

Panel on Manpower

List of outstanding items for discussion

(position as at 15 December 2006)

**Proposed timing
for discussion**

Items proposed by members

1. Report of the Hong Kong Special Administrative Region of the People's Republic of China in the light of the International Covenant on Economic, Social and Cultural Rights

The United Nations Committee on Economic, Social and Cultural Rights issued its Concluding Observations on 11 May 2001 after its hearing on the above Report. The United Nations Committee has raised a wide range of issues in its Concluding Observations. At its meeting on 12 June 2001, the LegCo Panel on Home Affairs suggested that the relevant Panels should discuss issues raised in the Concluding Observations under their purview. The Chairman of the Panel on Manpower has agreed that the Panel should discuss issues raised in the Concluding Observations which are under the purview of the Panel.

To be confirmed

In its letter to the Chairman on 23 June 2003 (LC Paper No. CB(2)2744/02-03(01)), the Administration advised that the Second Report had been submitted to the Central Government.

The United Nations Committee on Economic, Social and Cultural Rights issued its Concluding Observations on 19 May 2005 after its hearing on the Second Report submitted by the Hong Kong Special Administrative Region Government. The Concluding Observations had been circulated to members of the Panel on Home Affairs and all other Legislative Council Members vide LC Paper Nos. CB(2) 1634/04-05 and CB(2) 1706/04-05 on 20 and 30 May 2005 respectively.

**Proposed timing
for discussion**

2. Problem of unemployment of the youth

Hon CHAN Yuen-han suggested on 30 October 2001 that the problem of youth unemployment should be discussed by the Panel, and youth organisations should be invited to give views on the subject.

To be confirmed

At the meeting on 18 April 2002, the Administration briefed members on the proposed Youth Work Experience and Training Scheme which aims at addressing the rising unemployment rate of young people aged between 15 and 24.

At the meeting on 31 October 2002, the Administration briefed members on a series of measures to promote employment opportunities for people at all levels.

At the meeting on 20 February 2003, the Administration briefed members on a special project entitled "Action S4" which aims to provide intensive training and counselling services to vulnerable trainees of the Youth Work Experience and Training Scheme.

At the meeting on 17 July 2003, the Administration briefed members on the progress of the Youth Work Experience and Training Scheme and a special project co-organised with the Professional Validation Council of Hong Kong under the Scheme entitled "Youth Work Experience and Skills Enhancement Programme for the Manufacturing Industry" which aims at providing employment and training opportunities for young people and supply a pool of well trained personnel to meet the needs of the manufacturing industry.

At the briefing on the Chief Executive's (CE's) 2004 Policy Address on 15 January 2004, the Administration briefed members on the proposed extension of the Youth Work Experience and Training Scheme for 2 years and a one-year pilot scheme to train and assist 1 000 young people aged 18 to 24 to become self-employed. Members discussed and supported the proposals at the Panel meeting on 12 February 2004.

Funding approval for the two proposals was given by the Finance Committee on 27 February 2004.

**Proposed timing
for discussion**

Upon request by members at the meeting on 17 June 2004, the Administration has provided a paper on the progress of the youth employment and training programmes offered by the Labour Department (LD). The paper was circulated to members vide LC Paper No. CB(2)3136/03-04 on 21 July 2004.

At the meeting on 21 March 2006, the Administration briefed members on the progress of the Youth Pre-employment Training Programme and the Youth Work Experience and Training Scheme, and the findings of the Hong Kong Polytechnic University (HKPU)'s consultancy studies on the two programmes. The studies conducted by HKPU concluded that both programmes had positive functions and were of value to society. They also recommended improvement measures to the Government and its social partners participating in the programmes. Members noted that LD would continue to offer the two programmes for youths in 2006.

3. Problem of unemployment of the middle-aged

Hon CHAN Yuen-han, Hon WONG Kwok-hing and Hon KWONG Chi-kin suggested in their letter dated 16 December 2004 that the problem of unemployment of persons aged 40 to 50 should be discussed by the Panel.

To be confirmed

At the meeting on 20 July 2006, the Administration briefed members on measures to address the problem of age discrimination in employment. Members considered that the Administration should introduce legislation on age discrimination in employment.

4. Proposals to extend the applicability of the Employment Ordinance to government employees on non-civil service contract terms, and employees who are not employed under a continuous contract

At the meeting on 2 November 2001, Hon LEUNG Fu-wah indicated that he and two other members in the Labour Constituency would jointly introduce a Member's Bill to extend the applicability of the Employment Ordinance to those who are employed by the Government on non-civil service

To be confirmed

contract terms. They will make another proposal to extend the same to those who are not employed under a continuous contract (i.e. persons who are employed for less than four weeks and whose working hours are less than 18 in each week).

At the meeting on 15 November 2001, Hon LEUNG Fu-wah informed members that the said Member's Bill jointly proposed by Hon CHAN Kwok-keung, Hon LI Fung-ying and himself had been submitted to the President of LegCo for consideration. Members agreed that the proposals should be discussed by the Panel when ready. On 14 March 2002, the President ruled that the Bill relates to public expenditure and Government policy and therefore may not be introduced by the members.

As suggested by Hon LI Fung-ying at the meeting on 16 May 2002, members agreed that the report by LD concerning protection for workers who are not employed under a continuous contract should be discussed by the Panel once it is ready.

The protection of workers not employed under a continuous contract was discussed at the Panel meeting on 16 June 2005. The Administration advised the Panel that it would conduct a special topic enquiry to gather updated information on employees who were not working under a continuous contract and study overseas experience. The matter would then be discussed by the Labour Advisory Board before reverting to the Panel.

At the meeting on 12 October 2006, Hon LEE Cheuk-yan suggested that the issue of extending the applicability of the Employment Ordinance to those who were not employed under a continuous contract be discussed by the Panel at its December meeting if the Administration has completed the special topic enquiry. The Administration advised that as the result of the survey conducted by the Census and Statistics Department would not be available before the second quarter of 2007, the issue would not be ready for discussion in December 2006.

At the meeting on 16 November 2006, Hon LI Fung-ying suggested that the issue of extending the applicability of the Employment Ordinance to government employees on non-civil

service contract terms and employees who are not employed under a continuous contract (i.e. persons who are employed for less than four weeks and whose working hours are less than 18 in each week) should be discussed by the Panel. The Administration advised that as it was awaiting the result of the survey conducted by the Census and Statistics Department, the issue would not be ready for discussion before the second quarter of 2007.

5. Creation of job opportunities

At the meeting between Members and Kwai Tsing District Council (K&TDC) members on 29 November 2001, K&TDC members expressed concern about the Government's assistance in the placement of workers with low educational attainment for jobs in a knowledge-based society. They requested that consideration should be given to developing labour intensive industries, such as catering and food packing industries to complement the promotion of Hong Kong as an attractive tourist destination, as a long-term measure for provision of job opportunities to workers of low educational attainment. As the matter relates to policy issues, Members present at the meeting agreed that it should be referred to the Panel on Manpower for follow-up.

To be confirmed

At the meeting on 31 October 2002, the Administration briefed members on a series of measures to promote employment opportunities for people at all levels.

The second progress report on job creation as at 30 September 2002 provided by the Administration was circulated vide LC Paper No. CB(2)456/02-03 on 25 November 2002.

At the meeting on 28 March 2003, the Administration briefed members on measures to strengthen assistance to the middle-aged unemployed to seek employment.

At the briefing on CE's 2004 Policy Address on 15 January 2004, the Administration briefed members on the progress made in 2003.

Hon CHAN Yuen-han, Hon WONG Kwok-hing and Hon KWONG Chi-kin suggested in their letter on 16 December 2004 that the following issues related to the creation of jobs

should be discussed by the Panel -

- (a) assisting the development of the recycling industry to create more jobs;
- (b) local precasting of more construction parts to create more job opportunities for local workers; and
- (c) the employment of more local workers in public works projects/contracts.

Regarding item (b), the Administration advised members at the meeting on 20 July 2006 that a pilot project had been tried out in a public housing development of Housing Authority (HA) in Kwai Chung where prefabricated building components were produced on site, and HA would review the performance of the pilot project after its completion before considering other means to encourage the use of on-site prefabrication in other public housing developments.

6. Employees' claims for periodical payment for temporary incapacity and other compensation as a result of work-related injury

On 30 April 2002, some DRMs met with a deputation comprising a group of injured workers who requested for an improvement in the services provided by LD in assisting injured workers to claim for outstanding periodical payment for temporary incapacity and/or other compensation as a result of work-related injury.

To be confirmed

In a case conference with the Administration on 21 May 2002, DRMs present at the meeting opined that instead of employers making periodical payment and other compensation to injured workers and seeking reimbursement of the amount paid to injured workers from insurers thereafter, insurers should be required to settle the periodical payment and other compensation direct with injured workers. These Members suggested that the matter be followed up by the Panel on Manpower.

At the meeting on 17 July 2003, members agreed that the Administration should provide further information before deciding on whether to delete the issue from the list of

outstanding items.

7. Feasibility of provision of one-stop service by the Labour Department in handling cases of arrears of wages

Item raised by Hon LEUNG Yiu-chung at the meeting on 21 November 2002. At the meeting, he pointed out that employees who are owed wages by their insolvent employers are normally required to go through a number of processes with LD, the Labour Tribunal and the Legal Aid Department before they could apply for financial assistance from the Protection of Wages on Insolvency Fund. To streamline the administrative procedures involved and to expedite the process, he suggested that the feasibility of LD providing one-stop service for handling cases of arrears of wages be explored.

To be confirmed

Members agreed that the issue should be discussed at the meeting in January 2003 if the relevant information from the Administration will not be ready for discussion at the meeting in December 2002. Subsequent to the meeting, the Administration has advised that the relevant information will not be ready for discussion at the December meeting.

At the joint meeting of the Panel on Administration of Justice and Legal Services and Panel on Manpower on 6 May 2003, members again requested the Administration to consider the provision of one-stop service by the Labour Department. At the Panel meeting on Manpower on 19 June 2003, Mr LEE Cheuk-yan suggested that the item should be discussed at a future meeting.

The suggestion of the provision of one-stop service by the Labour Department was raised again by Hon LEE Cheuk-yan at the Panel meeting on 18 December 2003. The Administration did not find the idea useful in reducing the time required for the different services. To expedite the wage claim process, the Administration was discussing with the Judiciary and reviewing the streamlining of the administrative procedure.

8. Financial position of the Protection of Wages on Insolvency Fund

When the Finance Committee considered the proposal of extending a bridging loan to the Protection of Wages on Insolvency Fund (PWIF) at its meeting on 8 November 2002, the Administration made the following undertakings in the light of the views expressed by Members -

To be confirmed

- (a) to report to the Panel on Financial Affairs and Panel on Manpower the outcome of the review of sections 273 and 275 of the Companies Ordinance (Cap. 32), with a view to ascertaining the need to introduce amendments to these two sections to enhance deterrence against unscrupulous employers or company directors for abusing the PWIF; and
- (b) to keep the Panel on Manpower posted of developments in relation to adjustment to the level of Business Registration Certificate levy where circumstances warrant.

Regarding item (a), the Administration has advised that sections 273 and 275 of the Companies Ordinance are related to insolvent trading, and are being reviewed in the context of the insolvent trading provisions under the Companies (Corporate Rescue) Bill (the Bill). The scrutiny of the Bill has been held in abeyance since December 2001 to allow time for the Administration to conduct consultation on the trust account arrangement under the Bill. The Administration issued the consultation paper in early September 2003 and intends to revert to the Bills Committee after the expiry of the consultation period in early November 2003.

The prevention of abuse of PWIF was discussed at the Panel meetings on 26 April 2005 and 15 December 2005.

9. Protection against anti-union discrimination

At the meeting on 6 May 2003, Hon LEE Cheuk-yan requested the Administration to respond to the recommendations of the International Labour Organisation (ILO) to address the complaints lodged by the trade union of Cathay Pacific Airways concerning discrimination against trade union. The

To be confirmed

Administration undertook to respond when official documents were received from ILO. In November 2003, May 2005 and May 2006, the Administration prepared submissions to ILO about the case progress.

10. Factories and Industrial Undertakings (Medical Examinations) Regulation and the related Industrial Training (Construction Industry) (Amendment) Bill

The above Regulation and Amendment Bill were held in abeyance due to economic reasons. At the meeting on 6 May 2003, the Administration said that it would review the situation at the end of 2003 and consult the relevant parties on the way forward. It also undertook to revert to the Panel once a decision on the way forward was made.

To be confirmed

The Administration advised on 29 January 2004 that it was reviewing the implications of the proposed Regulations for affected employers and employees under the present economic climate and employment situation. Relevant employers' associations and trade unions as well as the Labour Advisory Board would be consulted in due course.

The Bill has lapsed following the dissolution of the second term of LegCo.

The Administration has advised that it has carefully assessed the implications of the proposed Regulation and the Amendment Bill for employers and employees under the current economic climate and come to the considered view that it would not be advisable to re-introduce these pieces of legislation. Nevertheless, the Labour Department will continue to promote voluntary medical examination of workers engaged in the hazardous occupations through disseminating publicity materials, organizing health talks and exhibitions, and conducting promotional visits to target establishments. The Department has also sent letters to relevant employers' associations and labour unions, and to all doctors to raise their awareness of the importance of medical examinations for workers.

**Proposed timing
for discussion**

11. Establishment of a central compensation fund

At the meeting on 20 May 2004, Hon LEE Cheuk-yan requested the Administration to brief the Panel on the results of its study on the establishment of a central compensation fund. The Administration advised that the study, also undertaken by the insurance industry, would not be ready for discussion until after July 2004.

To be confirmed

The proposed measures to improve the employees' compensation insurance system in Hong Kong was discussed at the Panel meeting on 19 May 2005.

12. Problem of arrears of wages of workers in the catering trade

Hon CHAN Yuen-han, Hon WONG Kwok-hing and Hon KWONG Chi-kin suggested in their letter dated 16 December 2004 that the problem of arrears of wages of workers in the catering trade should be discussed by the Panel.

To be confirmed

The Administration has advised that the Labour Department has proactively approached catering establishments with repeated records of labour disputes to assist them to improve their management practices with a view to preventing wage defaults. Furthermore, a pilot project *Operation COMBAT* was launched in August 2005 to target problematic restaurants through better intelligence gathering to prevent them from evading their liabilities to pay wages.

With effect from 30 March 2006, the maximum penalty for wage offences under the Employment Ordinance has been raised from a fine of \$200,000 and imprisonment for one year to a fine of \$350,000 and imprisonment for three years to enhance the deterrent effect against wage offences.

13. Employment policy

Hon CHAN Yuen-han, Hon WONG Kwok-hing and Hon KWONG Chi-kin suggested in their letter dated 16 December 2004 that the relationship between population and employment policy should be examined to facilitate the formulation of long term population policy and employment policy.

To be confirmed

**Proposed timing
for discussion**

14. Establishment of a re-employment support scheme

Hon CHAN Yuen-han, Hon WONG Kwok-hing and Hon KWONG Chi-kin suggested in their letter dated 16 December 2004 that the establishment of a re-employment support scheme to encourage the unemployed to join the labour force should be discussed by the Panel.

To be confirmed

15. Progress of establishment of a qualifications framework

Hon CHAN Yuen-han, Hon WONG Kwok-hing and Hon KWONG Chi-kin suggested in their letter dated 16 December 2004 that the progress of the establishment of the qualifications framework proposed by the Administration should be discussed by the Panel.

To be confirmed

16. Measures to combat illegal employment

Hon CHAN Yuen-han, Hon WONG Kwok-hing and Hon KWONG Chi-kin suggested in their letter dated 16 December 2004 that the measures adopted by the Administration to combat illegal employment should be jointly discussed by the Panel and the Panel on Security.

To be confirmed

17. Recognition of sick leave certificates issued by chiropractors as valid sick leave certificates

Item proposed by Hon CHAN Yuen-han, Hon WONG Kwok-hing and Hon KWONG Chi-kin on 8 April 2005, who considered that the Employment Ordinance should be amended to recognise sick leave certificates issued by chiropractors as valid sick leave certificates.

To be confirmed

**Proposed timing
for discussion**

18. Employment services for unemployed Comprehensive Social Security Assistance recipients

Item proposed at the meeting on 17 November 2005 by Hon CHAN Yuen-han, who was concerned about the employment services provided to unemployed Comprehensive Social Security Assistance recipients.

To be confirmed

19. Review of the Employment Ordinance

Item proposed by Hon WONG Kwok-hing at the meeting on 19 January 2006. The issue was scheduled for discussion at the meeting in March 2006 but deferred at the request of the Administration.

To be confirmed

At the meeting on 30 May 2006, the Administration briefed members on its intention of amending the Employment Ordinance to ensure that commission is to be included in the calculation of statutory entitlements. The Panel passed a motion urging the Administration to submit the legislative proposal to the Panel in July 2006. At the subsequent meetings on 15 June and 20 July 2006, members expressed concern about the formulation and implementation of the legislative proposal, and requested that the Administration should report its work progress before the 2005-2006 legislative session was adjourned.

The Panel held a special meeting on 25 September 2006 to further discuss the issue with the Administration. At the meeting, members passed a motion urging the Administration to expeditiously introduce the legislative proposal to amend the Employment Ordinance in order to implement as early as possible the policy intent concerning the calculation of statutory entitlements on the basis of wages and clarify the calculation method for these entitlements.

The Employment (Amendment) Bill 2006 was gazetted on 8 December 2006 and would be introduced into the Legislative Council on 20 December 2006.

20. Paternity leave

**Proposed timing
for discussion**

Hon WONG Kwok-hing suggested in his letter dated 22 June 2006 that the Administration's response to his question concerning paternity leave raised at the Council meeting on 21 June 2006 should be followed up by the Panel. Mr WONG requested the Administration to report on the findings of the consultation exercise with the Equal Opportunities Commission (EOC) and the legal advice of the Department of Justice (DoJ) on whether failure to legislate for paid paternity leave would constitute family status discrimination.

To be confirmed

The Administration has advised that both DoJ and EOC are of the view that it is unlikely that any failure to legislate for paternity leave would constitute family status discrimination under the Family Status Discrimination Ordinance. A written reply on the legal opinion was issued to Hon WONG Kwok-hing on 11 October 2006.

21. Severance payment claimed by workers employed under short-term contracts

Hon LI Fung-ying has indicated in her letter dated 20 October 2006 that arising from a recent court case on severance payment claimed by workers employed under short-term contracts (contracts of less than two years' duration), she is gravely concerned about the issue of severance payment for these workers. She considers that the Employment Ordinance is ineffective in the protection of employees' labour rights, as employers could evade their obligations for severance payment by offering employees with short-term contracts of less than two years intermittently. She has suggested that the issue should be discussed by the Panel.

To be confirmed

Ms LI's letter was circulated to members vide LC Paper No. CB(2)162/06-07 on 23 October 2006.

At the meeting on 16 November 2006, Ms LI suggested that the issue of severance payment claimed by workers employed under short-term contracts should be discussed by the Panel as soon as possible. The Administration advised that it was examining the Court's judgement and would report to the Panel as soon as possible.

22. Compensation for construction workers suffering from Mesothelioma

**Proposed timing
for discussion**

Item raised by Hon LI Fung-ying at the meeting on 16 November 2006. At the meeting, Ms LI pointed out that construction workers suffering from Mesothelioma but without the symptoms of silicosis were unable to claim compensation from the Pneumoconiosis Compensation Fund, and that as Mesothelioma was caused by prolonged contacts with asbestos, it should be classified as occupational disease. She suggested that the issue of compensation for construction workers suffering from Mesothelioma should be followed up by the Panel.

To be confirmed

The Administration advised that it was studying the issue and would report to the Panel in due course.

Items likely to be proposed by the Administration

23. Review of the Continuing Education Fund

The Administration is conducting a review of, inter alia, the operations and coverage of the Continuing Education Fund.

First quarter of
2007

24. Labour Department's overall performance in labour administration in 2006

The Administration intends to brief members on the Labour Department's performance in the labour administration area in 2006.

15 February 2007

25. Construction of a New Campus for Vocational Training Council at Tiu Keng Leng, Tseung Kwan O

The Administration intends to consult members on the funding proposal for constructing a new Vocational Training Council (VTC) campus at Tiu Keng Leng. The new campus will accommodate the new Design Institute of VTC and reprovision the existing campus of the Lee Wai Lee Institute of Vocational Education.

April 2007

**Proposed timing
for discussion**

26. A Review of Hong Kong's Occupational Safety Performance in 2006

The Administration intends to brief members on Hong Kong's occupational safety performance in 2006.

17 May 2007

27. A Review of Hong Kong's Occupational Diseases in 2006

The Administration intends to brief members on Hong Kong's occupational diseases in 2006.

21 June 2007

28. Funding requirements of the Pneumoconiosis Ex Gratia Scheme

The Administration intends to brief members on a proposal to provide capital injection into the Pneumoconiosis Ex Gratia Scheme which is funded by the Government.

21 June 2007

29. Measures to promote harmonious labour relations

The Administration intends to brief members on measures taken to reinforce the promotion of harmonious labour relations with particular reference to the construction industry.

19 July 2007

30. Provision of additional compensation for non-compliance with compulsory order of reinstatement or re-engagement

The Administration intends to inform members of the progress of the Administration's proposal to include in the Employment (Amendment) Bill a provision on additional compensation for the employee in case the employer fails to comply with a compulsory order of reinstatement or re-engagement.

To be confirmed

**Proposed timing
for discussion**

31. Resource Strategy for the Qualifications Framework

The Administration intends to consult members on its proposed resource strategy to support the development of the Qualifications Framework after enactment of the Accreditation of Academic and Vocational Qualifications Bill.

To be confirmed

Council Business Division 2
Legislative Council Secretariat
15 December 2006