

For information on
17 July 2014

Legislative Council Panel on Manpower

Severance Payment and Long Service Payment Ceilings

Purpose

This paper briefs Members on the ceilings for calculating severance payment (SP) and long service payment (LSP) under the existing Employment Ordinance (EO) and the relevant background.

Background

2. SP was introduced into EO in 1974 for providing compensation to employees dismissed owing to redundancy so as to help alleviate their short-term financial hardship upon loss of employment. As SP could only benefit employees dismissed by reason of redundancy, LSP was introduced into EO in 1986 to provide compensation to older employees who were dismissed by reason other than redundancy after serving the same employer for a long period of time.

3. When LSP was first introduced, it was targeted at older employees who had served the same employer for a number of years. Compared with aged workers, younger employees had to have a longer service period upon dismissal before they were entitled to LSP¹. The amount of LSP payable to younger employees was also reduced in accordance with their age². A number of amendments were made subsequently to the LSP provisions. These included extending its coverage in 1988 to benefit dependants of employees who died in service, employees who were certified by medical practitioners as permanently unfit for the present job and resigned on ground of ill health, and employees aged 65 or above who resigned on ground of old age so that they would also be eligible for LSP if they met the service requirements. Starting from 1991, all eligible employees who are dismissed by reasons other than redundancy or summary dismissal are entitled to LSP irrespective of their age after having

¹ For example, to be qualified for LSP, employees aged below 41 had to have at least 10 years' service with the same employer, whereas employees aged 45 or above were only required to work for the same employer for five years.

² For example, employees aged 36 to less than 40 could be entitled to 75% of the amount of LSP payable, whereas employees aged below 36 could only be entitled to 50% of that amount.

served the same employer for not less than five years. The stipulation on reductions of LSP owing to the employees' age was removed in 1998.

Present situation

4. At present, the amount of SP and LSP is calculated by according two-thirds of the last month's wages, or two-thirds of the average monthly wages in the last 12 months, for every year of service of an employee with the employer. The monthly wages for calculating SP or LSP is capped at \$22,500, whilst the maximum amount of SP or LSP payable to an employee is \$390,000. There is no limit on the number of reckonable years of service. Take an employee with monthly wages reaching the \$22,500 cap as an example, he/she may receive SP amounting to \$30,000 if he/she is made redundant upon completion of two years' service ($\$22,500 \times \frac{2}{3} \times 2$ years). If the employee is dismissed upon completion of five years' service and the dismissal is not attributed to redundancy or serious misconduct, he/she may receive \$75,000 ($\$22,500 \times \frac{2}{3} \times 5$ years) as LSP.

5. There are views that the current monthly wage caps for calculating SP and LSP should be adjusted upwards so that employees who are retrenched or dismissed after serving the same employer for a long period of time could get more monetary compensation to meet their financial needs upon loss of employment. Nonetheless, according to the General Household Survey of the Census and Statistics Department for the first quarter of 2014, the median monthly employment earning was \$13,000. The current monthly wage cap (\$22,500) as laid down in EO is still way above the monthly wages of most employees and should be able to cater for the majority of the cases.

6. Moreover, if the current ceilings applicable to the calculation of SP and LSP were to be raised further, employers would have to, on top of other compensation under EO³, pay more SP and LSP when retrenching employees or dismissing those with more than five years' service. Employers retrenching workers owing to cessation of business or scaling down of operations would have to shoulder additional financial burden. The impact on businesses, especially those small and medium size enterprises (SMEs), should not be overlooked. Currently, over 98% of the enterprises in Hong Kong are SMEs, and their affordability should be considered carefully.

³ Depending on an employee's duration of employment, terms of employment contract and reason of termination, etc., compensations for termination of employment generally include wages in lieu of notice, pro-rata annual leave pay, pro-rata end of year payment, SP or LSP, etc.

Conclusion

7. Having regard to the above background and considerations, the Government does not propose to change the current statutory payment ceilings applicable to SP and LSP.

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