

For information on
25 January 2013

Legislative Council Panel on Manpower

2013 Policy Address Policy Initiatives of the Labour and Welfare Bureau

Purpose

The Chief Executive (“CE”) delivered his 2013 Policy Address on 16 January 2013. This paper sets out the new and on-going initiatives pertaining to the labour and manpower portfolio to be undertaken by the Labour and Welfare Bureau (“LWB”) and the Labour Department (“LD”) in 2013.

Our Vision

2. As CE stated in his election manifesto, the guiding concept of our manpower policy is to ensure and keep enhancing the standard of living and development opportunities of Hong Kong people and allow people with different capabilities to realise their working potential to contribute to society.

3. The Government reviews labour legislation from time to time in the light of Hong Kong’s social changes and economic developments. In improving and protecting the rights and benefits of employees, our goal is to gradually raise employment standards in a way commensurate with the pace of Hong Kong’s socio-economic developments and to strike a reasonable balance between the interests of employees and the affordability of employers.

New Initiatives

Strengthen the support to job-seekers with different degree of employment difficulties

4. Young people without working experience, middle-aged persons with low educational attainment and skills and persons with disabilities often encounter different degree of difficulties in looking for or changing jobs. To enhance the employability and employment opportunities of young people,

middle-aged persons and persons with disabilities, LD will increase the allowance payable to employers under the Youth Pre-employment Training Programme and Youth Work Experience and Training Scheme (“YPTP&YWETS”), the Employment Programme for the Middle-aged (“EPM”) and the Work Orientation and Placement Scheme (“WOPS”) so as to encourage employers to offer them more openings and provide them with on-the-job training.

5. At present, an employer is granted a monthly training allowance of \$2,000 for employing a young person or a middle-aged person and provide him/her with on-the-job training under YPTP&YWETS and EPM. The payment period of the training allowance for YPTP&YWETS is six to 12 months while that for EPM is three to six months. Under WOPS, an employer is granted an allowance for employing a job-seeker with disabilities and providing him/her with appropriate training, support and assistance. The amount of allowance is equivalent to two-thirds of the monthly salary of the employee with disabilities (subject to a maximum of \$4,000 per month). The payment period of allowance is up to six months. LD will increase the amount of on-the-job training allowance under YPTP&YWETS and EPM. On condition that the young person or the middle-aged person is employed according to the programme requirements and paid \$6,000 or above a month, the allowance payable to the employer will be increased to \$3,000. Moreover, to encourage participation in workplace attachment training under YPTP&YWETS, the allowance payable to the trainee who has completed the one-month attachment will be increased from \$2,000 to \$3,000. LD will also enhance WOPS by paying an additional allowance up to a maximum of \$5,500 per month for two months to an employer who employs a person with disabilities with employment difficulties and provide him/her with training or support during the work adaptation period. It is estimated that around 10 000 people could benefit when the aforementioned enhancement measures of the three employment programmes are implemented.

Set up a new job centre in Tung Chung

6. LD operates 11 job centres and a one-stop employment and training centre named “Employment in One-stop” to provide a range of free employment services to job-seekers. To strengthen our employment service to residents living in remote areas, LD will set up a job centre in Tung Chung in 2013-14. By then, job-seekers residing on Lantau Island, including areas like Tung Chung, Mui Wo, Tai O and Discovery Bay, can seek employment support in this job centre, thus reducing greatly the time required by job-seekers in the region for receiving employment services and save their travelling expenses.

7. As in the case of other job centres, the Tung Chung Job Centre will provide job-seekers with employment support services including job referrals, latest employment information, as well as organising employment briefings and job fairs etc. Facilities like vacancy search terminals, fax machines, telephones, computers with internet connection and resource corners will be provided in the job centre for use of job-seekers to facilitate their job search. People who have difficulties finding work can also enrol in specialised employment programmes implemented by LD to enhance their employability or participate in district-based job fairs to increase their chances of securing employment.

8. Apart from paying visits to job centres, job-seekers may obtain the latest vacancy information through the Interactive Employment Service website as well as the various vacancy search terminals located in the territory and make job applications to employers direct. Job-seekers may further make use of the Interactive Employment Service mobile applications to browse LD's job vacancy database anytime and anywhere through smart phones or mobile communication devices. Registered job-seekers can obtain referral services from the Telephone Employment Service Hotline.

Abolishing the collection of the Employees Retraining Levy from employers of foreign domestic helpers ("FDHs")

9. The Employees Retraining Board ("ERB") provides training and retraining services to promote the employability of local employees and to maintain the economic competitiveness of Hong Kong. As a long-term commitment to enhance the productivity of the local workforce, the Secretary for Labour and Welfare will make a proposal to the Financial Secretary on the long-term financial arrangement for ERB. Meanwhile, noting the different views in the community on the collection of the Employees Retraining Levy from employers of FDHs, the Government has decided to abolish the levy when suspension of the collection of such levy expires on 31 July 2013 so as to ease the burden on families employing FDHs. This decision will benefit the employers of over 300 000 FDHs in Hong Kong and will reduce the levy receipts of the Government by about \$1.5 billion a year.

Provision of statutory paternity leave ("PL")

10. The Hong Kong community attaches increasing importance to a father's responsibilities in the family. With the Government's continuous efforts in promoting family-friendly employment practices in recent years, there

is an increasing trend in the provision of PL by private enterprises to their male employees. There are views that the Government should legislate for the provision of PL by employers so as to benefit all male employees. To this end, the LD has conducted a study on legislating for PL and reported the findings to the Labour Advisory Board (“LAB”) and this Panel in May and June 2012 respectively.

11. After thorough deliberations, LAB in late November 2012 supported legislating for three-day’s PL with pay at a daily rate equivalent to four-fifths of the employee’s average daily wages. After consulting this Panel, we will commence the legislative process as soon as possible.

Set up the Special Committee on Standard Working Hours (“SWH”)

12. The Government released the “Report of the Policy Study on Standard Working Hours” (“the Report”) in late November 2012, which examines the experience of 12 other economies in implementing SWH, assesses the possible impact of introducing SWH to Hong Kong’s labour market and economy, and identifies a number of key issues that need to be discussed in depth and objectively among employees, employers and the community at large. The CE stated in his election manifesto that a Special Committee comprising Government officials, representatives of employer and employees, academics and community leaders would be set up to follow up on the Report. We are following up the matter with a view to completing the preparatory work of the Special Committee within the first quarter of 2013. The Government hopes that different sectors of the community would use the Special Committee as the platform for informed and in-depth discussions on SWH, for building consensus as well as identifying the way forward.

Implement a new Statutory Minimum Wage (“SMW”) rate

13. The Chief Executive in Council has accepted and adopted the consensus reached by the Minimum Wage Commission with great efforts that the current SMW rate of \$28 per hour be raised to \$30 per hour. Subject to the approval of the Legislative Council (“LegCo”) for the new SMW rate, it will take effect on 1 May 2013. Prior to implementation, we will organise extensive publicity activities to enhance public awareness of the new SMW rate. To assist employers and employees in understanding their respective obligations and entitlements, we will continue with our public education and promotional activities, staging large-scale seminars and roving exhibitions as well as publicising the SMW requirements through various channels. LD’s enquiry

hotline 2717 1771 (handled by the 1823 Call Centre) will answer public enquiries about the new SMW rate while in-person consultation and conciliation services will be provided through a territory-wide network of 10 branch offices of the Labour Relations Division. Besides, LD will conduct targeted enforcement campaigns to ensure employers' compliance with the new requirements.

Revise the rate of Business Registration Certificate (“BRC”) levy for the Protection of Wages on Insolvency Fund (“the Fund”)

14. With the continual improvement of the financial position of the Fund, the Protection of Wages on Insolvency Fund Board has reviewed the rate of BRC levy¹. Taking into account relevant factors including the external and local economic prospects, the Fund as a safety net for employees affected by business closures, the impact of the Protection of Wages on Insolvency (Amendment) Ordinance 2012 and the financial position of the Fund, the Protection of Wages on Insolvency Fund Board proposed to reduce the levy rate from \$450 to \$250 per annum, back to the level prior to May 2002. This decision would reduce the levy receipts of the Fund by about \$200 million a year. The proposal has been endorsed by LAB. We will consult this Panel later.

Measures to enhance construction work safety

15. In the light of the commencement of mega infrastructure projects and anticipated growth of the construction industry in the coming years, the number of construction workers will continue to increase. These would pose challenges to the occupational safety performance of the construction sector in the coming years.

16. LD will step up monitoring of the work safety of mega infrastructure projects. Through participating in project preparatory meetings and site safety management meetings, we will urge contractors to implement safety management systems on construction sites. To dovetail with the merit and demerit system introduced by the Development Bureau (“DevB”) in public works projects, LD will take rigorous enforcement action against contractors adopting unsafe work practice. LD will also step up the scrutiny of safety audit reports of relevant contractors and enhance the coordination with DevB and

¹ The Fund is mainly financed by a levy on each BRC under the Business Registration Ordinance, currently set at \$450 per annum.

works departments. In parallel, LD will strengthen the inspection and enforcement work, publicity and promotion efforts, as well as education and training to prevent the occurrence of construction accidents.

On-going Initiatives

Enhancement of the Work Incentive Transport Subsidy (“WITS”) Scheme

17. We have taken the initiative to advance the mid-term review of the WITS Scheme. The Finance Committee of LegCo approved the enhancement proposals of the Scheme on 14 December 2012. Starting from the claim month of January 2013, applicants may apply for the subsidy on an individual basis, as an alternative to household-based applications. The income and asset limits for WITS have also been relaxed. Moreover, a regular annual adjustment mechanism for the income and asset limits will also be put in place before a comprehensive review of the Scheme after three years of operation. LD is working at full steam to prepare for the implementation of the enhancement measures. Applicants who become eligible under the enhanced Scheme may apply starting this July 2013 for subsidy for the period from January to June 2013.

Amending the reinstatement and re-engagement provisions of the Employment Ordinance (“EO”)

18. Under the existing provisions of the EO, if an employee is unreasonably and unlawfully dismissed², the Labour Tribunal (“LT”) may, subject to the mutual consent of the employer and the employee, make an order for reinstatement or re-engagement of the employee. However, in the absence of the employer’s consent, LT has no power to make an order for reinstatement or re-engagement even if it considers such an order appropriate.

19. To enhance employees’ protection, having consulted LAB and this Panel, we plan to introduce a bill into LegCo in the current legislative session to amend the relevant provisions under the EO to empower LT to, without having first secured the agreement of the employer, make a compulsory order for

² Unreasonable and unlawful dismissal refers to the situation where the employee is dismissed other than for a valid reason as specified in the EO and the dismissal is in contravention of labour legislation, including dismissal during pregnancy and maternity leave, during paid sick leave, after work-related injury, or by reason of the employee exercising trade union rights or giving evidence or information in any proceedings or inquiry in connection with enforcement of the relevant labour legislation.

reinstatement or re-engagement of an employee who has been unreasonably and unlawfully dismissed, if LT considers making such an order appropriate and compliance with it by the employer reasonably practicable. The employer shall be required to pay a further sum to the employee in the event of the employer's non-compliance with the order. An employer who fails to pay the further sum commits an offence as well.

Proactively take enforcement action against wage offences, including breaches of the SMW provisions, and offences of wilful defaults of LT or Minor Employment Claims Adjudication Board ("MECAB") awards

20. LD continues with its multi-pronged enforcement strategies, coupled with enhanced collection of intelligence and evidence, to combat wage offences through promotion, inspection and prosecution. If employers are limited companies, apart from prosecuting the companies, directors and other responsible persons of the companies are also prosecuted in the light of the available evidence.

21. Extensive publicity and promotional efforts have been made by LD to remind employers of their statutory obligations, urge employees to report breaches of labour laws and pursue wage claims promptly, and publicise its complaint hotline (2815 2200) widely. With the growing economy and rigorous enforcement measures of LD, the wage default situation of the labour market has notably improved. During 2012, 525 convicted summonses on wage offences were recorded, down 40% from 2011. Altogether 115 convicted summonses against company directors and responsible persons for defaulting wage payment were recorded, down 29% from 2011. In 2012, the highest fine of a case was \$320,000. One employer who was convicted of wage offence was sentenced to three months' imprisonment, suspended for 12 months. Two other employers were sentenced to community service orders of 160 hours and 80 hours.

22. Since the implementation of the SMW on 1 May 2011, the state of law compliance has been satisfactory. During 1 May 2011 to 31 December 2012, labour inspectors conducted over 60 800 workplace inspections on establishments of low-paying sectors such as the catering, retail, cleaning service, and security industries. Including reported cases, 144 cases involving suspected violations of the Minimum Wage Ordinance ("MWO") were detected. Follow-up action on all such cases confirmed that employees of most cases have received the SMW or recovered the shortfall of wages. Wilful offenders will be prosecuted if there is sufficient evidence. As at end-2012, 34 convicted summonses of 8 cases against employers for under-payment of the SMW were

recorded. The industries involved included elderly homes, security companies, import and export trades, and personal services. The highest fine in a case was \$25,000.

23. The Employment (Amendment) Ordinance 2010 came into operation on 29 October 2010. Under the EO, a new criminal offence is introduced against employers who wilfully and without reasonable excuse fail to pay any sum under an LT or MECAB award comprising wages and entitlements attracting criminal sanction under the EO. As at end-2012, 67 convicted cases involving 110 convicted summonses under the new ordinance were recorded. Of the convicted summonses, 44 involved company directors and responsible persons. The highest fine in a case was \$300,000. In addition, a company director and two employers were sentenced to community service orders of 100 hours, 120 hours and 200 hours. LD is taking active investigation and prosecution action on other suspected cases of defaulting awards.

Promotional activities to enhance the occupational safety and health awareness

24. LD will continue to launch large-scale promotional and publicity programmes to enhance the occupational safety and health awareness of employers and employees in the catering and construction industries. These programmes include roving exhibitions, promotional visits, broadcast of Announcements in the Public Interest on television and radio, radio programmes, fun days and experience sharing workshops, etc. Besides, having regard to the rapid growth in repair, maintenance, alteration and addition (“RMAA”) works arising from the requirements for mandatory inspection of buildings, LD will strengthen the collaboration with the Occupational Safety and Health Council and relevant trade organisations in raising the work safety awareness of contractors, personnel of the property management sector and organisations of tenants/owners on RMAA works.

25. Other ongoing labour and manpower initiatives undertaken by LWB/LD are set out in **Annex** for reference.

Conclusion

26. LD will continue to promote employment by enhancing labour market efficiency and job-seekers’ working ability through provision of recruitment and job-matching services and the various employment support programmes which cater for job-seekers with different capabilities. We will also strive to maintain

and foster harmonious employer-employee relations, to proactively assist in the settlement of employers-employees disputes, and to promote best employment practices. The Government will continue to safeguard employees' rights and benefits under labour laws and ensure the occupational safety and health of people at work through efforts in legislation, enforcement, education and promotion etc. The Government will also continue to provide vocational training and retraining services in order to promote the employability and competitiveness of the local workforce.

Labour and Welfare Bureau
Labour Department
January 2013

Annex

Other ongoing manpower initiatives undertaken by the LWB / LD:

- Undertake a review of the continuous contract requirement under the EO.
- Proactively take enforcement action in combating illegal employment.
- Promote good people management practices to the general public, including launching a new television Announcement in the Public Interest and organising a large-scale seminar for employers and employees.
- Adopt an integrated approach to promote the awareness of employers and employees on how to differentiate between an employee and a self-employed person with a view to protecting employees' rights and benefits.
- Oversee the implementation of the Continuing Education Fund to encourage adults with learning aspirations to pursue continuing education and training.
- Oversee the implementation of the Manpower Development Scheme of the ERB. ERB provides training, retraining and placement services to assist eligible trainees in acquiring new or enhanced skills in order to enhance their employability and competitiveness.
- The Vocational Training Council (“VTC”) further expands vocational assessment services to better support Hong Kong’s manpower development and improve the skills standards of industries.
- VTC explores extending the pilot traineeship scheme for the service industries to other trades.