

Panel on Manpower

List of outstanding items for discussion

(position as at 18 January 2013)

**Proposed timing
for discussion**

1. Review of the Employment Ordinance - the requirement of "continuous contract"

At the meeting on 17 November 2011, the Administration briefed the Panel on the major 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 instead of a continuous contract ("SDWH employees"), as revealed in C&SD's Special Topics Report No. 55 released in July 2011.

Members were informed that with the developments of the labour market and calls for relaxing the continuous contract requirement (the so-called "4-18" requirement) under the Employment Ordinance (Cap. 57) ("EO"), the Administration was undertaking a review of the subject with reference to the findings of the survey on SDWH employees.

At the Panel meeting on 20 June 2012, the Administration advised members that the review on the definition of continuous contract was expected to be completed within 2012. After deliberation by the Labour Advisory Board ("LAB") on the review findings, the Panel would be consulted.

Mid 2013

On 26 November 2012, Duty Roster Members of the Legislative Council ("LegCo") met with a deputation regarding the review of the continuous contract requirement under EO. Duty Roster Members agreed that the issue be referred to the Panel for follow-up. The Panel Chairman suggested that a meeting be arranged to receive deputations' views on the subject.

February/March
2013

2. 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, 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.

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.

At the Panel meeting on 19 February 2009, Hon LEE Cheuk-yan proposed that the employee compensation for injury/death caused by accidents en route to work be discussed by the Panel.

3. 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.

25 January 2013

The Accreditation of Academic and Vocational Qualifications ("AAVQ") Bill was introduced into LegCo on 6 July 2005. At the House Committee meeting on 8 July 2005, a Bills Committee was formed to scrutinize 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 development of QF at the meetings on 23 October 2008, 16 July 2009, 22 October 2009, 17 June 2010, 21 October 2010, 17 June 2011 and 20 October 2011.

[Note : The Administration has advised that the Education Bureau will continue to make a report to the Panel, on a yearly basis, on the latest progress of QF implementation in the policy briefing by the Secretary for Education on the Chief Executive ("CE")'s Policy Address.]

The Secretary for Education will report to the Panel on 25 January 2013 on the latest progress of QF implementation in the briefing on CE's 2013 Policy Address.

4. Working group's findings on the study on 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 recognize sick leave certificates issued by

To be confirmed

registered chiropractors as valid sick leave certificates.

Hon WONG Kwok-hing raised the subject again at the meeting on 18 January 2007. According to the Administration, an Inter-bureaux/departmental Working Group ("the Working Group") had been set up to study 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.

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.

At the Panel meeting on 17 June 2011, the Administration briefed members on the findings of the Working Group on its study of recognition of medical certificates issued by registered chiropractors as valid sick leave certificates under labour-related legislation. While agreeing with the recommendation made by the Working Group not to recognize medical certificates issued by chiropractors under labour-related legislation at this juncture, the Administration informed members that the Labour Department ("LD") would commission C&SD to conduct a comprehensive survey to gain a more updated and thorough understanding of the community's knowledge and utilization of chiropractic treatment and to gauge the prevalence of chiropractic treatment in Hong Kong.

The survey started in the fourth quarter of 2012 and the Administration would continue to communicate with the relevant stakeholders and closely monitor the latest development of chiropractic in Hong Kong and other regions.

5. Paternity leave

At the Panel meeting on 20 June 2012, the Administration briefed members on the findings of its study on legislating for the provision of paternity leave in Hong Kong by

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employers to their male employees. Members were informed that having regard to the reservations of some members of LAB about the implementation of paternity leave by legislative means and their request for more information on the implementation of paternity leave in other jurisdictions, the Administration would collect the relevant information for reference by LAB, and consult LAB again in the fourth quarter of 2012 before reverting to the Panel on the matter. LAB discussed the subject at its meetings in October and November 2012. The Administration would consult the Panel on the proposal to legislate for paternity leave at its meeting on 25 January 2013.

6. Implementation of the Minimum Wage Ordinance

During the deliberations of the Subcommittee on Minimum Wage (Criteria for Approved Assessors) Notice and Minimum Wage (Assessment Methods) Notice, the Administration undertook to review the special arrangement for persons with disabilities, including whether there was a need for an appeal mechanism and the impact of statutory minimum wage ("SMW") on the employment opportunities of persons with disabilities, in the light of operational experience within two years after the implementation of SMW and report the results to the Panel.

To be confirmed

Noting that the Minimum Wage Commission submitted to the Chief Executive in Council its recommendation report on the SMW rate at the end of October 2012, the Panel received views from deputations on the review of SMW rate at its meeting on 20 November 2012.

7. Mental impairment arising from occupational injury

In his letter dated 10 May 2010 (LC Paper No. CB(2)1589/09-10(01)), Dr Hon PAN Pey-chyou expressed concern about the definition of occupational injury under the Employees Compensation Ordinance (Cap. 282), and whether the Ordinance would cover mental impairment

To be confirmed

arising from occupational injury. He proposed that mental impairment caused by work incidents and mental impairment and illnesses arising out of employment should be discussed by the Panel.

8. Standard working hours

At the Panel meeting on 11 July 2012, the Administration advised that the third term Government had completed the policy study on standard working hours and a report had been submitted to the then Executive Council ("ExCo") in mid-June 2012. Since standard working hours was a highly complex and controversial issue which has far-reaching implications on Hong Kong's society and economy, Members of the then ExCo recommended that the report should be passed to the new Administration for consideration. A special committee comprising government officials, representatives of labour unions and employers' associations, academics and community leaders would be set up to follow up on the completed study.

To be confirmed

The Administration released the full report of the Policy Study on Standard Working Hours on 26 November 2012. The issue was discussed at the Panel meeting on 18 December 2012. The Administration advised that the preparatory work for setting up the special committee would be completed within the first quarter of 2013 to follow up on the study, and would revert to the Panel on the progress of study in due course.

9. Coverage of the Occupational Safety and Health Ordinance

At the Panel meeting on 17 June 2011, Hon WONG Kwok-hing expressed concern about the risk of heat stroke to professional drivers. He proposed that the Panel should discuss the coverage of the Occupational Safety and Health Ordinance (Cap. 509) ("OSHO") and the feasibility of extending the scope of OSHO to cover the driving work of professional drivers.

To be confirmed

At the Panel meeting on 20 June 2012, the Administration explained to members why OSHO did not cover the driving work of professional drivers : road safety issues concerning all drivers, including professional drivers, were regulated by the Road Traffic Ordinance (Cap. 374) and the safety of drivers performing driving work hinged on a number of factors beyond the control of their employers. After deliberations, Hon LI Fung-ying considered that the Panel should further discuss the matter in the future.

At the Panel meeting on 18 December 2012, the Administration advised that a review would be conducted on the coverage of OSHO.

10. Implementation of the Protection of Wages on Insolvency (Amendment) Ordinance 2012

During the deliberations of the Bills Committee on Protection of Wages on Insolvency (Amendment) Bill 2011, the Administration informed the Bills Committee that the Protection of Wages on Insolvency Fund ("PWIF") Board had agreed to conduct a review one year after the implementation of the Bill on the coverage of PWIF in respect of pay for untaken annual leave, pay for untaken statutory holidays and the payment ceiling of \$10, 500 and report the outcome of the review to the Panel on Manpower at an appropriate time.

To be confirmed

11. Rehabilitation services for injured employees

When the Panel was briefed on the situation of occupational diseases in Hong Kong in 2011 and the Administration's proposal to further increase the compensation levels of 15 items under the Employees' Compensation Ordinance (Cap. 282), the Pneumoconiosis and Mesothelioma (Compensation) Ordinance (Cap. 360) and the Occupational Deafness (Compensation) Ordinance (Cap. 469) at its meetings respectively on 12 April and 23 May 2012, a proposal was raised that insurers should consider providing financial assistance to the Hospital Authority for strengthening its rehabilitation services for

To be confirmed

injured employees, so to avoid any possible conflict of interest of the rehabilitation service providers appointed by insurers. Hon LEE Cheuk-yan suggested that the Panel should follow up the matter in future.

12. Government policy relating to the outsourcing of service contracts

When the Panel discussed the Government policy relating to the outsourcing of service contracts relying heavily on the deployment of non-skilled workers at its meeting on 23 May 2012, many members held a strong view against the Administration's continued adoption of such policy, which was not conducive to outsourced workers' job security and accrual of length-of-service related statutory entitlement such as severance payment. There was a suggestion that the Panel should continue to follow up on the Government's policy on outsourcing of such service contracts.

To be confirmed

13. Alignment of statutory holidays with general holidays

In their letter dated 18 October 2012, Hon TANG Ka-piu and Hon KWOK Wai-keung proposed that the issue on alignment of statutory holidays and public holidays be discussed by the Panel.

To be confirmed

14. Scope of application of Section 43C of the Employment Ordinance (Cap. 57)

In their letter dated 18 October 2012, Hon TANG Ka-piu and Hon KWOK Wai-keung proposed that the issue on expanding the scope of application of Section 43C of the Employment Ordinance (Cap. 57) concerning the liability of a principal contractor and superior sub-contractor(s) to pay wages of employees of sub-contractors be discussed by the Panel.

To be confirmed

**Proposed timing
for discussion**

15. Rate of Business Registration Certificate levy for PWIF

The Administration plans to consult the Panel on the proposal to revise the rate of Business Registration Certificate levy for PWIF.

February 2013

16. Major findings of the 2012 Annual Earnings and Hours Survey

The Administration intends to brief the Panel on the major findings of the 2012 Annual Earnings and Hours Survey.

2nd Quarter of
2013

17. Report on Occupational Diseases in Hong Kong in 2012

The Administration intends to brief the Panel on the occupational diseases in Hong Kong in 2012.

2nd Quarter of
2013

18. Implementation of the Pilot Employment Navigator Programme

The Administration intends to brief the Panel on the implementation and review of the Pilot Employment Navigator Programme.

To be confirmed

19. Hong Kong's Occupational Safety Performance in 2012

The Administration intends to brief the Panel on Hong Kong's Occupational Safety Performance in 2012.

2nd Quarter of
2013