

For information on
23 October 2008

Legislative Council Panel on Manpower

Policy Initiatives of the Labour and Welfare Bureau for 2008-09

Purpose

The Chief Executive delivered his 2008-09 Policy Address on 15 October 2008. This paper elaborates on the new initiatives relating to the labour and manpower portfolio under the Labour and Welfare Bureau in the 2008-09 Policy Address and Policy Agenda. It also sets out the latest position of the major initiatives in the 2007-08 Policy Agenda.

2008-09 Policy Address and Policy Agenda

2. Recognising that employment and capacity enhancement is key to assisting people with working ability to achieve self-reliance, the Government will continue to provide holistic support to enhance employment services and the competitiveness of the local workforce through education, training and retraining services and job search facilitation. We will also safeguard the well-being of workers at the grassroots level and seek to forestall the phenomenon of excessively low wage through a statutory minimum wage.

New Initiatives

(A) Introduce a bill on statutory minimum wage into the Legislative Council in the 2008-09 legislative session

3. The Administration presented the findings of the overall review of the Wage Protection Movement for cleaning workers and security guards (WPM) to members of the Labour Advisory Board (LAB) in October 2008. Members of the LAB agreed that the WPM had brought about a culture change, with the community acquiring a new understanding of “wage protection” and with the movement further promoting “corporate social responsibility”. They also agreed that there had been wage growth and increase in the number of workers benefiting from the WPM, showing that the voluntary wage protection scheme had its positive impacts. Notwithstanding this, as only slightly more than half (52%) of the relevant workers benefited from the WPM, and their wage

increases were only slightly higher than that of other low-skilled workers, Members generally agreed that there were indeed limitations in promoting wage protection through voluntary participation and that the outcome of the WPM, on the whole, was unsatisfactory. In the light of the outcome of the overall review of the WPM, we will introduce a bill on statutory minimum wage (SMW) into the Legislative Council (LegCo) in the 2008-09 legislative session.

4. Some members of the business community and the labour sector are of the view that if the Government introduces an SMW, employees of all trades and industries should be covered at the same time. We share their views. Given that cleaning workers and security guards are not the only low-income jobs, worker mobility among different types of low-income jobs does exist, and it is difficult to define “cleaning workers” without controversy, we are inclined to go for an across-the-board approach in introducing the SMW.

5. We have already commenced and will press ahead with the preparatory work for the SMW legislation. We aim to introduce a draft bill for Members’ scrutiny in the 2008-09 LegCo session. The major areas of the legislation would include: the coverage of workers under the legislation; the definition of SMW; enforcement and penalty; treatment of vulnerable groups (such as people with disabilities); and the criteria and mechanism for setting and reviewing the SMW level. In preparing the draft bill, we shall take heed of community concerns and strive to strike a sensible balance between safeguarding the interests of grassroots workers and forestalling the loss of low-paid jobs, while sustaining our economic growth and competitiveness.

6. In parallel, we will establish a Minimum Wage Commission (MWC) as soon as possible to advise the Administration on the SMW level and its review mechanism. The Commission will comprise members from the labour sector, business community, academia and government departments. We will proceed immediately with the preparatory work for the establishment of the MWC.

(B) Prepare for legislative amendments to enhance the enforcement of Labour Tribunal Awards

7. The Government attaches great importance to the timely payment of wages due and has continuously stepped up enforcement against wage offences. This has resulted in 543 convicted summonses on wage offences in the first eight months of 2008. The convicted summonses against company directors and responsible persons for defaulting wage payment totalled 113, an increase of 59% over the same period of 2007.

8. Noting the longstanding concern over the difficulty encountered by some employees in enforcing awards by the Labour Tribunal (LT), the Government has, with the input from the LegCo Panel on Manpower (Manpower Panel), the LAB and relevant departments, proposed the following three measures –

- (a) making non-compliance with LT awards a criminal offence;
- (b) empowering the LT to order defaulting employers to pay additional sums to the employees; and
- (c) empowering the LT to order disclosure of the financial details of defaulting employers.

The Administration briefed the Manpower Panel on the above measures in July 2008.

9. The Labour Department (LD) is now working closely with relevant departments on the legislative changes necessary to implement these measures. The discussions are complex as, despite the uniqueness of wage offences, the proposals do break new grounds – involving criminalising non-compliance with civil awards and introducing new elements in the enforcement of civil awards. Nevertheless, we will try our best and seek to introduce the bill into LegCo in the 2008-09 legislative session.

(C) Improve the statutory compensation for persons with occupational deafness under the Occupational Deafness (Compensation) Ordinance

10. Legislative amendments would be made to the Occupational Deafness (Compensation) Ordinance (Cap. 469) to improve the statutory compensation for occupational deafness persons in respect of the following three items –

- (a) to extend the coverage of the Occupational Deafness Compensation Scheme by providing compensation for employees suffering from monaural hearing loss through their working in noisy occupations;
- (b) to increase the maximum reimbursable amount for the expenses of hearing assistive devices from \$18,000 to \$36,000; and
- (c) to provide compensation for persons having received compensation under the Occupational Deafness (Compensation) Ordinance but whose sensorineural hearing loss deteriorates as a result of continued employment in noisy occupations.

Our aim is to introduce the bill into LegCo in the 2008-09 legislative session.

(D) Promote the occupational safety and health performance of renovation and maintenance works through launching a publicity and promotional campaign to heighten safety awareness of people engaged in such works and stepping up enforcement to ensure compliance with relevant legislation

11. Being normally less visible and involving smaller-scale projects, renovation and maintenance works have always been a concern from the occupational safety and health perspective. With the ageing of buildings, the proposed introduction of the Mandatory Building Inspection and Window Inspection Schemes by the Buildings Department as well as the launching of various subsidised building maintenance schemes, the volume of renovation and maintenance works and hence the number of related work accidents are expected to further increase in the coming years.

12. In the light of this development, the LD plans to adopt a proactive promotional cum enforcement strategy in improving the occupational safety and health performance of this accident-prone trade. Apart from producing new and targeted television and radio Announcements in the Public Interest and other publicity through different media and communication channels, we shall also encourage small renovation and maintenance contractors to participate in the territory-wide Construction Industry Safety Award Scheme and give recognition to the good performers. Experience indicates that this would go a long way towards raising safety awareness, reinforcing positive self-image and thus inducing a virtuous cycle of improvement. Parallel to publicity and positive inducement, the LD will also step up enforcement with respect to renovation and maintenance works, in particular those involving work-at-height and the use of truss-out scaffolds. In addition to normal inspection, special enforcement campaigns targeting renovation and maintenance works will be launched. We will also strengthen the referral systems established with our strategic partners to encourage intelligence which can enable us to mount prompt monitoring and targeted enforcement action.

Progress of On-going Initiatives

(E) Enhanced employment and related support

13. Reflecting the importance attached to employment, training and retraining support, the Government has continuously enhanced its services on various fronts and the key measures introduced last year are highlighted in paragraphs 14 to 24 below.

(I) Completing the strategic review of the Employees Retraining Board and implementing the final recommendations in phases

14. Following the decision of the Chief-Executive-in-Council, the eligibility criteria for the Employees Retraining Scheme (ERS) were relaxed on 1 December 2007 to cover young people aged between 15 and 29 and people with education level at sub-degree or below. As at end-August 2008, the Employees Retraining Board (ERB) received a total of about 31 600 applications for enrolment from the new service groups. Among them, over 7 900 applicants (25% of the total) were young people aged between 15 and 29, and the remaining 23 700 applicants (75% of the total) were people aged 30 or above with post-Secondary 3 education level.

15. The relaxation was one of the first steps to enhance the training and retraining services of the ERB. The ERB has earlier undertaken a strategic review on its future roles and responsibilities and released a public consultative document which set out a series of recommendations on training and retraining services with a view to upgrading our local workforce. The major recommendations include introducing elements of sustainable development to enhance training quality, providing new services tailored for different clients, enhancing course quality and recognition, strengthening liaison with the business sectors and employers, and providing suitable training and employment support for the less privileged and so forth.

16. The ERB will complete the review and submit its final recommendations to the Government by the end of this year. Upon endorsement by the Government, the ERB will implement the final recommendations in phases. Following the relaxation of the eligibility criteria of the ERS and the completion of the strategic review, the ERB is expected to take on new strategic roles and responsibilities and offer more comprehensive and diversified training and retraining services for the local workforce.

(II) Undertaking a review of the Youth Pre-employment Training Programme and the Youth Work Experience and Training Scheme to enhance the effectiveness of training and employment support rendered to young people aged 15-24

17. Launched respectively in 1999 and 2002, the Youth Pre-employment Training Programme (YPTP) and Youth Work Experience and Training Scheme (YWETS) have so far trained more than 142 000 young people aged 15 to 24, with a view to enhancing their employability, facilitating their smooth transition to employment, and providing them with sustainable employment opportunities.

18. To further enhance the effectiveness of its youth employment and training programmes, the LD is undertaking a review of the mode of operation, training contents and future directions of YPTP and YWETS. The review will also take into account youth training courses offered under the ERS to ensure the optimal use of resources and foster the provision of coordinated training and employment support for young people.

19. The LD aims to complete the review by end-2008 and implement the recommendations by phases with effect from the 2009/10 Programme Year commencing September 2009.

(III) “One-stop” Employment Service

20. With the aim of better assisting the unemployed and realising the objective of “from welfare to self-reliance”, we are studying how best to put in place a “one-stop” employment service through streamlining, integrating and enhancing existing employment and training/retraining services of the LD, Social Welfare Department and ERB. ERB’s new Training cum Employment Resource Centre has already commenced full operation in early October 2008 to try out a “one-stop” model.

(IV) Implementing the relaxation measures under the Transport Support Scheme to encourage needy unemployed and low-income employees living in designated remote districts to find jobs and stay in employment

21. The Transport Support Scheme (TSS) was designed as a time-limited subsidy to needy unemployed and low-income employees in designated remote districts with fewer employment opportunities with a view to encouraging the target beneficiaries to look for and stay in employment. Upon review of the one-year pilot TSS, the LD implemented a number of relaxation measures on 2 July 2008, including –

- (a) raising the monthly income ceiling from \$5,600 to \$6,500;
- (b) allowing eligible people working and living in the same district to apply for allowances, as long as fee-paying home-to-work commuting has been used; and
- (c) extending the duration of the subsidy period from six to 12 months.

22. Under the relaxed TSS, eligible applicants will be allowed to claim On-the-job Transport Allowances of \$600 per month for up to 12 months and Job Search Allowances of up to \$600 on a reimbursement basis. These allowances are not intended to cover all transport costs incurred in job-hunting and working, but to provide an incentive to eligible applicants to find jobs and stay in employment.

23. Between 2 July 2008 and end-September 2008, 12 376 out of 12 605 applicants (or 136% of the 9 298 applicants under the one-year pilot TSS) were admitted, 105 applicants were refused, 32 applicants withdrew their applications and the applications of 92 applicants were under processing. Of the admitted applicants, 8 470 have submitted claims. The total amount of allowances paid under the pilot and relaxed TSS so far stood at \$29.7 million. This translates into a commitment of \$96.53 million in respect of the admitted applicants.

24. In the coming months, the LD will continue to promote TSS through various means, including –

- (a) distributing leaflets and posters to stakeholders;
- (b) arranging outdoor advertisements, e.g. posters on trains and buses, roadside banners, wall banners, etc.; and
- (c) staging roving exhibitions in designated remote districts.

The LD will continue to monitor the implementation of the relaxed TSS and, if necessary, undertake a review one year after its implementation.

(F) Continuing enforcement action against wage offences

25. The LD will continue with its proactive strategy to tackle wage default at source. It will keep up with its rigorous enforcement through launching more targeted operations and strengthening its capacity in intelligence gathering and evidence collection. The LD has also enhanced promotional efforts to remind employers of their statutory wage payment obligations, urge employees to protect their rights by pursuing wage claims promptly, and publicise its complaint hotline (2815 2200).

26. The LD will make every effort to take out prosecution if there is sufficient evidence. If the employer is a limited company, it will, apart from prosecuting the company, consider prosecuting the directors and other responsible persons of the company as well for wage offences. In the first eight months of 2008, one company director, one responsible person and one

employer were given jail sentences for defaulting wage payments, and another company director and two other employers were sentenced to community service order. The convicted summonses against company directors and responsible persons for defaulting wage payment totalled 113, an increase of 59% over the same period of 2007.

(G) Continuing with intelligence-based and proactive strategy in combating illegal employment

27. We are determined to protect the employment opportunities for local workers. To this end, we have adopted a proactive strategy in combating illegal employment. In the first eight months of 2008, the LD mounted 127 intelligence-led operations with other law enforcement departments to raid targeted establishments to combat illegal employment. Altogether, 176 employers were arrested for employing illegal workers. The number of suspected illegal workers arrested was 397. We shall continue unabated with our publicity and enforcement actions.

(H) Continuing with the review on the definition of continuous employment under the Employment Ordinance having regard to recent developments in the labour market, and consulting stakeholders in the process

28. At present, irrespective of their duration of employment and hours of work per week, all employees covered by the Employment Ordinance (Cap. 57) (EO) are entitled to certain employment rights and benefits such as payment of wages, restriction on deductions from wages, granting of statutory holidays, protection against anti-union discrimination, employment protection in respect of unreasonable and unlawful dismissal, etc. Employees engaged under a “continuous contract”¹ are further entitled to other employment benefits under the EO such as rest days, paid statutory holidays and annual leave, sickness allowance, severance payment and long service payment, subject to their fulfillment of the respective qualifying requirements as specified in the EO.

29. To take forward the review on the definition of “continuous contract” under the EO, the LD commissioned the Census and Statistics Department to conduct a special topic enquiry for the purpose of obtaining updated information on the profile of employees who are not working under a “continuous contract”. The LD is reviewing the definition of “continuous contract” under the EO in the

¹ According to the EO, an employee engaged under a “continuous contract” is defined as one who has been employed under a contract of employment by the same employer for four weeks or more and has worked for 18 hours or more in each week.

light of the survey findings and recent developments in the labour market, with a view to striking a sensible balance between the interests of employees and the affordability of employers.

(I) Further promoting family-friendly employment practices to employers with a view to encouraging wider adoption of such practices in the workplace

30. The Government is fully aware of the rising expectations on enlightened employment practices and, in this connection, the LD has been promoting family-friendly employment practices which will go a long way towards securing harmonious labour relations. Such promotion work has become an integral part of the LD's close and regular liaison with different stakeholder groups on various channels, including the network of Human Resources Managers Clubs formed in various trades and industries, industry based Tripartite Committees and roving exhibitions. In addition, since July 2008, the LD has been publishing newspaper supplements on "good people management and family-friendly employment practices" every Friday for 20 weeks. Through showcasing successful examples of different organizations, we hope to encourage wider adoption of such practices by employers at the workplace. A booklet consolidating the successful cases will be published for wider distribution.

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