

ITEM FOR ESTABLISHMENT SUBCOMMITTEE OF FINANCE COMMITTEE

HEAD 90 – LABOUR DEPARTMENT Subhead 000 Operational expenses

Members are invited to recommend to Finance Committee the creation of the following supernumerary post in the Labour Department for a period of three years from 1 April 2013 to 31 March 2016 –

1 Chief Labour Officer
(D1) (\$112,200 - \$122,650)

PROBLEM

We need to strengthen the staffing support at the directorate level of the Labour Department (LD) to head the newly established dedicated Working Hours Policy Division (WHPD) and to support the Special Committee on Standard Working Hours (Special Committee).

PROPOSAL

2. We propose to create one supernumerary post of Chief Labour Officer (CLO) (D1) in LD for a period of three years from 1 April 2013 to 31 March 2016 to provide the necessary support at the directorate level to facilitate the work of the Special Committee and undertake all duties related to standard working hours (SWH), including following up on the deliberations and suggestions of the Special Committee, spearheading in-depth policy researches and formulation, organising consultations, and launching public awareness and education campaigns, etc.

/JUSTIFICATION

JUSTIFICATION

Policy Study on SWH

3. The Administration has completed a policy study on SWH which covered (a) the regimes and experience of other places in regulating working hours; (b) the latest working hours situation of employees in various sectors of Hong Kong; and (c) assessment of the possible impact of introducing SWH in Hong Kong. The study aimed to provide a solid and objective basis for an informed and in-depth discussion on the important subject of SWH, and stimulate the exchange of views among people from different sectors.

4. The full report of the policy study was released on 26 November 2012. In the report, some key issues crucial to the design and implementation of a working hours regime were identified for further examination, namely, definition of working hours, standard/maximum working hours, and exemptions and flexibility arrangements.

5. The report also set out a number of important issues that must be discussed thoroughly and objectively, not only among employee and employer groups, but also by the community at large. For example, there is a need to decide on certain major issues including the objective of working hours policy, the most appropriate and effective form of working hours policy for Hong Kong, and the way to cater for the unique mode of operation of different industries, with particular regard to the interests of the small and medium enterprises (SMEs) which account for well over 90 per cent of the companies in Hong Kong, etc. We need to ensure that the policy fits Hong Kong's unique socio-economic circumstances on the one hand, and balances the interests of employers and employees as well as broader social concerns on the other.

Establishment of Special Committee

6. The Chief Executive (CE) has mentioned in his election manifesto that a Special Committee would be set up to follow up on the study. The Special Committee would comprise Government officials, representatives of labour unions and employers' associations, academics and community leaders. Such a composition would ensure that the Special Committee can work in an objective, holistic and balanced manner, and that the views and concerns on SWH's impact on the overall economy, labour market, SMEs and people's livelihood, etc., would be properly and fully reflected.

7. The Secretary for Labour and Welfare is taking steps to form the Special Committee. The preparatory work is expected to be completed within the first quarter of 2013. Given the complexity and sensitivity of SWH and its significant implications for the local economy and labour market, the Special Committee must be allowed ample time and adequate support to thoroughly examine the issues involved and to conduct consultation.

Setting up of the WHPD

8. The Administration's policy study on SWH was conducted by a temporary team re-deployed from other divisions in LD on a short-term basis. In view of the highly complex, contentious and technical nature of the SWH issues and the mandate of the Special Committee mentioned above, it is necessary to set up a dedicated WHPD in LD to provide support to the Special Committee and to continually and intensively follow up on the study. The WHPD will initially consist of two dedicated teams. They are (a) a secretariat team to provide effective secretariat support to the Special Committee; and (b) a research and consultation team to provide policy support and co-ordinate policy formulation which includes: conducting further in-depth research of working hours systems, proposing further assessments of the implications of the working hours policy for various aspects of the economy, studying measures related to specific sectors with special working hours patterns or arrangements, supporting the Special Committee to conduct consultations, launching public awareness and education campaigns, and promoting public understanding of SWH-related measures.

Need for a Supernumerary Directorate Post of Chief Labour Officer

9. To lead the WHPD in undertaking the tasks at paragraph 8 above would require a sufficiently senior Labour Officer Grade officer with sound understanding of labour issues and the labour scene, and the ability to tactfully handle this technical and complex subject. We therefore propose to create a supernumerary post of CLO to be designated as Chief Labour Officer (Working Hours Policy) (CLO(WHP)) for a period of three years from 1 April 2013 to 31 March 2016. The proposed CLO(WHP) will report to the Assistant Commissioner (Policy Support). As the Head of WHPD, the proposed CLO(WHP) will serve as the Secretary and oversee the secretariat support to the Special Committee; organise consultations; launch public awareness and education campaigns; oversee further in-depth policy research; propose and coordinate further assessments of the implications of the working hours policy for the overall economy and labour market (particularly the SMEs); as well as follow up on the deliberations and suggestions of the Special Committee as appropriate. Furthermore, the proposed CLO(WHP) will lead the analysis of views from stakeholders for reference by the Special Committee in its deliberation of policy direction.

10. The duration of the post is proposed with full regard to the complex and controversial nature of SWH and the important policy issues that need to be considered by the Special Committee. We will review the continued need of the proposed post in the light of the progress of work of the Special Committee.

Non-directorate Manpower Support

11. The proposed CLO(WHP) post will be supported by the two dedicated teams in the WHPD mentioned in paragraph 8 above comprising seven newly created time-limited posts, including: one Senior Labour Officer, two Labour Officer, one Assistant Labour Officer (ALO) I, two ALO II and one Assistant Clerical Officer posts.

Encl. 1 12. The job description of the proposed CLO(WHP) post is at Enclosure 1. The existing and proposed organisation charts of the LD are at Encls. 2&3 Enclosures 2 and 3 respectively.

ALTERNATIVES CONSIDERED

Encl. 4 13. At present, there are seven directorate officers, comprising five Assistant Commissioners for Labour and two CLOs, supporting the Deputy Commissioner for Labour (Labour Administration) in the Labour Administration Branch (LAB) of LD. We have critically examined the possibility of redeploying existing directorate staff in LD to absorb the duties of the proposed CLO post. However, all the existing directorate staff have already been over-stretched in their own schedule of policy and operational duties as well as the new initiatives introduced in the light of growing community demand for employment, labour relations and other labour services. The areas of work for the existing five Assistant Commissioners for Labour and the two CLOs in the LAB are set out in Enclosure 4. It is not possible for any one of them to take up the duties of the proposed CLO post without adversely affecting the discharge of their current duties.

FINANCIAL IMPLICATIONS

14. The proposed creation of the CLO post will bring about an additional notional annual salary cost at mid-point of \$1,428,600. The full annual average staff cost, including salaries and on-cost, is projected to be \$1,755,000. For the seven newly created non-directorate posts mentioned in paragraph 11 above, they involve an additional notional annual salary cost at mid-point of \$4,343,820 and full annual average staff cost of \$6,009,000. We will include the necessary provision in the draft Estimates of 2013-14 and the subsequent years to meet the cost of this proposal and the supporting staff required.

PUBLIC CONSULTATION

15. We briefed the Legislative Council Panel on Manpower on 18 December 2012 on the policy study on SWH and the proposed creation of the CLO(WHP) post. Members gave in-principle support to this proposal for submission to the Establishment Subcommittee.

BACKGROUND

16. In recent years, there is increasing public concern over the impact of long working hours on employees' health and work-life balance. However, SWH is a highly complex and contentious subject which involves a myriad of social and economic issues, with impact on a very wide spectrum of employees. Legislating for SWH would have far-reaching implications for the community, economy, competitiveness and employment, etc. At present, employers, employees and various sectors of the community hold divergent views on whether SWH should be introduced in Hong Kong. Against the above background, the previous Administration had initiated a policy study on SWH and the report was released in November 2012. The CE mentioned in his election manifesto that a Special Committee would be set up to follow up on the policy study.

ESTABLISHMENT CHANGES

17. The establishment changes in LD for the last two years are as follows –

| Establishment (Note) | Number of posts | | | |
|-------------------------|---------------------------------------|-----------------------|-----------------------|-----------------------|
| | Existing (as at 1 January 2013) | As at 1 April 2012 | As at 1 April 2011 | As at 1 April 2010 |
| A | 15# | 15 | 15 | 13+(1) |
| B | 343 | 349 | 335 | 323 |
| C | 1 841 | 1 826 | 1 615 | 1 509 |
| Total | 2 199 | 2 190 | 1 965 | 1 846 |

Note:

- A – ranks in the directorate pay scale or equivalent
- B – non-directorate ranks, the maximum pay point of which is above MPS point 33 or equivalent
- C – non-directorate ranks, the maximum pay point of which is at or below MPS point 33 or equivalent
- () – number of supernumerary directorate posts
- # – as at 1 January 2013, there was no unfilled directorate post

/CIVIL

CIVIL SERVICE BUREAU COMMENTS

18. The Civil Service Bureau supports the proposed creation of the supernumerary CLO post for three years to provide dedicated directorate support in the formulation of working hours policy and the operation of the Special Committee. The grading and ranking of the proposed post are considered appropriate having regard to the level and scope of responsibilities and the professional input required.

ADVICE OF THE STANDING COMMITTEE ON DIRECTORATE SALARIES AND CONDITIONS OF SERVICE

19. As the post is proposed on a supernumerary basis, its creation, if approved, will be reported to the Standing Committee on Directorate Salaries and Conditions of Service in accordance with the agreed procedure.

Labour and Welfare Bureau
Labour Department
January 2013

**Job Description of
Chief Labour Officer (Working Hours Policy)**

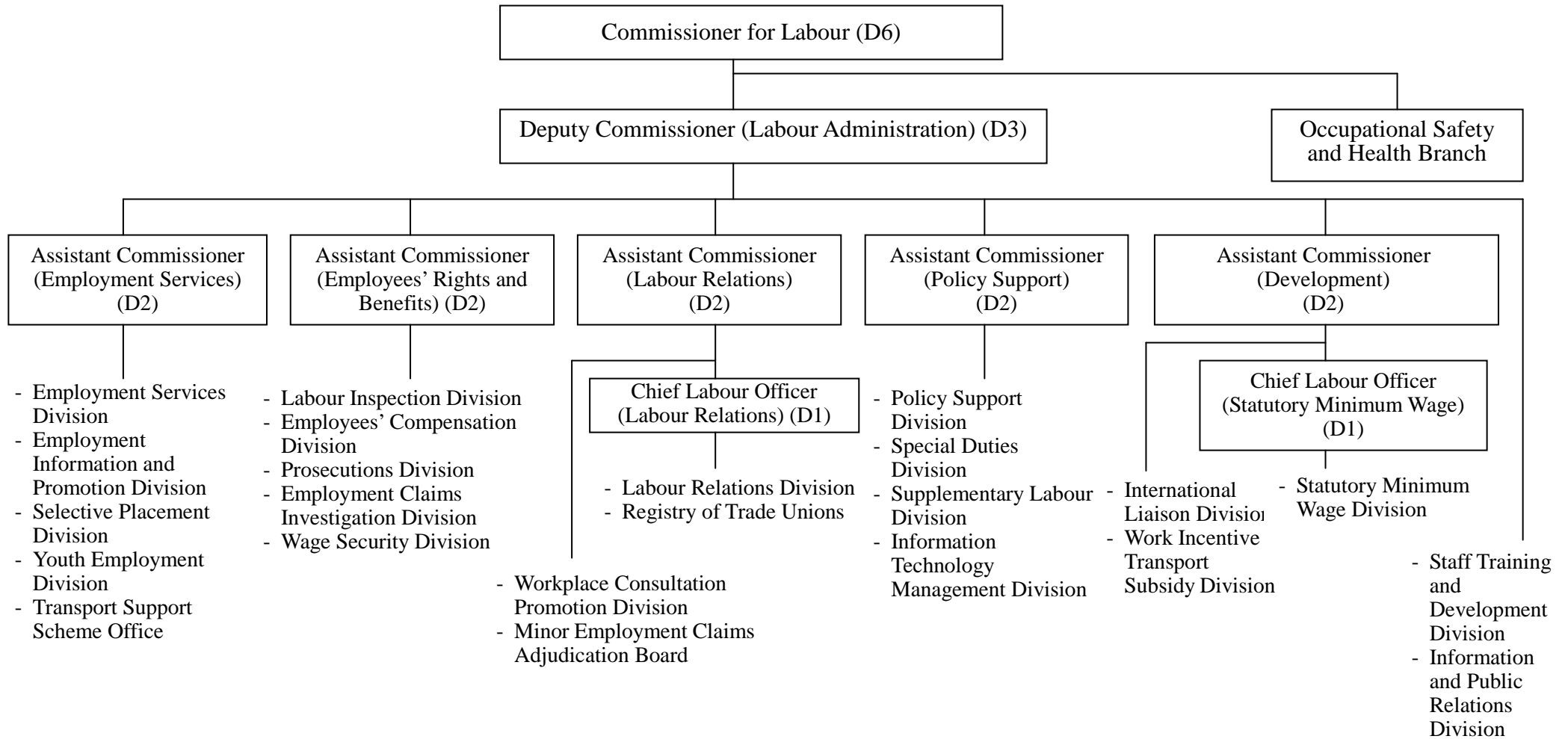
Rank : Chief Labour Officer (D1)

Responsible to : Assistant Commissioner for Labour (Policy Support)

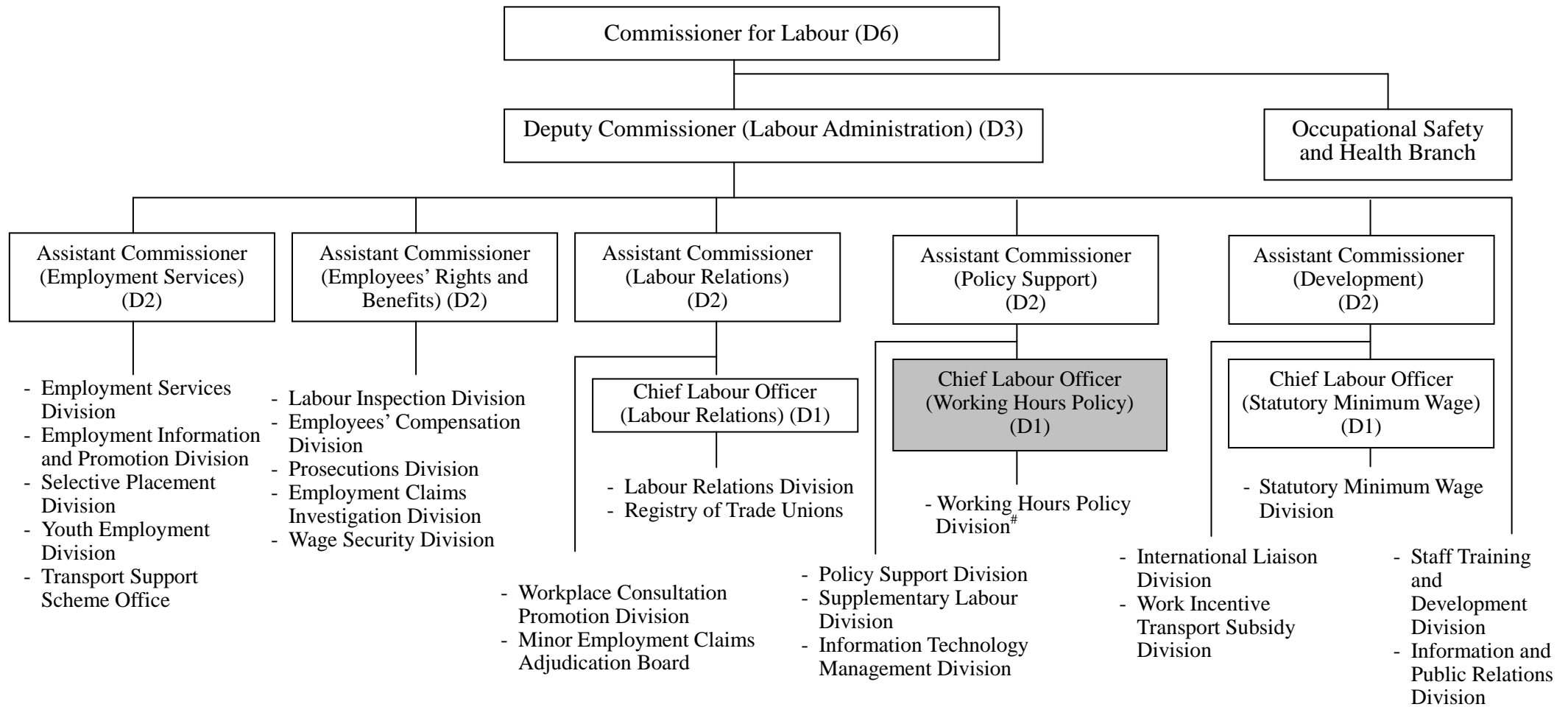
Main Duties and Responsibility –

- (i) To head a newly established Working Hours Policy Division.
 - (ii) To serve as the Secretary to the Special Committee on Standard Working Hours (Special Committee) and to oversee the secretariat support to the Special Committee.
 - (iii) To organise consultations and public awareness and education promotion activities conducted by the Special Committee.
 - (iv) To oversee further in-depth policy researches.
 - (v) To propose and coordinate critical assessment of the implications of the working hours policy on the overall economy and labour market (particularly on the small and medium enterprises).
 - (vi) To follow up on the deliberations and suggestions of the Special Committee as appropriate.
-

Existing Organisation Chart of the Labour Administration Branch of the Labour Department



Proposed Organisation Chart of the Labour Administration Branch of the Labour Department



The Division to be renamed from Special Duties Division.

**Areas of work for the existing directorate officers
in the Labour Administration Branch of Labour Department**

The Assistant Commissioner for Labour (Employment Services) formulates, implements and reviews policies and strategies on employment services for all job-seekers and employment programmes targeting vulnerable groups. These include overseeing the operation of employment services for the able-bodied and persons with disabilities, the dissemination of labour market information to job-seekers, the recruitment services for employers, the career advisory services and training cum employment programme for young people, the special employment project for the vulnerable youths, the employment programme for the middle-aged, the Work Orientation and Placement Scheme for persons with disabilities, the Work Trial Scheme for job-seekers with difficulties in finding employment, launching the pioneer one-stop employment and training centre; taking up the overall responsibilities of the management of the inter-departmental electronic portal on employment and vocational training related matters; and designing and implementing employment initiatives to assist vulnerable job-seekers amidst change in the economy. The Assistant Commissioner oversees the work of Employment Services Division, Employment Information and Promotion Division, Selective Placement Division and Youth Employment Division.

2. The Assistant Commissioner for Labour (Labour Relations) formulates, implements and reviews policies and strategies on the Employment Ordinance (EO), Trade Unions Ordinance, Labour Relations Ordinance and Minor Employment Claims Adjudication Board Ordinance; maintains and fosters harmonious labour relations in establishments outside the government sector; oversees the consultation and conciliation services for resolving employment disputes, and adjudication of minor employment claims by the Minor Employment Claims Adjudication Board (MECAB); maintains a network with stakeholders in labour relations; oversees the regulation of trade unions affairs; promotes effective communication and voluntary negotiation between employers and employees, enhances public awareness of the EO and encourages adoption of good people management and family-friendly employment practices; spearheads studies and reviews on various EO-related labour rights and benefits subjects; and works on legislative amendment exercises on the EO. The Assistant Commissioner oversees the work of Labour Relations Division, Registry of Trade Unions, Workplace Consultation Promotion Division, as well as the MECAB.

3. The Assistant Commissioner for Labour (Employees' Rights and Benefits) formulates, implements and reviews policies and strategies on five employees' compensation-related ordinances; monitors and ensures effective and efficient processing of employees' compensation cases; oversees the work of four

/related

related statutory boards; formulates and reviews inspection policies and strategies and supervises labour inspection work for labour and immigration laws; formulates and reviews complaint investigation and offence detection policies and strategies for suspected breaches against labour laws; formulates and reviews prosecution policies and strategies and supervises prosecution work in labour legislation; monitors the conducting of a thematic household survey on chiropractor consultation and the development of chiropractic in Hong Kong with a view to further assessing the recognition of sick leave certificates issued by registered chiropractors as valid sick leave certificates under labour legislation; formulates policies on, reviews and administers the Protection of Wages on Insolvency (PWI) Ordinance; oversees the provision of secretariat support to the PWI Fund Board for administration of the PWI Fund and processing of applications for ex gratia payments under the PWI Fund; and monitors the implementation of and review on expanding the scope of the PWI Fund to cover pay for untaken statutory annual leave and untaken statutory holidays as well as review on the levy of Business Registration Certificate. The Assistant Commissioner oversees the work of Employees' Compensation Division, Employment Claims Investigation Division, Wage Security Division, Labour Inspection Division and Prosecutions Division.

4. The Assistant Commissioner for Labour (Policy Support) formulates, implements and reviews policies and strategies on the importation of foreign domestic helpers (including the Minimum Allowable Wage and food allowance); oversees the importation of technician workers under the Supplementary Labour Scheme; provides inputs and support to the Quality Migrants Admission Scheme; coordinates responses of the Labour Department (LD) to the Legislative Council and undertakes related liaisons (in particular the Panel on Manpower) and District Councils; oversees the information technology management of LD; formulates and coordinates LD's inputs on international conventions (e.g. the Convention on the Elimination of All Forms of Discrimination Against Women, International Covenant on Economic, Social and Cultural Rights, International Covenant on Civil and Political Rights, etc.); formulates and coordinates LD's policy inputs in respect of various policy matters (e.g. employment-related trade and discrimination issues); oversees the elimination of age discrimination in employment; formulates policies on the Working Holiday Scheme and explores the possibility of new schemes with advanced economies; oversees the General Holidays Ordinance; and oversees enforcement on the regulation of employment agencies. The Assistant Commissioner oversees the work of Supplementary Labour Division, Information Technology Management Division, Policy Support Division and Special Duties Division (formed through internal redeployment of resources to conduct the policy study on standard working hours on a short-term basis).

5. The Assistant Commissioner for Labour (Development) plans, launches and reviews the implementation of the territory-wide Work Incentive Transport Subsidy Scheme, including steering and monitoring the operations of the

/Scheme

Scheme in receiving and processing applications, effecting subsidy payment, handling reviews and appeals, detecting and deterring abuses, and launching publicity and promotion; formulates, implements and reviews policies and strategies on statutory minimum wage (SMW) and the Minimum Wage Ordinance (MWO), and takes forward legislative exercises on the adjustment of the SMW rate; oversees the secretariat support provided to the tripartite Labour Advisory Board; monitors observance of international labour conventions applied to Hong Kong, and formulates and coordinates inputs to reports on compliance with international labour standards; oversees Hong Kong's participation in International Labour Organisation's activities; oversees negotiations on free trade agreements where provisions and/or side agreements on labour issues are involved; and liaises with labour administration counterparts in the Mainland and other jurisdictions through visits and participation in relevant activities. The Assistant Commissioner oversees the work of International Liaison Division, Statutory Minimum Wage Division and Work Incentive Transport Subsidy Division.

6. The Chief Labour Officer (Labour Relations)/Registrar of Trade Unions provides support to the Assistant Commissioner for Labour (Labour Relations) in formulating policies and strategies in respect of the maintenance of sound labour relations in the territory, putting forward proposals in legislative reviews and conducting legislative amendment exercises concerning the EO. The Chief Labour Officer steers the operation of the Labour Relations Division for resolving labour disputes and maintaining the industrial peace of Hong Kong. The Chief Labour Officer conciliates in major industrial disputes and also establishes and fosters partnership with various stakeholders of industrial relations for upholding of harmonious labour relations. As the Registrar of Trade Unions, the Chief Labour Officer is responsible for performing the statutory functions as required under the Trade Unions Ordinance with a view to fulfilling at the same time the Hong Kong Special Administrative Region Government's international commitments, and overseeing the administration of the Trade Unions Ordinance as well as the running of the Trade Unions Registry.

7. The Chief Labour Officer (Statutory Minimum Wage) provides support to the Assistant Commissioner for Labour (Development) in formulating policies and strategies in respect of SMW and the MWO. The Chief Labour Officer coordinates the implementation of the MWO involving various enforcement units and spearheads community-wide publicity and promotional campaigns; supports the statutory Minimum Wage Commission which reviews and recommends the SMW rate on the basis of the evidence-based approach and extensive consultation with stakeholders; collaborates with the Economic Analysis and Business Facilitation Unit of the Financial Secretary's Office and the Census and Statistics Department in evaluating the impact of SMW; and oversees the research and analysis of local views and overseas experiences on minimum wage.
