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Panel on Manpower

**Background brief prepared by the Legislative Council Secretariat
for the meeting on 20 June 2012**

**Study on legislating for the provision of paternity leave
in Hong Kong**

Purpose

This paper gives an account of the past discussion of Members on the provision of statutory paternity leave.

Background

Promoting family-friendly employment practices and the Administration's study on provision of paternity leave in Hong Kong

2. On 1 July 2006, the Government implemented the first phase of the five-day week initiative in order to improve the quality of family life for civil servants. In his 2006-2007 Policy Address, the Chief Executive ("CE") announced that the Government would encourage employers of the business community and non-governmental organizations to adopt family-friendly employment practices ("FFEP"), such as flexi-time arrangements, job-sharing and working from home, with a view to assisting employees in maintaining a balance between work and family responsibilities. Since then, there were voices in the community calling for enactment of legislation to prescribe the implementation of FFEP such as standard working hours, flexi-time arrangements for employees and paid paternity leave to male employees.

3. At the special Finance Committee ("FC") meeting on 21 March 2007, the Administration advised that as the business needs and operating circumstances of organizations were not the same, individual employers were in the best position to decide which FFEP should be adopted having regard to the needs and views of their staff. Regarding the suggestion of providing paternity leave to male employees, the Administration would consider whether there was a need to introduce statutory paternity leave. The Labour Department ("LD")

would commence a study with reference to overseas experience regarding paternity leave arrangement. In the meantime, the Administration would continue to encourage enterprises to adopt FFEP through publicity and promotion.

Members' concerns and views

Past discussion held by the Panel on Manpower

4. When the Administration briefed members on the labour relations scene and the efforts made by LD in promoting harmonious labour relations and the relevant policy initiatives in CE's 2011-2012 Policy Address respectively at the Panel meetings on 17 June 2010 and 20 October 2011, issues relating to the provision of statutory paternity leave were raised.

5. Members expressed concern that although there was an overwhelming support in the community for the provision of statutory paternity leave, the Administration only kept emphasizing its role as a facilitator to encourage employers to adopt FFEP. They enquired about the number of establishments which had provided their male employees with paid paternity leave as a result of LD's promotional efforts, and the feasibility of legislating for paternity leave in Hong Kong.

6. The Administration advised that LD did not keep statistics on the provision of paternity leave benefits in the private sector. According to the findings of two surveys conducted respectively in 2006 and 2008 among organizations of the Human Resources Managers Clubs formed in various trades and industries, the number of employers providing paid paternity leave had increased from 16% to 21%.

7. The Administration further advised that it had all along been encouraging employers to adopt different forms of FFEP appropriate to their own circumstances, including the provision of paternity leave. On the proposal of legislating for paternity leave, the Administration explained the complexity of the issues involved and the needs to take into account the uniqueness of local circumstances as well as to strike a reasonable balance between the interests of employees and the affordability of employers. The Administration stressed that in considering whether legislation should be introduced for paid paternity leave in Hong Kong, it had to assess the impact of legislation on employers, especially small-and-medium-sized enterprises ("SMEs"), and the economy as a whole. The Administration would first and foremost consider whether the community had a general consensus regarding the implementation of statutory paternity leave, before taking any decision on the way forward. After completing its study on the subject, the Administration would report the

findings to the Labour Advisory Board before consulting the Panel.

Relevant deliberations of the Finance Committee

8. At the special FC meeting on 8 March 2012, information was sought on the Administration's study on legislating for paternity leave in Hong Kong, including the scope, the details and the latest progress of the study.

9. According to the Administration, the study undertaken by LD on the feasibility of legislating for paternity leave in Hong Kong included looking into the practices of other economies and the provision of paternity leave by local enterprises. In the process, the Administration was mindful of the actual circumstances of Hong Kong to ensure that any improvement in employees' benefits was in line with the overall development and needs of Hong Kong. To this end, it had to assess the possible impact of legislating for paternity leave on employers, especially SMEs, and the economy as a whole in order to strike a balance between the interest of employees and the affordability of employers. LD would also examine the various issues that might possibly emerge in the process of implementation and consider whether there was a general consensus in the community on the matter. The study was expected to be completed in the first quarter of 2012.

Latest development

10. On 28 March 2012, the Government announced that starting from 1 April 2012, all full-time government employees, including civil servants, non-civil service contract staff and political appointees, who have no less than 40 weeks' continuous service immediately before the expected or actual date of childbirth will be eligible for paternity leave. Under this new family-friendly measure, eligible officers will enjoy five working days of paternity leave on full pay on each occasion of childbirth. Eligible officers whose children's expected due date or actual date of birth falls on or after 1 April 2012 can benefit from this new measure.

Relevant papers

11. A list of the relevant papers on the Legislative Council website is in the **Appendix**.

**Relevant papers on
Study on Legislating for the Provision of Paternity Leave in Hong Kong**

Committee	Date of meeting	Paper
Legislative Council	21.6.2006	<u>Official Record of Proceedings (Question 4)</u>
Finance Committee (<i>Special meeting to examine the Estimates of Expenditure 2007-2008</i>)	21.3.2007	<u>Administration's replies to Members' initial written questions (Reply Serial No. EDLB(L)082)</u>
Legislative Council	18.4.2007	<u>Official Record of Proceedings (Question 17)</u>
Legislative Council	14.11.2007	<u>Official Record of Proceedings (Question 13)</u>
Legislative Council	29.10.2008	<u>Official Record of Proceedings (Question 15)</u>
Legislative Council	21.4.2010	<u>Official Record of Proceedings (Question 16)</u>
Panel on Manpower	17.6.2010 (Item III)	<u>Agenda</u> <u>Minutes</u>
Legislative Council	2.3.2011	<u>Official Record of Proceedings (Question 9)</u>
Panel on Manpower	20.10.2011 (Item II)	<u>Agenda</u> <u>Minutes</u>
Finance Committee (<i>Special meeting to examine the Estimates of Expenditure 2012-2013</i>)	8.3.2012	<u>Administration's replies to Members' initial written questions (Reply Serial Nos. LWB(L)008, LWB(L)019, LWB(L)026, LWB(L)043, LWB(L)058, LWB(L)083, LWB(L)108 & LWB(L)130)</u>