Nevertheless, there was limitation in carrying out inspection as the Administration was not authorized to conduct checks in household premises. As regards the level of fines, it had already been increased from \$50 000 to \$100 000. He also said that the Administration would, apart from resolving technical limitations in the implementation of the Scheme, also explore other means, for example, increasing the employees' compensation insurance levy to improve the financial position of the Scheme.

Enhancing Occupational Safety Standards

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32. Referring to the draft Factories and Industrial Undertakings (Medical Examinations) Regulation mentioned in paragraph 38 of the Administration's paper, Mr LEE Cheuk-yan enquired the reason for the delay in the introduction of the regulation into the Legislative Council. He recalled that the Administration in the last session undertook to introduce the regulation before the end of 2000 rather than in the second half of the 2000-01 legislative session.

33. Deputy Commissioner for Labour (Occupational Safety and Health) replied that the LD had yet to resolve the issue of continuity of employment arising from suspension of work with Department of Justice and the EMB as the issue in question was complex. In addition, the LD had also received different views from workers' unions on the proposed regulation. He said that the Administration would resolve all the issues in question and come up with a comprehensive proposal as early as possible. Mr LEE requested that the proposal be discussed in the Panel in detail.

**IV. Follow-up protection of employees' retirement benefits after the implementation of the Mandatory Provident Fund System**  
(LC Paper No. CB(2) 129/00-01(04))

34. At the invitation of the Deputy Chairman, the Deputy Secretary for Financial Services (DS/FS) briefly introduced the Administration's paper on Retirement Protection for Employees after the Implementation of the MPF System - Follow up issues.

35. Miss LI Fung-ying said that many employers especially in the catering industry had asked their workers to pay for both the employer's and employee's mandatory contributions to the Mandatory Provident Fund (MPF) Schemes. She asked what action the Administration would take to assist aggrieved workers. She also asked whether the LD would deal with anonymous complaints and cases referred by workers' unions as many workers were afraid of losing their job if they lodged their complaints.

36. C for L explained that if an employer, in implementing the MPF, unilaterally reduced his/her employee's wages or benefits, the employee might claim remedies against unreasonable variation of employment terms under the Employment Ordinance. She said that a few complaint cases on MPF Schemes had been successfully resolved by the LD after conciliation or advice given to the parties concerned. Whilst stressing that anonymous complaints and cases referred other than by the aggrieved person would also be taken up by the LD, C for L pointed out whether the complaint cases could be successfully resolved would, amongst other things, subject to the availability of information. She also pointed out that unresolved cases would be referred to the Labour Tribunal or

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Minor Employment Claims Adjudication Board for adjudication. In addition, a professional team of inspectors had been set up by the Mandatory Provident Fund Schemes Authority (MPFA) to carry out investigations and handle MPF related complaints.

37. Referring to paragraphs 13 and 15 of the Administration's paper, Mr LEUNG Fu-wah asked if an employer changed the wage structure and converted part of the wages into housing allowance in a bid to reduce MPF contributions, whether the Administration would also take action for failure to comply with the requirement of mandatory contributions. Executive Director (Member Protection)/MPFA (ED(MP)/MPFA) clarified that the MPFA could take action against an employer if there was reason to believe that false information had been provided to evade MPF contributions. He said that the MPFA could exercise judgement if the amount of relevant income was misrepresented deliberately by unscrupulous employers. The MPFA might refuse to accept the wage structure described by employers in certain circumstances. He cited as an example, the MPFA might refuse an employer's claim that an employee was given a monthly housing allowance of \$5 000 to rent a 200 square-foot room. Mr LEUNG expressed concern that staff of the MPFA might not have the experience similar to that of the LD in verifying complaints.

38. Mr Tommy CHEUNG Yu-yan asked whether the MPFA had any guidelines on verification of wage structure presented by employers. ED(MP)/MPFA responded that in verifying complaint cases lodged by employees on changes in wage structure, the MPFA would, in consultation with the LD, consider whether the wage structure, for example, the proportion of wages and housing allowance described by the employer, was fair and reasonable. Managing Director of MPFA (MD/MPFA) reiterated that it would take time for the MPFA to build up precedent cases on rulings of relevant income for future reference. In the event that employers disagreed with the MPFA's decision, the ultimate decision rested with the courts. He noted that the MPF Schemes Ordinance, being new, had not established case examples.

39. Noting that enforcement action would be taken against employers who unilaterally introduced changes to the existing terms of employment, Mr LEE Cheuk-yan said that many employers in fact had their employees signed an undertaking before they took various ways to evade or reduce MPF contributions. To his knowledge, some employers might reduce wages of their employees, renew their employee's contract before the MPF Schemes commenced, change the terms of contract to self-employed basis, as commonly found in the transport industry or massage servicing industry, and/or reduce tips as commonly found in the catering industry. He held the view that it was an oversight of the Administration as there was no established policy to protect employees who agreed against their wish to unreasonable changes to the existing

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terms of employment. He further questioned what action the Administration would take to protect the employees' right in these cases. Miss CHAN Yuen-han proposed that the Administration should introduce legislative amendments rather than guidelines to protect employees' right bearing in mind that most employees lacked bargaining power with their employer.

40. MD/MPFA pointed out that over 100 meetings under the last LegCo before the handover, the provisional LegCo and the first SAR LegCo had taken place in the past five years to discuss extensively and in detail both the policy and legal aspects of the MPF Schemes. Whilst stressing that negotiations and compromises between employers and employees were necessary in resolving many labour issues, he said that the MPFA would review the MPF legislation in the light of operational experience of the MPF System and propose legislative amendments in due course. Nevertheless, it was beyond the scope of the MPFA to interfere in cases with mutually signed agreement between an employer and an employee in a law-binding free labour market.

41. Notwithstanding the fact that there were employers who would not comply with labour legislation anyway, MD/MPFA agreed that there were grey areas in the implementation of the MPF Schemes for certain trades/industries such as hair salon business in which the employer-employee relationship was more on a partnership or self-employed basis. He said that the MPFA was prepared to gather more information, for example, through complaint cases to ascertain the areas for improvement.

42. Deputy Commissioner for Labour (Labour Administration) (DC for L(LA)) clarified that even if the employer turned part of the wages into housing allowances or other cash allowances, he would not be able to evade his other liabilities for employee benefits under the Employment Ordinance, for examples, long service payment or severance payment because under the Employment Ordinance, "wages" is defined to include all remuneration in monetary terms. As such, all cash allowances would be taken into account in the calculation of benefits provided under the Ordinance. The defaulter was also liable to pay the MPF contribution in arrears and also a contribution surcharge and financial penalty.

43. Mr James TIEN Pei-chun expressed concern about cases where both employers and employees, especially in small or medium sized enterprises, colluded to reduce their MPF contributions or avoid joining the MPF Schemes. He asked what action the Administration would take against these employers. MD/MPFA said that whilst the increase in the number of applications for joining the MPF Schemes was small in September, the number had been increasing significantly on a weekly basis by the end of October. In the past one week, an additional 10% of applications were received by the MPFA. Currently, over 1

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000 000 employees had joined the MPF Schemes which represented 50% of the total number of employees required to join the MPF Schemes. In his opinion, participation of small or medium sized enterprises was encouraging bearing in mind that 98% of enterprises in Hong Kong were classified as small or medium sized enterprises. He stressed that employers who failed to enrol employees in the MPF Schemes would be prosecuted and inspectors would take enforcement action as and when necessary. Both MD/MPFA and DS/FS reaffirmed that the MPF Schemes would commence on 1 December 2000 as scheduled.

44. Mr James TIEN asked whether enrolment of self-employed persons in the MPF Schemes was the major concern of the MPFA. MD/MPFA said that the MPFA anticipated that enrolment of self-employed persons in the MPF Schemes might not be high. It would also be difficult to rely on complaints as it was unlikely for the self-employed persons to complain against themselves. He pointed out that similar difficulties with regard to compliance rates were also experienced in overseas countries like Australia or Chile. MD/MPFA also stated that enrolment of employers of industries with high labour mobility, particularly in the catering and construction industries posed an even bigger problem. He said that the Industry Scheme was designed for workers in the catering and construction industries who were paid on a daily wage or job basis. The actual number of workers enrolled in this Scheme so far was found to be far less than originally anticipated. The barriers to implementation of the Industry Scheme for the construction industry were even higher due to the uncleared employee-employer relationship in sub-contracting, which was very common in the construction industry. As a first step to improve the situation, MD/MPFA informed members that the LD planned to promote the use of a sample employment contract and wage record sheet in early 2001.

45. Mr Tommy CHEUNG Yu-yau expressed concern that many small caterers with three or four employees had little knowledge on how to make their MPF contributions to the Industry Scheme for the catering industry. He also pointed out that to his knowledge, many caterers had joined the Master Trust Scheme rather than the Industry Scheme. In his opinion, it would be much more difficult to implement Master Trust Scheme for casual employees in the catering industry who were paid on a daily wage basis and had high mobility. He held the view that there were currently inadequate plans and supporting services provided by insurance companies to facilitate employers to deal with the administrative and accounting work in making the MPF contributions even if employers wished to join MPF Schemes. In this connection, he asked whether the MPFA would exercise flexibility to assist employers in the catering industry.

46. ED(MP)/MPFA informed members that the MPFA had organized, amongst other publicity activities, 75 seminars for about 10 000 participants on MPF Schemes and 6 700 participants were from the catering industry. They

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hoped that participants would also convey information to other employers in their trade/industry after the seminar. Noting that certain employers in the catering industry paid wages to their casual employees very late at night and they were unable to make their MPF contributions through the banks on the same day, ED(MP)/MPFA said that the MPFA had issued letters informing the two trustees of the Industry Schemes that employers participating in the Industry Schemes could make fund contributions as soon as practicable on the following working day after they paid the wages to their casual employees. The MPFA also planned to introduce legislative amendments to effect the arrangement in 2001.

47. Miss CHAN Yuen-han held the view that the MPFA should take a proactive role in promoting the implementation of MPF Schemes in the construction industry. ED(MP)/MPFA stated that publicity on MPF Schemes since October had focused on the enforcement actions, including initiating prosecution against non-compliant parties, rather than the responsibilities of employers and employees in MPF Schemes. MD/MPFA said that because of the time-table dictated by the MPF legislation, emphasis would have to be on the Industry Scheme first. The MPFA inspection team would commence inspection and enforcement action with respect to the enrolment compliance of daily paid casual workers in the catering and construction industries starting from 1 December 2000, whilst similar enforcement action for other MPF Schemes would take effect at a later stage.

48. Mr LEUNG Yiu-chung held the view that it was misleading for the Administration to publicise that employees' rights on the implementation of the MPF Schemes was well-protected by law and the prevailing complaint channels. He also disagreed that long service payment or severance payments would have sufficient deterrent effect against unreasonable variation of employment terms by employers. He said that employees would not be entitled to long service payment if they had less than five years of service with the same employer. Likewise, employees would be entitled to severance payment only if they were dismissed by employers. He asked how the Administration would assist employees, who were not covered in these categories, in cases of unreasonable variation of employment terms.

49. DC for L (LA) clarified that employees with two years of service were entitled to severance payment if they were dismissed by their employer. In addition, an employee might claim remedies for unreasonable dismissal. If the case could not be resolved through reconciliation by the LD, it would be referred to the Labour Tribunal for adjudication.

50. Mr LEUNG Yiu-chung said that the Administration should let the public know clearly and accurately the limitation of protection of employees' right in respect of the implementation of the MPF Schemes within the existing legislative

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framework. Mr LEUNG Fu-wah commented that support and cooperation amongst workers and strong labour unions would help to address the concern caused by misleading information.

51. The meeting ended at 6:40 pm.

Legislative Council Secretariat  
30 November 2000