

立法會

Legislative Council

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Report of the Panel on Manpower for submission to the Legislative Council

Purpose

This report gives an account of the work of the Panel on Manpower during the 2002-03 session of the Legislative Council (LegCo). It will be tabled at the meeting of the Council on 2 July 2003 in accordance with Rule 77(14) of the Rules of Procedure of the Council.

The Panel

2. The Panel was formed by a resolution passed by the Council on 8 July 1998 and as amended on 20 December 2000 and 9 October 2002 for the purpose of monitoring and examining Government policies and issues of public concern relating to labour and manpower planning matters. The terms of reference of the Panel are in **Appendix I**.

3. The Panel comprises 18 members in the 2002-03 session. Hon LAU Chin-shek and Hon CHAN Kwok-keung were elected Chairman and Deputy Chairman of the Panel respectively. The membership list of the Panel is in **Appendix II**.

Major Work

Review of the policy on foreign domestic helpers

4. The Administration reviewed the policy on foreign domestic helpers (FDHs) in the context of the population policy of Hong Kong. On 26 February 2003, the Administration announced that the minimum allowable wage of FDHs would be reduced by \$400 per month with effect from 1 April 2003, and an Employees Retraining Levy (the levy) of \$400 per month for each FDH employed would be imposed on employers of FDHs with effect from 1 October 2003.

5. Some members expressed support for the proposed downward adjustment of minimum allowable wage of FDHs. These members were of the view that FDHs' minimum allowable wage should also follow the mainstream wage adjustments of local households, particularly in a period of economic downturn. They also considered that the reduction in the minimum allowable wage of FDHs could promote the employment opportunities of local domestic helpers.

6. Some other members expressed opposition to the proposed reduction of minimum allowable wage of FDHs. These members queried the mechanism adopted for the adjustments of minimum allowable wage. They also queried whether a downward adjustment of \$400 should be made merely because local workers were having a similar level of reduction in salary.

7. The Administration considered that the downward adjustment of \$400 was reasonable as it was set on the basis of a well-tried and established mechanism. In adjusting the minimum allowable wage, the Administration had taken into account the general economic and employment situation of Hong Kong, and had made reference to a host of economic indicators, including the relevant pay trends, price indices, unemployment rate and labour market situation.

8. Regarding the proposed levy, some members expressed support for the imposition of a levy on employers of FDHs. Some of these members considered that the levy should also be imposed on all employers of imported employees, including those importing employees under the Admission of Talents Scheme and the Admission of Mainland Professional Scheme. They also called upon the Administration to comprehensively review the policy on importation of FDHs with a view to improving the employment of local workers.

9. Some other members pointed out that the legislative intent of the Employees' Retraining Ordinance (ERO) did not cover FDHs as imported foreign workers under a labour importation scheme. These members queried whether the ERO gave such a power to the Administration to impose a levy on employers of FDHs without the need to legislate. They were of the view that as the levy proposal was a fundamental change in policy affecting some 200 000 employers, the public, the Labour Advisory Board, and LegCo should be consulted.

10. The Administration took the view that although importation of FDHs was not designated as a labour importation scheme when the ERO was enacted, it should not prevent the inclusion of such importation under the ERO in the light of changing social and economic circumstances. Given that employers of

FDHs were enjoying services offered by foreign workers, and having regard to the current economic situation and high employment rate, the Administration considered it reasonable to bring the admission of FDHs on par with the Supplementary Labour Scheme and require employers of FDHs to contribute towards the training and retraining of the local workforce and promotion of job opportunities for local workers.

Employment relief measures in response to the outbreak of Severe Acute Respiratory Syndrome and related labour matters

11. The Panel was briefed on the employment relief measures proposed by the Administration in response to the outbreak of the Severe Acute Respiratory Syndrome (SARS) in Hong Kong.

12. Members were in support of the proposed Skills Enhancement Project and initiatives to create short-term job opportunities to ease unemployment. However, members considered that the Skills Enhancement Project should not be confined to workers of the four designated industries, i.e. retail, catering, hotel and tourism, but should be extended to workers of all sectors. Some members expressed concern that the measures introduced by the Education and Manpower Bureau could not address the difficulties faced by operators and employees of kindergarten and child care centres because of the suspension of classes. Members pointed out that the employers and employees of all sectors had been hard hit by the outbreak of SARS, and urged the Government to also implement measures to help them tide over the difficulties.

13. In view of the spread of SARS, members expressed concern about the leave arrangements for employees under circumstances, such as an employee who was subject to surveillance by the Department of Health under an isolation order and an employee who was advised to be absent from the office because he had come into close contact with person(s) confirmed with SARS or he had developed symptoms of SARS, as the sickness allowance provided under the Employment Ordinance might not apply to them.

14. The Administration informed the Panel that guidelines providing advice to employers and employees on leave arrangements under circumstances related to SARS would be prepared. The guidelines, once finalised, would be widely published for the reference of employers and employees of all sectors.

Government's efforts in strengthening tripartite cooperation to maintain harmonious labour relations, stepping up enforcement against wage offence and combating illegal employment

15. The Panel took note of the Government's efforts in strengthening tripartite cooperation to maintain harmonious labour relations, stepping up

enforcement against wage offences and combating illegal employment.

16. Some members expressed doubt as to whether the industry-based tripartite committees could in effect achieve the purpose of maintaining harmonious labour relations. These members pointed out that although a Code of Labour Relations Practice and a sample employment contract had been drawn up by the tripartite committee of the catering industry, some employers of the industry were still offering employment contracts of duration of 18 or 20 months with an intent to evade their statutory obligations on employees' rights and benefits. Since the supply of labour far exceeded the demand, employees were in a very disadvantageous position and had little or even no bargaining power with their employers. Besides, some tripartite committees had a larger representation from trade associations. In the view of these members, the most effective way to provide protection to employees was to legislate on collective bargaining.

17. While agreeing that there was still room for improving the existing labour relations, the Administration considered that one of effective channels for achieving the purpose was to strengthen the tripartite mechanism. The Administration assured the Panel that it was committed to promoting good employer-employee relations. It would continue to explore ways to augment the representation of the labour sector in tripartite committees.

18. Regarding the handling of arrears of wages, some members pointed out that the employees concerned had to seek the services of various departments, for instance, the Labour Department (LD), the Labour Tribunal and the Legal Aid Department. To streamline the procedures involved and to expedite the process so as to enable employees to receive early repayment of the unpaid wages, these members suggested that the feasibility of LD providing one-stop service for handling cases of arrears of wages should be explored. These members had also suggested that LD should have its own team of solicitors to handle employment-related claims.

19. The Administration stressed that it was committed to stepping up enforcement against wage offences. Prosecution would be initiated at the earliest possible time where there was prima facie evidence and/or the employees concerned were willing to come forward as witnesses. Regarding the proposed one-stop service, the Administration pointed out that it was a very complex issue as the process in question involved a large number of parties, including the enforcement departments and the Judiciary. The Administration assured the Panel that it would continue to discuss the matter with the Judiciary with a view to simplifying and streamlining the existing procedures.

Voluntary Rehabilitation Programme for injured employees in the construction industry

20. The Panel discussed the Voluntary Rehabilitation Programme, a new initiative to be launched by LD to facilitate the provision of rehabilitation services by individual insurers to injured employees in the construction industry on a voluntary basis.

21. Members expressed support for the objective of the Programme to provide timely rehabilitation services to injured employees. However, some members expressed worry that the rehabilitation service providers appointed by insurers might not be able to give an objective assessment on injured employees, as they might protect the interests of insurers. As a result, the level of statutory entitlement of injured employees might be adversely affected. To avoid any possible conflict of interest, these members suggested that the provision of rehabilitation services and assessment on the degree of incapacity of injured employees should not be handled by insurers. Insurers might consider providing financial assistance to the Hospital Authority (HA) to strengthen its rehabilitation services or other non-governmental organisations to run rehabilitation programmes for injured employees.

22. Some members also expressed doubt as to whether there would be any inducement for injured employees to join the Programme, given that employees in the construction industry were more likely to suffer from serious injuries for which the chance of full recovery after rehabilitation was relatively low. Another member expressed concern that the ultimate objective of insurers participating in the Programme might be to pave the way for raising the insurance premium in the long run.

23. The Administration explained that in order to bring the difference of expert opinions between medical officers and rehabilitation professionals to the minimum, LD was working on the details of the interface between HA's hospitals treating injured employees and insurers providing rehabilitation services to these employees. The major inducements for employees to participate in the Programme were timely rehabilitation, faster recovery and early return to work. The Programme would also help reduce the amount of employees' compensation claims payable by insurers. The Administration informed the Panel that the Programme would initially be implemented on a pilot basis so that modifications or improvements, where appropriate, could be made in the light of operational experience. The effectiveness of the Programme would also be reviewed.

Policy on employees training and retraining

24. Some members expressed concern about the provision of training and retraining courses for the unemployed. Given the broad range of tasks of the Manpower Development Committee (MDC), these members were concerned that the Committee might neglect the importance of retraining. As a result, resources for the Employees Retraining Board (ERB) to provide courses might be reduced. They also expressed concern about the change in the mode of certain training/retraining courses from full-day lectures to a combination of full-day and half-day lectures, which had resulted in a drop in retrainees' entitlement to retraining allowance. Some members pointed out that the various training and retraining schemes, for instance the Employees Retraining Scheme, the Skills Upgrading Scheme and courses under the Continuing Education Fund, would not be able to address the problem faced by unemployed persons aged above 19 and below 30, and called upon the Administration to conduct a comprehensive review in this regard.

25. The Administration pointed out that due to resources constraint, ERB had to adopt various measures to increase the cost-effectiveness in order to cope with the rising demand for retraining. The modified mode of delivery for some training courses would not affect the quality of the courses. The Administration assured the Panel that the Government would continue to attach great importance to retraining for the unemployed. MDC would examine the scope, funding arrangement and mode of operation of the existing retraining schemes. The Administration undertook to revert to the Panel once MDC had finalised its proposals.

Qualifications framework and the associated quality assurance mechanism

26. The Panel discussed the Administration's proposal to set up a qualifications framework and the associated quality assurance mechanism in Hong Kong.

27. Members were in support of the direction to review the organisation of vocation education and training and to set up a qualifications framework as a step in upgrading the quality of the local workforce. However, members expressed concern that the proposed qualifications framework might be too academic-oriented, and hence skilled workers with low education attainment might not be recognised under the framework. Members queried whether the skills, knowledge and relevant working experience of workers with low education attainment, in particular those below secondary three level, would be recognised under the proposed qualifications framework. Members also expressed worry that the proposal might create negative impact on the employment of this group of workers.

28. The Administration explained that a system of skills assessment test which would enable the recognition of skills, knowledge and relevant working experience of workers would be introduced. Existing skilled workers could undergo a skills assessment test, and if passed, they could acquire a qualification under the proposed qualifications framework. If a worker possessed sophisticated skills, his qualification could be classified at higher levels regardless of his educational attainment. The Administration believed that the proposal should not create negative impact on in-service skilled workers with low educational attainment. It would be unlikely that an employer would dismiss a worker merely because of the worker's lack of a recognised qualification.

Other issues

29. The Panel had discussed a range of other issues with the Administration. They included the review of the Skills Upgrading Scheme, new employment assistance programmes for middle-aged job-seekers, registration requirements under the proposed Construction Workers Registration Scheme, guide on rest break, and problem of arrears of wages in the construction industry.

30. The Panel was also consulted on a number of legislative and financial proposals. They included the financial assistance to the Protection of Wages on Insolvency Fund, Special Project for Vulnerable Trainees of the Youth Work Experience and Training Scheme, the proposal to amend the Construction Sites (Safety) Regulations and other related regulations for improving construction site safety performance and removing the ambiguities of some provisions of the Regulations, and the proposal to increase the levels of medical expenses under the Employees' Compensation Ordinance and the Pneumoconiosis (Compensation) Ordinance.

Meetings held

31. Between October 2002 and June 2003, the Panel held a total of 16 meetings, including a joint meeting with the Panel on Security to discuss the new Admission Scheme for Mainland Talents and Professionals, two joint meetings with the Panel on Administration of Justice and Legal Services to discuss the operation of Labour Tribunal and a joint meeting with the Panel on Financial Affairs to discuss issues relating to employees' compensation insurance.

Appendix I

Legislative Council Panel on Manpower

Terms of Reference

1. To monitor and examine Government policies and issues of public concern relating to labour and manpower planning matters.
2. To provide a forum for the exchange and dissemination of views on the above policy matters.
3. To receive briefings and to formulate views on any major legislative or financial proposals in respect of the above policy areas prior to their formal introduction to the Council or Finance Committee.
4. To monitor and examine, to the extent it considers necessary, the above policy matters referred to it by a member of the Panel or by the House Committee.
5. To make reports to the Council or to the House Committee as required by the Rules of Procedure.

Appendix II

Legislative Council Panel on Manpower

Membership list

Chairman	Hon LAU Chin-shek, JP
Deputy Chairman	Hon CHAN Kwok-keung
Members	Hon Kenneth TING Woo-shou, JP Hon Cyd HO Sau-lan Hon LEE Cheuk-yan Dr Hon LUI Ming-wah, JP Hon CHEUNG Man-kwong Hon CHAN Yuen-han, JP Hon LEUNG Yiu-chung Hon YEUNG Yiu-chung, BBS Hon Ambrose LAU Hon-chuen, GBS, JP Hon Andrew CHENG Kar-foo Hon SZETO Wah 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

(Total : 18 members)

Clerk	Mrs Sharon TONG LEE Yin-ping
Legal adviser	Miss Kitty CHENG
Date	10 October 2002