

LEGISLTATIVE COUNCIL BRIEF

FINANCIAL ASSISTANCE TO THE PROTECTION OF WAGES ON INSOLVENCY FUND

INTRODUCTION

At the meeting of the Executive Council on 22 October 2002, the Council ADVISED and the Acting Chief Executive ORDERED that subject to the approval of the Finance Committee of the Legislative Council, a bridging loan of \$695 million at Government's "no-gain-no-loss" interest rate should be extended to the Protection of Wages on Insolvency Fund Board (the Fund Board) between 2002-03 and 2005-06 to enable it to tide over its cash flow problem in meeting the financial commitments under the Protection of Wages on Insolvency Ordinance, (the Ordinance).

BACKGROUND AND ARGUMENT

The Protection of Wages on Insolvency Fund

2. The Protection of Wages on Insolvency Fund (the Fund) was set up in 1985 under the Ordinance to provide timely relief in the form of ex-gratia payment for wages, wages in lieu of notice and severance payment owed to employees by their insolvent employers.

3. The Fund is administered by the Fund Board and is mainly financed by a flat annual levy (currently at \$600) on each Business Registration Certificate (BRC). Other sources of income include money recovered from the remaining assets of insolvent employers through subrogation and returns from deposits. For 2001-02, the total income was \$201 million and the percentage accounted for by levy income was 85%, subrogation income was 10% and interest/investment income was 5%.

4. Since its establishment in 1985, the Fund has made significant contribution to maintaining Hong Kong's harmonious employer-employee relationship and social stability by providing timely relief to employees whose employers have become insolvent.

The case for a bridging government loan of \$695 million

5. The Fund has been suffering from annual deficits since the Asian financial crisis in late 1997. The substantial increase in the amount of claims payment has not been matched by a similar increase in the Fund's income. As a result, the Fund's reserve dropped to a low of \$195 million at end-March 2002. In an attempt to restore the financial health of the Fund, the BRC levy has been increased from \$250 to \$600 per annum with effect from May 2002.

6. Whilst the curative process of putting the Fund back on an even financial keel began in May this year, the prevailing difficult economic climate has continued to exert great pressure on the Fund. Between June and August this year, the number of new applications rose to 7 660, an increase of 65% over the figure of 4 631 for the same period last year. The continuing increase in the number of applications received has pushed the number of outstanding applications as at end-July and end-August 2002 to an all-time high figure of 14 000.

7. The collapse of the Treasure Restaurant Group (敦煌酒樓集團) involving 2 100 employees in June this year dealt a severe blow to the Fund. With forthcoming payments anticipated for the

outstanding applications and with the reserve of the Fund falling to \$114.4 million at the end of August 2002, the Fund Board will be facing a serious cash-flow problem in the near future. Hence the need for the Government to provide the safety net by extending a bridging loan.

8. Under Section 4(2)(d) of the Ordinance, the Fund Board may, with the prior consent of the Financial Secretary, borrow money in such manner and on such securities or terms as it thinks expedient.

9. The loan, at Government's "no-gain-no-loss" interest rate (currently at 3.125% per annum), will be in the form of a credit line so that funds would **only be drawn as and when necessary**. It is expected that the Fund should be able to repay the loan in full by 2015-16. Specifically, as the Mandatory Provident Fund (MPF) contribution builds up, a large part of the ex-gratia payment for severance payment, payable under the Fund, will be met by MPF savings. Besides, as the Hong Kong economy picks up over time, the number of insolvencies / bankruptcies is expected to taper off, thus improving the Fund's financial position. The Administration, in conjunction with the Fund Board, will closely monitor the financial situation of the Fund and review the need for adjusting the BRC levy in future years.

THE PROPOSAL

10. It is recommended that a bridging government loan of \$695 million be extended to the Fund Board between 2002-03 and 2005-06.

PUBLIC CONSULTATION

11. The Fund Board will be consulted immediately after the ExCo discussion. We will also inform the Labour Advisory Board and will consult the Legislative Council Panel on Manpower. Approval will be sought from the Finance Committee of the Legislative Council on 8 November 2002.

BASIC LAW IMPLICATIONS

12. The Department of Justice advises that the proposal does not conflict with those provisions of the Basic Law carrying no human rights implications.

HUMAN RIGHTS IMPLICATIONS

13. The Department of Justice advises that the proposal is consistent with the human rights provisions of the Basic Law.

FINANCIAL AND STAFFING IMPLICATIONS

14. The proposal to grant a one-off bridging loan at Government's "no-gain-no-loss" interest rate will not have additional financial implications for Government. The proposal would not have impact on the civil service system nor staffing implications.

ECONOMIC IMPLICATIONS

15. As the proposed bridging loan will come from the Government and the BRC levy will be kept unchanged, there should be no cost impact on the business sector.

PUBLICITY

16. Subject to the endorsement of the proposal by Members of the Executive Council and the Fund Board, we will hold a media session to announce the Government's intention to extend a bridging loan to the Fund Board. We will also issue a press release on the same day. For enquiries, please contact Mrs Jennie CHOR, Assistant Commissioner for Labour (Labour Relations) at 2852 4097.

Economic Development and Labour Bureau (Labour Branch)
22 October 2002