

Panel on Manpower

List of outstanding items for discussion

(position as at 8 October 2007)

**Proposed timing
for discussion**

Items proposed by members

1. 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.

2. 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 (EO) to those who are employed by the Government on non-civil service contract terms. They would 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).

To be confirmed

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 the Legislative Council 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 from the Labour Department (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 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 (LAB) before reverting to the Panel.

At the meeting on 12 October 2006, Hon LEE Cheuk-yan expressed concern about the progress of the special topic enquiry, and enquired whether the issue of extending the applicability of EO to those who are not employed under a continuous contract was ready for discussion at the meeting in December 2006. At the meeting on 16 November 2006, the suggestion to discuss the issue of extending the applicability of EO to government employees on non-civil service contract terms and employees not employed under a continuous contract was raised again by Hon LI Fung-ying. The Administration advised at these two meetings 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.

3. 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

To be confirmed

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.

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 Chief Executive'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 the 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.

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

On 30 April 2002, some Duty Roster Members (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.

The Administration has provided a paper explaining its views on the issue of imposing a requirement on insurers who underwrite employees' compensation insurance to make direct payment of employees' compensation, periodical payments in particular, to policyholders' employees who sustain an injury as a result of accidents arising out of and in the course of their employment. The paper was circulated to members vide LC Paper No. CB(2)2657/06-07 on 30 August 2007.

5. 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 (PWIF). To

To be confirmed

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.

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

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

The suggestion of the provision of one-stop service by LD was raised again by Hon LEE Cheuk-yan at the meetings on 18 December 2003 and 18 January 2007. The Administration did not find the idea useful in reducing the time required for the different services. At the meeting on 18 January 2007, the Administration advised that the procedures for claiming PWIF had constantly been streamlined and according to the pledge of LD, payment to PWIF applicants could be effected within ten weeks upon receipt of all relevant information and documents required for processing the applications.

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

When the Finance Committee considered the proposal of extending a bridging loan to 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 the 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 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 advised that sections 273 and 275 of the Companies Ordinance were related to insolvent trading, and were 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 intended 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 meetings of the Panel on Manpower on 26 April 2005 and 15 December 2005.

7. 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 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.

To be confirmed

8. 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 LAB would be consulted in due course.

The Bill has lapsed following the dissolution of the Second Legislative Council.

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, LD will continue to promote voluntary medical examination of workers engaged in the hazardous occupations through disseminating publicity materials, organising 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.

9. 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 (ECI) system in Hong Kong was discussed at the meeting on 19 May 2005.

At the meeting on 15 March 2007, the Administration briefed members on the progress of the implementation of the Employees' Compensation Insurance Residual Scheme (the Scheme) proposed by the Hong Kong Federation of Insurers (HKFI). Members noted that while HKFI planned to bring the Scheme into operation on 1 May 2007, the Government would continue to explore the feasibility and desirability of

**Proposed timing
for discussion**

establishing a central ECI system. The Scheme was launched on 1 May 2007.

10. 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

11. 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

12. 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 (QF) proposed by the Administration should be discussed by the Panel.

To be confirmed

The Accreditation of Academic and Vocational Qualifications (AAVQ) Bill was introduced into the Legislative Council on 6 July 2005. At the House Committee meeting on 8 July 2005, a Bills Committee was formed to scrutinise the Bill. The Bills Committee completed its scrutiny of the Bill on 27 March 2007. The Bill, with amendments, was enacted on 2 May 2007.

The Administration has advised that the AAVQ Ordinance is scheduled to be fully implemented in early 2008. The Administration has agreed to report to the Panel the progress of implementation of the QF on a half-yearly basis.

13. Recognition of sick leave certificates issued by registered chiropractors as valid sick leave certificates

Item proposed by Hon CHAN Yuen-han, Hon WONG

To be confirmed

Kwok-hing and Hon KWONG Chi-kin on 8 April 2005, who considered that EO should be amended to recognise sick leave certificates issued by registered chiropractors as valid sick leave certificates.

At the meeting on 18 January 2007, the issue of recognising the certification given by registered chiropractors was raised again by Hon WONG Kwok-hing. According to the Administration, a working group, comprising officers from different departments and bureaux, has been set up to study the issues pertinent to the recognition of medical treatment, examination and certification given by registered chiropractors for entitlement of employee benefits under the relevant labour legislation. Members noted that the Administration would revert to the Panel on its findings and recommendations when the working group completed the study.

14. 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

15. Review of the Employment Ordinance

At the meeting on 19 January 2006, Hon WONG Kwok-hing suggested that as the Administration had undertaken at the Council meeting on 11 January 2006 that it would conduct a full review on EO, the issue should be discussed by the Panel. 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 EO to ensure that commission is to be included in the calculation of statutory entitlements. The Panel held a special meeting on 25 September 2006 to further discuss the issue with the Administration.

The Employment (Amendment) Bill 2006 was gazetted on 8 December 2006 and introduced into the Legislative Council on 20 December 2006. At the meeting of the House

Committee on 5 January 2007, a Bills Committee was formed to scrutinise the Bill. The Bills Committee completed its scrutiny of the Bill on 10 April 2007. Upon passage by the Legislative Council on 2 May 2007, the Employment (Amendment) Ordinance 2007 was published in the Gazette on 11 May 2007.

The Employment (Amendment) Ordinance 2007 (Commencement) Notice was gazetted on 18 May 2007 and tabled in Council on 23 May 2007. The House Committee met on 25 May 2007 and did not raise any query on the subsidiary legislation. The major provisions of the Amendment Ordinance have come into operation on 13 July 2007, and the remaining one concerning keeping of wage and employment records by employers would become effective and operative from 13 January 2008.

At the meeting on 21 June 2007, Hon WONG Kwok-hing and Hon LI Fung-ying expressed concern that some employers of the securities and real estate sectors were seeking means to evade the statutory responsibility to provide their employees with benefits calculated on the basis of commission earned by the employees. They suggested that issues relating to the implementation of the Employment (Amendment) Ordinance 2007 should be discussed by the Panel at a future meeting.

16. Paternity leave

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.

At the meeting on 19 April 2007, Hon LEUNG Yiu-chung pointed out that the Administration was studying the feasibility of legislating for paid paternity leave. He requested that a progress report on the study undertaken by the Government be submitted to the Panel. The Administration agreed to report to the Panel the findings of the study at an appropriate time.

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

Hon LI Fung-ying indicated in her letter dated 20 October 2006 that arising from a 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 EO ineffective in protecting 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 suggested that the issue be discussed by the Panel.

To be confirmed

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.

18. Compensation for construction workers suffering from Mesothelioma

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 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.

19. Progress of Wage Protection Movement and the proposal for introduction of legislation for a minimum wage and related issues

At the meeting on 21 December 2006, members agreed that the progress of Wage Protection Movement and the proposal for introduction of legislation for a minimum wage and related issues should be a standing item for discussion every month.

Every month

At the meeting on 5 July 2007, the Panel passed a motion urging the Administration to provide before the end of August 2007 a paper setting out clearly the criteria for assessing the Wage Protection Movement for discussion by the Panel.

20. Provision of rest break for employees

At the meeting on 21 December 2006, some members expressed concern that working long hours without breaks would have adverse impact on occupational safety. Hon LEE Cheuk-yan suggested that the provision of rest break for employees be discussed by the Panel.

To be confirmed

Item likely to be proposed by the Administration

21. 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