

Panel on Manpower

List of outstanding items for discussion

(position as at 16 January 2014)

**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 the Administration would review the continuous contract requirement (the so-called "4-18" requirement) under the Employment Ordinance (Cap. 57) ("EO") with reference to the findings of the survey on SDWH employees.

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The Panel received views from deputations on the review of the continuous contract requirement at the meeting on 19 March 2013. After consulting the Labour Advisory Board ("LAB") on the results of the review in May and July 2013, the Administration briefed members on five possible approaches to deal with the continuous contract requirement at the meeting on 31 July 2013. The Panel passed a motion proposing the Administration to abolish the 4-18 requirement. The Administration advised that LAB would continue to deliberate on individual approaches in greater detail with a view to reaching a consensus. The Administration would consolidate and analyse members' views on the subject for consideration by LAB at its next meeting and revert to the Panel on further progress.

2. Establishment of a central compensation insurance fund

On 19 May 2005, the Panel was briefed on the proposed

To be confirmed

measures to improve the employees' compensation insurance ("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 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.

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The Accreditation of Academic and Vocational Qualifications ("AAVQ") Bill was introduced into LegCo on 6 July 2005. The Bills Committee formed to scrutinize the Bill 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, 20 October 2011 and 25 January 2013.

[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's Policy Address.]

The Secretary for Education will report to the Panel on 27 January 2014 on the latest progress of QF implementation in the briefing on CE's 2014 Policy Address.

4. Review of whether medical certificates issued by chiropractors should be recognised under labour legislation

At the Panel meeting on 17 June 2011, the Administration briefed members on the findings of the Inter-bureaux/departmental 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 recognise 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

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prevalence of chiropractic treatment in Hong Kong.

Members were advised that the survey started in the fourth quarter of 2012 and the survey findings would be released by C&SD in the fourth quarter of 2013. The Administration would continue to communicate with the relevant stakeholders and closely monitor the latest development of chiropractic in Hong Kong and other places.

The survey findings were released by C&SD on 8 November 2013. After consultation with LAB on the review of whether medical certificates issued by chiropractors should be recognised under labour legislation, the Administration would revert to the Panel at an appropriate time.

5. 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.

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At the Panel meeting on 28 May 2013, the Administration advised that the review had started and it would revert to the Panel on the results of the review in due course.

6. 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)

To be confirmed

("ECO"), and whether the Ordinance would cover mental impairment 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.

7. 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.

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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 Standard Working Hours Committee ("SWHC") has been set up for a term of three years from 9 April 2013.

Hon TANG Ka-piu and Hon KWOK Wai-keung proposed the Panel to follow up on the work progress of SWHC vide their joint letter (LC Paper CB(2)1124/12-13(01)). At the Panel meeting on 31 July 2013, the Administration provided members with an update on the work progress of SWHC, including its workplan. The Administration would revert to the Panel on the work progress of SWHC in due course.

8. 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 at an appropriate time.

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9. 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 ECO, 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 injured employees, so as 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. At the Panel meeting on 10 October 2013, Dr Hon KWOK Ka-ki suggested that the scope of the discussion should be extended to cover making the provision of rehabilitation services mandatory.

To be confirmed

10. 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

To be confirmed

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.

11. 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

At the Panel meeting on 28 May 2013, the Administration advised that LD had commissioned C&SD to collect statistics on characteristics of employees taking statutory holidays and general holidays in Hong Kong. The Administration will revert to the Panel in the 2013-2014 session after LAB has deliberated on the subject.

12. 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

13. Importing live-in domestic workers from the Mainland

At the Panel meeting on 18 June 2013, Hon SIN Chung-kai suggested that the Administration's policy on the restriction on importing live-in domestic workers from the Mainland should be discussed by the Panel.

To be confirmed

14. Protection for sudden death of persons at work

In his letter dated 21 June 2013, Hon TANG Ka-piu proposed that issues relating to sudden death of employees at work and payment of employees' compensation be discussed by the Panel.

To be confirmed

At the Panel meeting on 31 July 2013, members agreed that the Administration be requested to provide written responses to the issues and concerns raised in the letter first. The Administration's response was circulated to members vide LC Paper No. CB(2)1743/12-13 on 28 August 2013.

15. Scope of the Employees Compensation Assistance Scheme

In their letter dated 16 July 2013, Dr Hon KWOK Ka-ki and Hon Dennis KWOK proposed that the scope of the Employees Compensation Assistance Scheme be discussed by the Panel.

To be confirmed

At the Panel meeting on 31 July 2013, members agreed that the Administration be requested to provide written responses to the issues and concerns raised in the letter first. The Administration's response was circulated to members vide LC Paper No. CB(2)1743/12-13 on 28 August 2013.

16. Proposals for addressing youth unemployment and related problems

In his letter dated 31 July 2013, Hon LEUNG Kwok-hung put forward proposals to address the youth unemployment and related problems. At the Panel meeting of the same day, members agreed that the Administration be requested to provide written responses to the issues and concerns raised in the letter first. The Administration's response was circulated to members vide LC Paper No. CB(2)1776/12-13 on 9 September 2013.

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At the Panel meeting of 19 November 2013, members agreed that a meeting be held to receive views from deputations on the subject in the first quarter of 2014 when the Administration briefs the Panel on the subject of youth employment. Mr LEUNG's further views on the "employment through train" proposal were circulated to members vide LC Paper Nos. CB(2)330/13-14 and CB(2)555/13-14(05) on 21 November and 20 December 2013.

17. Offsetting arrangement for severance payments under EO

At the Panel meeting on 10 October 2013, Hon POON Siu-ping suggested that the Panel should hold a joint meeting with the Panel on Financial Affairs to discuss the existing arrangement of allowing employers to use the Mandatory Provident Fund accrued benefits from their contributions to offset the severance payments and the long service payments under EO.

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At the Panel meeting of 17 December 2013, members were advised that a joint meeting of the two Panels would be held in the first quarter of 2014 to follow up and to receive views from deputations on the subject.

18. Assessment for injured employees under ECO

At the Panel meeting on 10 October 2013, Dr Hon KWOK Ka-ki suggested that the Panel should discuss the assessment criteria for the compensation payable under ECO to employees who were injured arising out of and in the course of their employment.

To be confirmed

19. Employment conditions for foreign domestic helpers ("FDHs")

At the Panel meeting on 10 October 2013, Dr Hon CHIANG Lai-wan suggested that the Panel should discuss the review of the employment conditions and terms of

To be confirmed

FDHs, including the viability of stipulating a probation period in the standard employment contract.

In his letter dated 27 November 2013 (LC Paper No. CB(2)555/13-14(04)), Dr Hon Fernando CHEUNG Chiu-hung proposed the Panel to discuss issues relating to the employees' rights and benefits of FDHs.

20. Legislative proposal on compulsory reinstatement and re-engagement

At the Panel meeting on 19 November 2013, members were advised that the Labour and Welfare Bureau was working closely with the Department of Justice and the Judiciary to resolve certain issues concerning court procedures and legal principles with regard to the Employment (Amendment) Bill which sought to empower the Labour Tribunal to make a compulsory order for reinstatement or re-engagement of an employee who had been dismissed unreasonably and unlawfully. Members agreed that the Administration should expedite the drafting of the relevant legislative proposal so as to facilitate the introduction of the amendment bill within the 2013-2014 legislative session and be requested to provide members with the relevant legislative timetable by December 2013. The Administration's responses were circulated to members vide LC Paper Nos. CB(2)555/13-14(01) and (02) on 20 December 2013.

To be confirmed

21. Working Holiday Scheme

The Administration intends to brief the Panel on the bilateral Working Holiday Schemes which Hong Kong has established with overseas jurisdictions.

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22. Major findings of the 2013 Annual Earnings and Hours Survey

The Administration intends to brief the Panel on the major findings of the 2013 Annual Earnings and Hours Survey.

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**Proposed timing
for discussion**

23. Review on the effectiveness of the Employment in One-stop at Tin Shui Wai

A review on the effectiveness of the Employment in One-stop at Tin Shui Wai, which is a pioneer one-stop employment and training centre, will be conducted in early 2014. The Administration intends to brief the Panel on the major findings and recommendations by Q2/Q3 2014.

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24. Occupational safety performance in Hong Kong

The Administration intends to brief the Panel on the overall occupational safety performance in 2013.

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