

立法會

Legislative Council

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Report of the Panel on Manpower for submission to the Legislative Council

Purpose

This report gives an account of the work of the Panel on Manpower ("the Panel") during the 2011-2012 session of the Legislative Council ("LegCo"). It will be tabled at the Council meeting of 11 July 2012 in accordance with Rule 77(14) of the Rules of Procedure of the Council.

The Panel

2. The Panel was formed by a resolution passed by the Council on 8 July 1998 and as amended on 20 December 2000, 9 October 2002, 11 July 2007 and 2 July 2008 for the purpose of monitoring and examining Government policies and issues of public concern relating to labour and manpower planning matters. The terms of reference of the Panel are in **Appendix I**.

3. The Panel comprises 18 members in the 2011-2012 session. Hon LEE Cheuk-yan and Hon LI Fung-ying were elected Chairman and Deputy Chairman of the Panel respectively. The membership list of the Panel is in **Appendix II**.

Major Work

Definition of continuous contract under the Employment Ordinance (Cap. 57) ("EO")

4. According to the findings of a survey conducted by the Census and Statistics Department ("C&SD") on employees engaged under employment contracts with short duration or working hours ("SDWH employees"), there were 98 000 SDWH employees who were virtually not engaged under a continuous contract (i.e. employed under a contract

of employment by the same employer for four weeks or more and had worked for 18 hours or more each week, the so-called "4-18" requirement), accounting for 3.4% of the total number of employees in the non-government sector. A substantial percentage of these SDWH employees were people aged between 40 and 59 with low education qualifications.

5. Members were concerned about an increasing trend of employers adopting odd pattern of hours of work or reducing the working hours of their part-time employees to less than 18 hours per week in order to evade employers' responsibilities to provide part-time employees with employment benefits. They considered that the Administration should formulate concrete measures to enhance employment protection and benefits for SDWH employees, and plug the loopholes of EO to minimize unscrupulous employers' exploitation on SDWH employees. Some members called on the Administration to remove or relax the "4-18" threshold for the purpose of extending the rights and benefits of continuous contract employees under EO to SDWH employees.

6. The Administration advised that "continuous contract" was the basis for determining an employee's eligibility for various employment rights and benefits under EO. Any change to this statutory definition would have far-reaching implications on the labour market, the business environment and the interest of the community as a whole. The Administration was undertaking a review of the definition of continuous employment under EO based on the statistical data collected on SDWH employees. During the review process, reference would be made to relevant laws, regulations, measures and experiences of other places with due regard to Hong Kong's own circumstances. Given the wide implications on employers and employees, any proposal to relax the "4-18" threshold for continuous employment had to be considered carefully. Notwithstanding this, the Administration was open-minded on the suggestion of extending the rights and benefits of "4-18" employees under EO to SDWH employees on a pro-rata basis.

Proposed amendments to the reinstatement and re-engagement provisions under EO

7. Members in general welcomed the Administration's proposal to amend EO to empower the Labour Tribunal ("LT") to make a compulsory order for reinstatement or re-engagement of an employee who had been dismissed unreasonably and unlawfully, and to require the employer to pay a further sum to the employee for failing to comply with the order. Members called on the Administration to introduce the amendment bill as

soon as possible. The Administration advised that it would endeavour to expedite the drafting process of the amendment bill, with an aim to submit it at the commencement of the Fifth LegCo.

8. Concern was expressed that some employers might circumvent their obligation to pay a further sum by first re-engaging those staff in respect of whom a compulsory order for reinstatement/re-engagement was made and then dismissing them after a certain period of time. Members considered it necessary for the Administration to further enhance the protection brought by the compulsory order to employees. Some members considered that the proposed further sum which was three times of the monthly wages of the employee concerned and capped at \$50,000 was too low. These members suggested that the cap should be removed to enable LT to award a higher amount of compensation, so as to deter employers from evading their obligation to comply with the compulsory order.

9. The Administration advised that if circumstances so warranted, it would conduct a review of the present proposal, including the need for increasing the proposed further sum, after the proposed amendments had come into effect. The proposed ceiling was arrived at by making reference to the claim cases received in the past which showed that the average monthly salary of employees was around \$10,000. As the further sum, which was over and above the terminal payments and award of compensation stipulated under the existing provisions of EO, was an additional monetary compensation to recompense the aggrieved employee in consequence of the employer's non-compliance with the compulsory order of reinstatement or re-engagement, the Administration considered the proposed level of the further sum appropriate

Review of the levels of compensation under the Employees' Compensation Ordinance (Cap. 282) ("ECO"), the Pneumoconiosis and Mesothelioma (Compensation) Ordinance (Cap. 360) ("PMCO") and the Occupational Deafness (Compensation) Ordinance (Cap. 469) ("ODCO")

10. In January 2012, the Panel examined the Administration's proposal to increase the amount of a total of 10 compensation items under ECO, PMCO and ODCO in line with the findings of the biennial review covering 2009 and 2010 on the levels of compensation under the three Ordinances. The majority of members of the Panel considered that the proposed 1.48% increase in the compensation levels for the five relevant items under ECO far from sufficient as the proposed adjustments failed to reflect accurately the latest price movement. Pointing out that the implementation of the statutory minimum wage ("SMW") would have an

impact on the wage and price movements, these members considered it necessary for the Administration to take into account the impact of SMW in future reviews of the compensation levels under the three Ordinances.

11. The Panel passed a motion urging the Government to, among others, expeditiously make upward adjustment to the levels of compensation under various occupational compensation ordinances as well as the amounts for rendering compensation and support such as funeral and medical expenses. The Panel also passed another motion urging the Government to raise the maximum amount of funeral expenses reimbursable under ECO and PMCO to \$85,000.

12. According to the Administration, the level of compensation for the five relevant items under ECO was normally adjusted according to the wage movement as reflected by Nominal Wage Index ("NWI"). As NWI decreased by 1% in 2009 but increased by 2.5% in 2010 according to C&SD, the net increase in wage movement for 2009-2010 was 1.48%. It was the established practice for the Administration to review the levels of compensation provided for under ECO and PMCO every two years. For the current review, all relevant data were available for analysis in mid-2011.

13. The Administration further explained that the maximum amount of funeral expenses reimbursable under ECO and PMCO was also subject to review every two years by reference to the movement of the Consumer Price Index ("CPI") (A). The rate had been frozen for around 10 years because the increases in CPI(A) over the years had yet to offset the cumulated rates of decrease since the last adjustment in 2000. When setting the present maximum level for funeral expenses in 2000, an amount of \$10,000 was added on top of the estimated cremation costs to come up with the \$35,000 maximum level for funeral expenses, taking into account the expenses incurred by people who opted for cinerary urns in the private sector. In proposing the increase from the current ceiling of \$35,000 to \$55,000, the Administration had allowed a 50% increase in the provision, i.e. from \$10,000 in 2000 to \$15,000 in 2011, to cater for the higher price of urns in the private sector.

14. The Panel was advised in May 2012 that in view of the impact brought by the implementation of SMW in May 2011, the Government had made a special arrangement to conduct a three-year review to take account of the very special circumstances. Members welcomed the Administration's revised proposal to make substantial upward adjustments to the levels of compensation under the three Ordinances and the maximum amount of funeral expenses reimbursable under ECO and

PMCO from \$35,000 to \$70,000, and urged the Administration to implement as early as practicable the revised levels of compensation for employees. This notwithstanding, some members remained of the view that the Administration should conduct a comprehensive review on ECO and introduce improvements, including facilitating the early rehabilitation of injured workers, to keep pace with the developments in society.

15. Apart from examining the levels of compensation under the three Ordinances, the Panel had also considered the need to provide compensation to employees for pain arising from occupational deafness. Expressing concern that people suffering from occupational deafness had to endure constant and immeasurable pain for the rest of their lives, the Panel passed a motion requesting the Government to provide an implementation timetable as well as the relevant details for the establishment of "Compensation for Pain arising from Occupational Deafness". The Administration advised that ODCO provided one-off compensation and benefits for people who suffered from noise-induced deafness by reason of their employment. In April 2010, ODCO was amended to extend the coverage of compensation to employees suffering from monaural hearing loss and those who had been compensated but their hearing loss had worsened over the years. Nonetheless, the Administration would continue to adopt an open attitude towards specific proposals to improve ODCO.

Implementation of the Employment (Amendment) Ordinance 2010

16. Members discussed with the Administration the implementation progress of the Employment (Amendment) Ordinance 2010 ("the Amendment Ordinance") which had made employers' wilful defaults of awards by LT or Minor Employment Claims Adjudication Board ("MECAB") a criminal offence. Members raised concern about the relatively low prosecution rate and whether the penalties imposed had adequate deterrent effect against defaulting acts. Some members queried whether the low prosecution rate was due to the inclusion of the elements of "wilfulness" and "without reasonable excuse" in section 43P of EO.

17. According to the Administration, the elements of "wilfulness" and "without reasonable excuse" were not novel and were equally adopted in other wage offence provisions under EO. Among the 835 default cases handled during the 15-month period after the commencement of the Amendment Ordinance in October 2010, LD had instituted prosecution for 46 cases. Investigation was underway in 88 cases, and consideration was being given to whether prosecution should be instituted in another 32 cases. Among the 46 cases in which prosecution was instituted,

convictions had been secured in 19 cases involving 38 summonses. Only two cases did not secure a conviction, and court action was still in progress for the remaining 25 cases. Generally speaking, the success rate of prosecution was not low.

18. Members expressed grave concern that there were some 200 cases where the employers or directors could not be located, mostly due to cessation of business. There was a worry that unscrupulous employers might conveniently circumvent the law to evade paying LT or MECAB awards, by applying for a winding-up or bankruptcy petition. The Administration assured members that upon receipt of a default award complaint, LD officers would explore every possible means to locate the employers or directors concerned. The Government could hold directors of companies personally liable for non-payment of LT or MECAB awards. If there was sufficient evidence to support a charge, prosecution could be instituted against the directors of the company concerned even after the company had been wound up.

Supplementary provisions for top-up payments to government service contractors

19. The Administration briefed the Panel on its special arrangement to authorize bureaux and departments to provide top-up payments to government service contractors in respect of contracts straddling 1 May 2011 ("the special arrangement") to meet the extra government service contract expenditure in 2011-2012 to cover the increase in wage costs of non-skilled workers arising solely and directly from the implementation of SMW.

20. Pointing out that the issue of implementing SMW had been discussed for a long time and the Minimum Wage Ordinance (Cap. 608) ("MWO") was passed by LegCo on 17 July 2010, members were of the view that service contractors should have taken into account their obligation to pay non-skilled workers SMW and assessed whether this would contribute to higher tender costs in offering bids for government services. Members raised concern about the need for providing government service contractors with top-up payments.

21. The Administration advised that notwithstanding the introduction of the Minimum Wage Bill and the enactment of MWO respectively in June 2009 and July 2010, the initial SMW rate at \$28 per hour had not been recommended until the end of 2010. While noting that the liability rested with the contractors, the Administration recognized that the implementation of the initial SMW rate was unique in that many

government service contractors, particularly those relying heavily on the deployment of non-skilled workers, such as cleansing and guarding services, might not be able to capture the impact of SMW on their contract prices when offering bids at the tendering stage. The Administration stressed that the top-up arrangement was intended as a one-off and exceptional measure. The Government would not provide top-up payments to new contracts upon subsequent adjustments of the level of SMW.

Major findings of the 2011 Annual Earnings and Hours Survey ("AEHS")

22. During the discussions on the major findings of the 2011 AEHS, many members expressed deep concern about the time lag between C&SD's data collection/analyses, the Minimum Wage Commission ("MWC")'s deliberation of SMW rate and the implementation of the new SMW rate. The Administration explained that given the large scale of AEHS, with a sample size of about 10 000 business undertakings and 60 000 employees, considerable time was required to collect the statistical data. C&SD normally required eight months for completion of data collection, compilation and analysis, which was comparable with that of overseas countries such as the United Kingdom and Australia. The Administration would strive to further speed up the process wherever practicable. The Administration also advised that apart from the wage statistics from AEHS, MWC would take into account a basket of indicators, supplementary statistical data and other relevant considerations when studying the SMW rate.

23. There was a suggestion that the Administration should conduct a "tracking study" on employers and employees, so as to monitor the empirical magnitude of knock-on effects after the implementation of SMW. Members noted that the Administration had commissioned a consultancy study targetting at employees working in the catering and the retail sectors, for the purpose of assessing the impact of the implementation of SMW on these two selected sectors including its effect on pay hierarchies and the likely magnitude of knock-on effects. Findings of the study were expected to be available around mid-2012 and could provide relevant statistics for the reference of MWC.

24. Noting that the statistics compiled in the 2011 AEHS provided one of the essential inputs for analyses relating to the review of the SMW rate by MWC, members received views from deputations on the subject. While some members shared the views of some of the deputations that the initial SMW rate of \$28 per hour should be increased and the SMW rate should be reviewed annually, some other members expressed grave

concern about the ripple effects of SMW on the employment market and the small and medium enterprises ("SMEs").

25. According to the Administration, MWC would study and recommend the next SMW rate by adopting an evidence-based approach. MWC would take into account empirical data of related researches and surveys, examine the potential impact of SMW on society, local economy and employment, and consult stakeholders extensively.

Hong Kong's occupational safety performance in 2011

Construction industry

26. The Panel discussed with the Administration the subject of the safety performance and occupational health of Hong Kong's construction industry at two meetings. At the meeting held in November 2011, members expressed concern about the sharp increase in the number of industrial accidents and fatalities as well as the large numbers of warnings, improvement notices ("INs") and suspension notices ("SNs") issued and prosecutions instituted in the first three quarters of 2011 in the construction industry. Some members were concerned that the substantial increase in the issue of warnings, INs and SNs had reflected the gravity of the non-compliance problem and the inadequacy of the existing legislation in deterring unsafe work practices. These members called on the Administration to put in place measures with stronger deterrent effect to ensure contractors' and sub-contractors' compliance with the safety legislation and adoption of necessary preventive measures to protect the safety of construction workers.

27. The Administration explained that the increase in the issue of warnings, INs and SNs could be attributed to a number of factors, including the Labour Department ("LD")'s stepped up enforcement efforts and the rebound of the local economy in the period which led to a corresponding growth in the numbers of infrastructure projects, repair, maintenance, alteration and addition ("RMAA") works as well as workers engaged in building and construction works. To ensure contractors' and workers' compliance with the relevant safety legislation, LD would continue with its efforts to inculcate a safety culture in workplaces through a multifarious strategy of legislation and law enforcement, promotion and publicity, as well as education and training. LD would further enhance cooperation with various stakeholders to closely monitor the safety and health performance of the infrastructure projects. A dedicated team in LD would participate in regular site safety management meetings and safety walks of these projects, and take rigorous

enforcement actions to ensure that safety systems of work were in place. Advice would also be offered to relevant works departments/project clients at the planning stage to ensure due consideration of occupational safety and health ("OSH") requirements from the design stage to subsequent stage of project implementation and delivery.

28. The Administration briefed the Panel on the new measures on improving the OSH performance of construction workers at the meeting in June 2012. Deputations were also invited to give views on the subject.

29. Members noted that LD further boosted its enforcement efforts in 2012 and had put across a clear message to the industry that LD would take immediate enforcement action without warning upon discovery of breaches of the occupational safety legislation which could result in injuries or death of workers. LD and the Occupational Safety and Health Council ("OSHC") held a Construction Safety Forum in March 2012 to consider measures to strengthen site management and supervision, enhance safety awareness and responsibilities of workers and improve the safety management system of the construction industry. On 1 June 2012, OSHC and LD launched an "OSH Star Enterprise - Pilot Scheme on RMAA Safety Accreditation" for the industry, aiming at improving the occupational safety performance of the RMAA SMEs through offering technical support and financial incentive.

Professional drivers

30. OSH of professional drivers was another concern of the Panel. Members discussed with the Administration the measures to improve the OSH performance of professional drivers and received views from deputations on the subject in June 2012. Members shared the concerns of deputations about the risk of heat stroke when professional drivers worked in hot weather and the non-coverage of professional drivers in the Occupational Safety and Health Ordinance (Cap. 509) ("OSHO"). Members requested the Administration to consider extending the coverage of OSO to professional drivers to enhance their OSH.

31. The Administration advised that it had reviewed the existing legislation relating to professional drivers. The Road Traffic Ordinance (Cap. 374) ("RTO") covered road safety issues concerning all drivers (including professional drivers), and these included the design and maintenance of vehicles and roads, drivers' driving skills and attitude, the use of vehicle security devices as well as the behaviour of other road users. The Road Traffic (Construction and Maintenance of Vehicles) Regulations regulated the construction and maintenance of vehicles,

including safety after alteration and driver's accommodation providing adequate protection against bad weather, and the Road Traffic (Safety Equipment) Regulations regulated the safety equipment of vehicles (such as seat belts). In view of the scope of the provisions of RTO, OSHO did not cover the driver's seat of a vehicle. The Administration pointed out that it was difficult for employers of professional drivers to fully ensure the occupational safety of drivers while they were driving, as drivers' driving attitude, road conditions and the behaviour of other road users were beyond their control in a reasonably practicable manner. However, OSHO safeguarded OSH of employed drivers while they were carrying out non-driving work.

Review of occupational diseases in Hong Kong in 2011

32. The Panel was briefed by the Administration on the situation of occupational diseases in Hong Kong in 2011. Members called on the Administration to review the list of compensable occupational diseases in the Second Schedule to ECO to examine whether its scope and coverage should be expanded in the light of the latest changes in the situation of occupational diseases in Hong Kong.

33. The Administration advised that it reviewed the list of compensable occupational diseases from time to time and had updated the list in the light of international development. Since 1991, there had been four amendments to the list, which resulted in the addition of 13 new occupational diseases and expansion of the coverage of three occupational diseases. The Administration pointed out that Hong Kong followed international practices and would make reference to the criteria adopted by the International Labour Organization in determining whether a disease should be prescribed as an occupational disease for employees' compensation. One of the criteria was whether a causal relationship between the disease and the occupation could be reasonably presumed or established in individual cases.

34. Notwithstanding the Administration's explanation, some members maintained their view that the Administration should consider adopting less stringent criteria and lowering the threshold for prescribing a disease, such as musculoskeletal disorders, as occupational disease in order to enhance the protection for employees.

Implementation of the Work Incentive Transport Subsidy ("WITS") Scheme

35. The Panel was briefed by the Administration on the latest

implementation progress of the WITS Scheme, and the Administration's plan to adjust the income and asset limits for applying WITS with effect from March 2012 onwards. Members also received views from deputations on the implementation of the WITS Scheme.

36. While welcoming the Administration's adjustments to the means test limits, members were concerned about the low take-up rate of the WITS Scheme in the first four months of operation. Members took the view that even if the income and asset limits were to be relaxed, the situation would not change substantially given the adoption of a household-based approach in assessing applicants' eligibility for WITS. Members shared the views of deputations and strongly requested the Administration to give serious consideration to adopting a "dual-track" approach for the means test and allowing applicants the choice of undergoing a means test on an individual or household basis.

37. According to the Administration, the implementation of SMW had led to a notable increase of wages across the board, particularly at the low-end fraction. The wage movement had also been in an upward trend over 2011 or so owing to the significantly improved local economic situation. In the light of this, the Administration had taken the initiatives to update the income limits and, at the same time, increase the asset limits to maximize the flexibility of enhancing the Scheme. The Administration would carry out a mid-term review in October 2012 to take account of the operational experience in the first year of implementation, and a comprehensive review after three years of operation. Since the policy objective of the Scheme was to assist employed members of low-income households, it was considered appropriate to adopt the concept of "household" for the purpose of conducting means test. Notwithstanding this, the Administration would consider different issues, including the "dual-track" approach, during its review of the Scheme.

38. There was a suggestion that to allow a greater number of low-income employees to benefit from the WITS Scheme, the Administration should remove the requirement for applicants to pass an asset test. In the Administration's view, as the subsidy was provided on a recurrent basis, it had to ensure that public money was spent prudently. The means test requirement, in particular the asset threshold requirement, should remain.

Establishment of the pioneer one-stop employment and training centre in Tin Shui Wai

39. Members were briefed on the latest progress in the setting up of the pioneer one-stop employment and training centre ("the Centre") (also

named as "Employment in One-stop") in Tin Shui Wai. Members in general expressed support for the establishment of the Centre in Tin Shui Wai for the purpose of streamlining, integrating and enhancing the existing employment, training and retraining services provided by LD, Social Welfare Department ("SWD") and the Employees Retraining Board ("ERB"), since the Centre would save job-seekers in the district the time and trouble of travelling between LD's Job Centres and ERB's training centres to look for job opportunities and to attend training during the job hunting process. The Administration was requested to actively consider making improvements to the "Employment in One-stop" based on the experience gained in the pioneer plan in Tin Shui Wai, with a view to setting up similar one-stop employment and training centres in more districts, particularly in new towns.

40. According to the Administration, the Centre would adopt a needs assessment tool to analyze the employment needs of individual job seekers. Based on the assessment results, case managers would try to identify job seekers' employment barriers with a view to helping them resolve their problems and provide them with intensive and customized employment support services. In its first and second years of operation, the Centre would provide on a trial basis case management and customized services respectively to 500 and 750 unemployed able-bodied Comprehensive Social Security Assistance ("CSSA") recipients in Tin Shui Wai, with a view to helping them secure employment to become self-reliant. In addition to unemployed able-bodied CSSA recipients, the enhanced employment services would also be provided to 50 other job seekers with special employment difficulties (i.e. those who had remained unemployed for a prolonged period or those who had repeatedly failed in job interviews) each year. The Administration would review the effectiveness of the Centre two years after its implementation and assess the suitability of extending the service model to other districts in the light of operational experience.

Manpower projection to 2018

41. The Administration reported to the Panel on the key findings of the Manpower Projection to 2018 and the preliminary observations of the bureaux and departments concerned on the findings. According to the Administration, the projection findings mainly offered useful reference on the broad trends in the future manpower supply and requirement of the economy at the macro level as well as the potential manpower balance at different education levels.

42. Members noted with concern that apart from the manpower surplus

of about 8 500 people at the education level of lower secondary and below, there would be a manpower shortfall of 22 000 people at various education levels between lower secondary and first degree. Members were concerned about whether the training and retraining courses offered by ERB could address the problem of manpower mismatch.

43. The Administration advised that ERB provided a full range of multi-faceted and the Qualifications Framework-recognized courses to assist their trainees in acquiring vocational skills and recognized qualifications. ERB courses would help improve the qualifications and employability of low-skilled workers, which might in turn help address the projected manpower shortfall at the education levels between lower secondary and first degree.

Implementation of the Pilot Employment Navigator Programme ("ENP")

44. While expressing support for the upward adjustment of the salary ceiling for granting cash incentive under the Pilot ENP from \$6,500 to \$7,300, members were concerned about the effectiveness of the Programme in achieving its objective of helping the unemployed to secure employment, given the small number of participants granted with cash incentives under the Programme. There was a view that salary ceiling under the Pilot ENP should be set on par with the threshold under the WITS Scheme under which the income limit for a one-person household had been raised to over \$7,665.

45. Members were advised that the policy objective of the Pilot ENP was distinct from that of the WITS Scheme. The Pilot ENP targetted at motivating those unemployed persons with low skills and no relevant working experience, through the offering of cash incentive, to secure and stay in employment. Up to the end of February 2012, a total of 4 991 job seekers had joined the Pilot ENP. Among them, 2 901 participants were confirmed to have secured employment and 513 of them had applied for cash incentive. During the implementation of the Pilot ENP, LD regularly collected feedback from the participants on whether the Pilot ENP could help the participants to secure employment. Among the 1 259 participants who had provided feedback, over 80% considered the Pilot ENP useful in enhancing their knowledge of the labour market as well as their job search and interviewing skills.

Government policy relating to the outsourcing of service contracts

46. The Panel examined with the Administration the Government policy relating to the outsourcing of service contracts. Some members

held a strong view against the Government's outsourcing policy as it seriously affected job security of the employees of government service contractors and created problems of staff exploitation. These members pointed out that an employee's entitlement to severance payment ("SP"), long service payment ("LSP") and benefits under EO was calculated by reference to the number of fully reckonable years of service, and a break in service would have negative impact on the employee's entitlement. They considered that the Administration should mandate in government service contracts that if there was a change of contractors at the end of the contract period, the incoming contractor had to take over the workers of the outgoing contractor and allow these workers to carry over their year of service to the new contract for calculation of statutory employment benefits.

47. According to the Administration, the members' suggestion would considerably reduce the flexibility of service contractors in the deployment of their workers, which was essential to the business operation of the cleaning or security industry. If the incoming contractor had to take over the existing employees of the outgoing contractor (irrespective of their individual performance), he might find it unfair to be held accountable for the workers' performance under the service contract. Incoming contractors would also have practical difficulties in estimating their liabilities for provision of employment benefits, in particular those contingent liabilities like SP or LSP, if they were to assume the responsibility for the years of service of the outgoing contractor's employees.

48. The Administration further advised that contractors wishing to bid for such government contracts would face practical problems. Bidders needed to know the employment profile of individual workers currently working on the site before they could assess the cost implication of taking over their years of service in the new contract. It would be very difficult for them to do so. The Administration was also concerned about any possible abuse of public money if the actual pay-out by contractors was less than the amount budgeted in the tender price due to, for example, staff turnover or contingent liabilities such as SP not realized in the end.

Paternity leave

49. Members were briefed on the findings of the Administration's study on legislating for the provision of paternity leave by employers in Hong Kong to their male employees. The majority of the Panel members expressed disappointment that the Administration did not state clearly its stance on whether paternity leave would be made mandatory by way of legislation. These members held a strong view that as there was already a general consensus in the community on making paternity leave a statutory requirement on all employers, the Government should expeditiously legislate for the provision of paternity leave to all employees.

50. The Administration stressed that the Government was inclined to legislate for the provision of paternity leave to all employees. However, the Government needed to assess carefully the possible impact of legislating for paternity leave on employers, particularly SMEs, and the economy as a whole in order to strike a balance between the interests of employees and the affordability of employers. There was also a need to examine various policy, legal, moral and implementation issues that might possibly emerge if paternity leave was to be made a statutory benefit for all male employees in Hong Kong.

51. The Administration further advised that the Labour Advisory Board ("LAB") was consulted on the subject matter in May 2012. While employee members unanimously supported legislating for the provision of paternity leave, employer members had reservation about implementing paternity leave by legislative means at this stage as SMW had been implemented for only one year and its effects on the business sector had yet to be clearly ascertained. The Administration was requested to gather more information on the implementation of paternity leave in other jurisdictions to facilitate LAB members in considering the need for statutory paternity leave in Hong Kong. The Administration would revert to LAB in the fourth quarter of 2012.

52. Some members raised concern that while the Government had taken the lead in providing paid paternity leave to civil servants, it had not extended this family friendly measure to employees of publicly-funded bodies, subvented organizations and contractors and service providers to the Government. These members held the view that the Government should implement paternity leave in all these organizations.

Meetings held

53. During the period between October 2011 and end of June 2012, the Panel held a total of 12 meetings, including a special meeting on the organization structure in relation to the policy areas pertaining to human resources proposed by the Chief Executive-elect. The Panel has scheduled another meeting in July 2012.

Council Business Division 2
Legislative Council Secretariat
5 July 2012

**Legislative Council
Panel on Manpower**

Terms of Reference

1. To monitor and examine Government policies and issues of public concern relating to labour, manpower planning, vocational training and education, and qualifications framework.
2. To provide a forum for the exchange and dissemination of views on the above policy matters.
3. To receive briefings and to formulate views on any major legislative or financial proposals in respect of the above policy areas prior to their formal introduction to the Council or Finance Committee.
4. To monitor and examine, to the extent it considers necessary, the above policy matters referred to it by a member of the Panel or by the House Committee.
5. To make reports to the Council or to the House Committee as required by the Rules of Procedure.

**Legislative Council
Panel on Manpower**

Membership list for 2011-2012 session

Chairman	Hon LEE Cheuk-yan
Deputy Chairman	Hon LI Fung-ying, SBS, JP
Members	Hon CHEUNG Man-kwong Hon LEUNG Yiu-chung Hon Andrew CHENG Kar-foo Hon Tommy CHEUNG Yu-yan, SBS, JP Hon Frederick FUNG Kin-kee, SBS, JP Hon WONG Kwok-hing, MH Hon Andrew LEUNG Kwan-yuen, GBS, JP Hon CHAN Kin-por, BBS, JP Hon CHEUNG Kwok-che Hon WONG Sing-chi Hon WONG Kwok-kin, BBS Hon IP Wai-ming, MH Hon IP Kwok-him, GBS, JP Dr Hon PAN Pey-chyou Hon Alan LEONG Kah-kit, SC Hon LEUNG Kwok-hung

(Total : 18 Members)

Clerk Ms Alice LEUNG

Legal adviser Ms Clara TAM

Date 3 July 2012