

Panel on Manpower

List of outstanding items for discussion

(position as at 11 October 2010)

**Proposed timing
for discussion**

Items proposed by members

1. Review of the Employment Ordinance - the requirement of "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 ("continuous contract" is defined under EO as a contract of employment under which an employee has been employed for four weeks or more and has worked for 18 hours or more in each week, i.e. fulfilling the so-called "4-18" requirement). The Member's Bill, jointly proposed by Hon CHAN Kwok-keung, Hon LI Fung-ying and Hon LEUNG Fu-wah, was ruled out of order by the President on 14 March 2002, as the Bill related to public expenditure and Government policy.

Second half of
2011

At the meeting on 16 May 2002, the Panel agreed that the protection of workers not employed under a continuous contract should be discussed at a future meeting. On 16 June 2005, the Administration advised the Panel that the Census and Statistics Department ("C&SD") 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 Panel considered the report on the result of C&SD's survey on "Benefits of employees under the Employment Ordinance" (LC Paper No. CB(2)665/07-08 issued on 19 December 2007) at the meeting on 17 January 2008. The Panel urged the Administration to consider relaxing the "4-18" requirement and enhancing the rights and benefits of employees who were not employed under a continuous contract. The Administration advised that it would conduct an internal review on the definition of "continuous contract" under EO in the light of

recent developments in the labour market. The Administration further advised in its letter dated 5 March 2008 that given the complexity of the subject, the review would take time. The Administration's response was circulated to members vide LC Paper No. CB(2)1308/07-08 on 10 March 2008.

In their letter dated 14 October 2008, Hon WONG Kwok-kin, Hon WONG Kwok-hing, Hon IP Wai-ming and Dr Hon PAN Pey-chyou requested the Government to review EO, in particular the "4-18" requirement.

2. 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

3. Establishment of a central compensation insurance fund

Following the "911" terrorist attack in 2001 and the outbreak of SARS in 2003, there were concerns over the potential non-availability of employees' compensation insurance ("ECI") cover for certain risks e.g. infectious diseases.

To be confirmed

On 19 May 2005, the Panel was briefed on the proposed measures to improve the ECI system in Hong Kong. The Administration presented its research findings on the operation of the ECI schemes in some overseas countries and the views received from the insurance industry. As replacing a private market by a central ECI scheme would have significant impact on insurers, the Labour Advisory Board ("LAB") agreed to test run a "residual scheme" proposed by the Hong Kong Federation of Insurers. The scheme sought to act as a market of last resort to assist employers who had difficulties finding ECI cover. At the meeting, the Panel urged the Administration that, while introducing the residual scheme, it should also consider pursuing a central ECI scheme in the long run.

**Proposed timing
for discussion**

At the meeting on 15 March 2007, the Panel was briefed on the structure and mode of operation of the Employees' Compensation Insurance Residual Scheme ("the Scheme"), scheduled to be launched by the insurance industry on 1 May 2007. The Panel was advised that a mid-term review of the progress of the Scheme would be conducted one year after implementation and an overall review after operating the Scheme for two years.

The outcome of the review of the Scheme was circulated to members vide LC Paper No. CB(2)2509/08-09 on 22 September 2009.

4. 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

5. Establishment of a re-employment support scheme and employment services for unemployed Comprehensive Social Security Assistance recipients

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

At the meeting on 17 November 2005, Hon CHAN Yuen-han expressed concern about the employment services provided to unemployed Comprehensive Social Security Assistance recipients.

6. 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.

Second quarter of
2011

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 AAVQ Ordinance commenced full operation on 5 May 2008.

The Administration reported to the Panel the progress of implementation of the QF at its meetings on 23 October 2008, 16 July 2009, 22 October 2009 and 17 June 2010. It will further report progress to the Panel in due course.

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

The item was proposed by Hon CHAN Yuen-han, Hon WONG Kwok-hing and Hon KWONG Chi-kin on 8 April 2005. They considered that EO should be amended to recognise sick leave certificates issued by registered chiropractors as valid sick leave certificates.

First quarter of
2011

Hon WONG Kwok-hing raised the subject again at the meeting on 18 January 2007. According to the Administration, a working group, comprising officers from different departments and bureaux, had 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.

In their letter dated 14 October 2008, Hon WONG Kwok-kin, Hon WONG Kwok-hing, Hon IP Wai-ming and Dr Hon PAN Pey-chyou requested that the issue be discussed by the Panel.

8. Paternity leave

On 21 June 2006, Hon WONG Kwok-hing raised a question on paternity leave at the Council meeting. In response to his request, the Administration sought the advice of the Equal Opportunities Commission and the Department of Justice and responded on 11 October 2006 that it was unlikely that any

Second half of
2011

lack of legislation for paternity leave would constitute family status discrimination under the Family Status Discrimination Ordinance.

In their letter dated 14 October 2008, Hon WONG Kwok-kin, Hon WONG Kwok-hing, Hon IP Wai-ming and Dr Hon PAN Pey-chyou requested that the provision of paternity leave be discussed by the Panel. Noting that the Administration was studying the feasibility of legislating for paid paternity leave, Hon LEUNG Yiu-chung requested that a progress report should be submitted to the Panel. The Administration advised the Panel at the meeting on 17 June 2010 that the study was expected to be completed in the first half of 2011.

9. Implementation of family-friendly employment practices ("FFEP")

At the meetings on 21 December 2006 and 17 January 2008, some members suggested that issues in connection with the implementation of FFEP such as reduction of working hours, provision of rest breaks for employees, and alignment of general holidays and statutory holidays for employees should be discussed by the Panel.

To be confirmed

At the meeting on 23 February 2010, Hon LEE Cheuk-yan suggested discussing possible changes to the current designation of Saturdays as holidays in respect of certain holidays when the original holidays fell on Sundays; and the alignment of statutory and general holidays.

At the meeting on 17 June 2010, the Administration advised members that it had been acting as a facilitator to encourage employers to adopt FFEP. The Panel suggested that the Administration should consider conducting a study on various FFEP implemented in the private sector.

10. Transport Support Scheme ("TSS")

At the meeting on 21 January 2009, members passed a motion urging the Administration to cancel the one-year subsidy duration of TSS for the four remote districts and to extend TSS to all districts and relax its coverage to include part-time workers. The Administration held the view that providing the subsidy on a permanent basis departed from the objective of TSS. The Administration's response to the motion was

End 2010

circulated to members vide LC Paper No. CB(2)1027/08-09 on 6 March 2009. The Administration undertook to review TSS one year after the implementation of the relaxation measures i.e. July 2009.

The Panel discussed the progress of the review of TSS at the meeting on 19 November 2009. At the special meeting on 14 January 2010, the Panel received the views of deputations on TSS and continued discussion with the Administration regarding the progress of its review of TSS. The Administration advised that it would report the outcome of the review to the Panel as soon as possible.

The Financial Secretary announced in the 2010-2011 Budget Speech that the Labour and Welfare Bureau would complete by the end of 2010 a study on ways to reduce the burden of travelling expenses borne by the working poor in Hong Kong. Before the completion of the study, the existing TSS would remain in force. The Administration informed the Panel that it would report the outcome of the review of TSS to the Panel when ready.

11. Employee compensation for injury/death caused by accidents en route to work

The item was proposed by Hon LEE Cheuk-yan at the Panel meeting on 19 February 2009.

To be confirmed

12. Mandatory wage requirement for non-skilled workers engaged in government service contracts after the implementation of the statutory minimum wage

At the Bills Committee on Minimum Wage Bill meeting on 28 September 2009, members requested the Administration to provide a paper on the subject for discussion by the Panel.

To be confirmed

13. Measures to tackle the problem of false self-employment

At the meeting on 19 November 2009, in the context of discussing the item "Employees" vis-à-vis "Self-employed persons", members expressed concern about the proliferation of false self-employment. Members requested the Administration to provide in one year's time statistics on cases

Second quarter of
2011

**Proposed timing
for discussion**

relating to claims of false self-employment, together with an analysis of the problem, for follow-up discussion by the Panel. At the meeting on 17 June 2010, the Administration advised that it planned to provide the relevant statistics and analysis of the problem at the end of 2010.

14. Regulatory framework governing work safety and occupational health in the construction industry

At the meeting on 14 December 2009, Hon LEE Cheuk-yan expressed concern about the need to conduct a comprehensive review of the existing regulatory framework governing occupational safety and health in the construction industry, with a view to mapping out comprehensive plans and strategies for enhancing industrial safety at construction sites. He suggested that the issue be discussed by the Panel at a future meeting.

Fourth quarter of
2010

15. Mental impairment arising from occupational injury

The item was proposed by Dr Hon PAN Pey-chyou in his letter dated 10 May 2010 (LC Paper No. CB(2)1589/09-10(01)). Dr PAN was concerned about the definition of occupational injury under the Employees Compensation Ordinance, and whether the Ordinance would cover mental impairment arising from occupational injury.

To be confirmed

16. Implementation of the Employment (Amendment) Ordinance 2010

The item was referred to the Panel by the Bills Committee on Employment (Amendment) Bill 2009. The Administration was requested to keep records as far as practicable on the time required to complete the relevant procedures for the Commissioner for Labour to give consent for prosecution, and review the implementation of the Amendment Ordinance one year after its commencement, including the Commissioner for Labour's consent for prosecution and other procedural requirements, and report to the Panel.

To be confirmed

**Proposed timing
for discussion**

17. Implementation of the Minimum Wage Ordinance

At the meetings of the Bills Committee on Minimum Wage Bill, the Administration undertook -

- | | |
|--|---------------------------|
| (a) to brief the Panel on its guidelines on statutory minimum wage ("SMW") for employers and employees before the commencement of the Minimum Wage Ordinance; | Fourth quarter of
2010 |
| (b) to advise the Panel of the party responsible for bearing the costs for assessment of the degree of productivity of persons with disabilities ("PWDs") before the commencement of the Minimum Wage Ordinance; and | Fourth quarter of
2010 |
| (c) to review the special arrangement for PWDs in the light of operational experience within two years of the implementation of SMW and report the results to the Panel. | To be confirmed |

At the Panel meeting on 17 June 2010, Hon IP Wai-ming suggested discussing the adequacy of manpower resources for enforcement of the Minimum Wage Ordinance. The Administration advised that appropriate measures and strategies would be adopted in order to safeguard employees' entitlements to SMW and resources required would be handled according to the established mechanism. A written response was provided on 21 June 2010 to the Bills Committee on Minimum Wage Bill which had raised the issue (LC Paper No. CB(2)1890/09-10(01)).

18. Legislative proposal on compulsory reinstatement and re-engagement

At the Panel meeting on 17 June 2010, the Administration advised that the LAB would re-visit the legislative proposal on compulsory reinstatement and re-engagement in respect of cases of unreasonable and unlawful dismissal, taking into account the implications of the Employment (Amendment) Ordinance 2010, and that it would revert to the Panel at the earliest opportunity.

Second quarter of
2011

**Proposed timing
for discussion**

Items proposed by the Administration

19. System for recognition and monitoring of Mandatory Safety Training Courses

The Administration intends to report to the Panel on the findings of a review of the system for recognition and monitoring of Mandatory Safety Training Courses and the proposed measures for enhancement of the system.

To be confirmed

Council Business Division 2
Legislative Council Secretariat
11 October 2010