

立法會
Legislative Council

LC Paper No. CB(2)520/17-18
(These minutes have been seen
by the Administration)

Ref : CB2/PL/MP

Panel on Manpower

Minutes of meeting
held on Tuesday, 21 November 2017, at 4:30 pm
in Conference Room 3 of the Legislative Council Complex

- Members present** : Hon KWOK Wai-keung, JP (Chairman)
Dr Hon Fernando CHEUNG Chiu-hung (Deputy Chairman)
Hon WONG Kwok-kin, SBS, JP
Hon Frankie YICK Chi-ming, SBS, JP
Hon YIU Si-wing, BBS
Dr Hon KWOK Ka-ki
Hon POON Siu-ping, BBS, MH
Dr Hon CHIANG Lai-wan, JP
Hon Jimmy NG Wing-ka, JP
Hon HO Kai-ming
Hon SHIU Ka-fai
Hon SHIU Ka-chun
Dr Hon Pierre CHAN
Hon LUK Chung-hung
Hon Jeremy TAM Man-ho
- Members attending** : Hon Charles Peter MOK, JP
Hon Alice MAK Mei-kuen, BBS, JP
- Members absent** : Hon LEUNG Yiu-chung
Hon Michael TIEN Puk-sun, BBS, JP
Hon Andrew WAN Siu-kin
Hon CHU Hoi-dick

Public Officers attending : Item IV

Dr LAW Chi-kwong, GBS, JP
Secretary for Labour and Welfare

Mr Carlson CHAN, JP
Commissioner for Labour

Ms Melody LUK, JP
Assistant Commissioner (Labour Relations)
Labour Department

Item V

Dr LAW Chi-kwong, GBS, JP
Secretary for Labour and Welfare

Mr Caspar TSUI Ying-wai, JP
Under Secretary for Labour and Welfare

Miss Leonia TAI Shuk-yiu, JP
Deputy Secretary for Labour and Welfare (Welfare) 1

Mr Daniel FONG Siu-wai
Principal Assistant Secretary for Labour and Welfare
(Manpower)

Mr Esmond LEE Chung-sin, JP
Head, Working Family and Student Financial
Assistance Agency

Clerk in attendance : Miss Betty MA
Chief Council Secretary (2) 1

Staff in attendance : Ms Rita LAI
Senior Council Secretary (2) 1

Ms Kiwi NG
Legislative Assistant (2) 1

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I. Confirmation of minutes of previous meeting
(LC Paper No. CB(2)319/17-18)

The minutes of the policy briefing cum meeting held on 17 October 2017 were confirmed.

II. Information papers issued since the last meeting
(LC Paper Nos. CB(2)90/17-18(01) and CB(2)312/17-18(01))

2. Members noted that the following papers had been issued since the last meeting:

- (a) referral from the Public Complaints Office on issues relating to outsourcing of government services and employment benefits and interests of employees of outsourced service contractors; and
- (b) joint letter dated 1 November 2017 from Dr KWOK Ka-ki and Mr Jeremy TAM suggesting the Panel to discuss issues relating to outsourcing government services, including the remuneration package and occupational safety of workers engaged by government service contractors.

3. The Chairman advised that the Administration had been requested to provide a response to the issues raised in the joint letter of Dr KWOK Ka-ki and Mr Jeremy TAM. He added that the subject of protection of employees of outsourced service contractors was already included in the Panel's list of outstanding items for discussion.

III. Date of next meeting and items for discussion
(LC Paper Nos. CB(2)321/17-18(01) and (02))

4. The Chairman informed members that he and the Deputy Chairman had discussed the Panel's work plan for the 2017-2018 session with the Administration on 6 November 2017. The Panel's list of outstanding items for discussion had been updated accordingly following the meeting.

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Regular meeting in December 2017

5. Members agreed that the following items proposed by the Administration be discussed at the next regular meeting at 4:30 pm on 19 December 2017:

- (a) Review of statutory paternity leave; and
- (b) Hong Kong's occupational safety performance in the first half of 2017.

Item proposed for discussion at a future meeting

6. Dr KWOK Ka-ki proposed that the Panel should discuss rehabilitation services for employees who sustained work injuries in the 2017-2018 session. The Chairman advised that the subject would be included in the Panel's list of outstanding items for discussion.

IV. A proposal to create a Chief Labour Officer post to assist in the various duties in relation to the abolition of the Mandatory Provident Fund offsetting arrangement
(LC Paper Nos. CB(2)321/17-18(03) and (04))

7. At the invitation of the Chairman, Secretary for Labour and Welfare ("SLW") briefed members on the proposal to create one permanent post of Chief Labour Officer ("CLO") (D1) in the Labour Department ("LD") to take up the various new tasks in relation to the abolition of the "offsetting" of the severance payment ("SP") and the long service payment ("LSP") with employers' mandatory contributions under the Mandatory Provident Fund ("MPF") System, details of which were set out in the Administration's paper.

8. Members noted a background brief entitled "Offsetting arrangement under the Mandatory Provident Fund system" prepared by the Legislative Council ("LegCo") Secretariat.

9. Mr POON Siu-ping said that the labour sector had all along been advocating for abolition of the "offsetting" arrangement and it would support the Administration's proposed creation of the CLO post provided that the option for abolishing the "offsetting" arrangement to be put forth by the Administration would not undermine the labour rights and benefits. Mr POON asked whether the Administration would take

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forward the relevant work for abolishing the "offsetting" arrangement if the proposed creation of the CLO post was not supported. He further sought information on the timeline for putting forth a feasible option, which would be acceptable to both the business sector and the labour sector, by the Administration. Mr LUK Chung-hung enquired about the work progress in respect of achieving a consensus between the business sector and the labour sector over the "offsetting" arrangement.

10. Dr KWOK Ka-ki said that it had been the Administration's established practice to propose creation of supernumerary posts for the purpose of formulating and implementing new policies at the preparatory stage. Given that a consensus on a specific option for abolishing the "offsetting" arrangement had yet to be reached between the business sector and the labour sector, Dr KWOK considered that a permanent CLO post was not necessary at the moment.

11. The Chairman expressed disappointment at the last term Government's decision of not to pursue legislating for standard working hours ("SWH") after securing the support for the creation of a supernumerary CLO post to take up various tasks in relation to the policy study on SWH. He was concerned about whether the Administration would abort its work on the abolition of the "offsetting" arrangement after the creation of the proposed permanent CLO post, having regard to the need to use public money prudently.

12. Dr CHIANG Lai-wan said that the Democratic Alliance for the Betterment and Progress of Hong Kong ("DAB") was concerned that over \$3 billion accrued benefits of employers' MPF contributions had been used for offsetting SP and LSP each year and was in support of the Administration's proposal to create a permanent CLO post to undertake considerable follow-up work arising from the implementation of the abolition of the "offsetting" arrangement. Dr CHIANG pointed out that there were worries that the abolition of the "offsetting" arrangement would give rise to immediate dismissal of employees and re-employment on short-term basis. On the other hand, employers, in particular the small-, medium- and micro-enterprises, expressed concern about the need to set aside recurrent funding dedicated for SP/LSP. It was unfair to employers who would be required to pay twice for retirement protection of their employees if the latter were provided with "double benefit" for the same period of service. Moreover, in the event of economic downturn, the business operation of the small- and medium-sized enterprises ("SMEs") would become very difficult. Dr CHIANG held

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the view that the Administration should put in place appropriate mitigating measures to assist SMEs. Dr CHIANG called on the Administration to take into account the interests of both the business sector and the labour sector when exploring a feasible option for the "offsetting" arrangement.

13. Mr HO Kai-ming said that the Hong Kong Federation of Trade Unions ("HKFTU") was in support of abolishing the "offsetting" arrangement which had reduced substantially the amount of MPF accrued benefits receivable by employees upon retirement and urged the Administration to accord priority to abolish the "offsetting" arrangement. He therefore raised no objection to the proposed creation of a permanent CLO post to follow through both the preparatory and implementation of the abolition of the "offsetting" arrangement and to ensure the smooth implementation of the new regime in the long run. Noting from the job description of the proposed CLO post, the incumbent would, among others, study options to abolish the MPF "offsetting" arrangement, and assess the impacts of different options on the business and labour sectors, Mr HO asked about the work commitment of the post holder in this respect, given that the Administration would have worked out a feasible option in the coming months.

14. Responding to members' concerns and views, SLW advised that the Government had made it clear to all the stakeholders that it was fully committed to abolishing the "offsetting" arrangement. Notably, to address employers' concern over their difficulties in meeting their potential SP or LSP obligations as they came due, including during economic downturn, the Government was considering the option of developing a mechanism to assist the employers to set up designated saving accounts to meet their statutory SP or LSP obligations towards their employees. In this regard, the Government was also looking into possible calculations of forecast annual provisions for SP and LSP entitlement for dismissed employees. The Administration aimed to complete the internal study by end 2017.

15. SLW further advised that it was envisaged that implementation of the proposal would necessitate highly complicated and controversial amendments of different pieces of legislation including but not limited to the MPF Schemes Ordinance, Employment Ordinance and Occupational Retirement Schemes Ordinance, as well as formulation of meticulous implementation arrangements for taking forward the proposal. It was estimated that at least three years would be required for the enabling

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legislation to be enacted. Notwithstanding the divergent views of the business sector and the labour sector over the subject, the Administration was confident that the relevant bill would have the support of Members when it was introduced into LegCo. The enhanced proposal would take the interests of both the business and labour sectors into account and also preserve the function of MPF as a key pillar of retirement protection.

16. On the need for the proposed CLO post, SLW said that the new tasks in relation to the abolition of "offsetting" arrangement as detailed in the Administration's paper required long-term and high level strategic, planning and co-ordination work. Substantial efforts were needed to engage the relevant stakeholders, prepare the amendment bill, and map out the implementation details. All these duties would have to be undertaken by a dedicated team to be headed by the proposed CLO. The Administration had critically examined the possibility of redeployment to absorb the duties of the proposed permanent post. However, the only three CLOs in LD had already been fully stretched coping with their own work and it was operationally not possible for them to take up the heavy duties of the proposed CLO. The abolition of the "offsetting" arrangement would likely be procrastinated if the proposed CLO post was not created. As regards the work in relation to study of various possible options and their impact assessment, it was currently shared among staff of LD and the Economic Analysis and Business Facilitation Unit.

17. SLW added that the proposed CLO would lead a dedicated team comprising one Senior Labour Officer and two Labour Officers to see through both the preparation and implementation of the abolition of the "offsetting" arrangement. In the preparatory stage, the proposed CLO would undertake extensive preparatory work in respect of policy formulation, legislative amendments and thrashing out the framework for implementation. Upon passage of the enabling legislation, the CLO would be tasked to ensuring the effective and smooth implementation of the "no-offsetting" regime and launching full-scale publicity programmes to promulgate the legislative requirements and the operation arrangement of the new regime to employer and employee groups as well as the public; and formulating suitable strategies and overseeing the implementation of the employers' designated saving account in long-term and maintaining close communication with stakeholders on all related matters. Having regard to the extensive responsibilities of the proposed CLO post both before and after the abolition of the MPF "offsetting" arrangement, it was essential to create the CLO post on a permanent basis.

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18. The Chairman and Mr LUK Chung-hung considered that the lead time of three years required for enacting the enabling legislation for the abolition of the "offsetting" arrangement was too long. SLW advised that the Government was committed to completing the entire exercise, including the legislative process, as soon as practicable. SLW explained that the abolition of the "offsetting" arrangement involved political intricacies and technical complexities in mapping out the scheme and preparing the enabling legislation. Specifically, it was necessary to liaise with relevant Government bureaux and departments, the Mandatory Provident Fund Schemes Authority, trustees of MPF schemes and occupational retirement schemes and other relevant stakeholders with a view to mapping out the operational details for abolishing the "offsetting"; and to prepare the relevant draft legislative instruments in conjunction with the Department of Justice to give legal effect to the new regime. It was hoped that if the necessary legislative procedures for abolition of the "offsetting" arrangement could be completed before expiry of the Sixth LegCo by July 2020, the implementation details of a new "no-offsetting" regime, including the possible Government subsidy scheme and the relevant procedures and rules, would then be worked out by end of that year.

19. Dr Fernando CHEUNG said that he was in support of the Administration's proposal to create the CLO post so as to facilitate early implementation of the abolition of the "offsetting" arrangement in a bid to enhance financial security of the elderly after retirement. That said, noting that one of the existing three CLOs in LD was responsible for discharging duties related to the working hours policy and having regard to the Administration's stance of not legislating for SWH, Dr CHEUNG asked whether it was feasible to deploy the CLO(Working Hours Policy) ("CLO(WHP)") post to take up the duties of the proposed CLO post. If not, the Administration should seriously consider legislating for SWH.

20. SLW and Commissioner for Labour clarified that the CLO(WHP) post was a five-year supernumerary post. SLW said that while the current Government did not have any plan to legislate for SWH, it would follow up on the last term Government's proposals on working hours policy. The CLO(WHP) in LD would assist and be fully engaged in the formulation of sector-specific working hours guidelines for 11 industries to provide guidance on suggested working hours arrangements, overtime compensation methods and good working hours management measures, etc., for reference and adoption by employers and employees.

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21. In concluding the discussion, the Chairman said that the Panel raised no objection in principle to the Administration's proposed creation of the CLO post and its submission to the Establishment Subcommittee for consideration.

V. Review of the Continuing Education Fund and proposed funding injection

(LC Paper Nos. CB(2)321/17-18(05) to (06), CB(2)332/17-18(01) and CB(2)353/17-18(01))

22. At the invitation of the Chairman, SLW briefed members on the findings pursuant to the review of Continuing Education Fund ("CEF") and the proposed enhancement measures to improve the operation of CEF, as well as the proposal to inject \$1.5 billion into CEF, details of which were set out in the Administration's paper.

23. Members noted a background brief entitled "Continuing Education Fund" prepared by the LegCo Secretariat.

Proposed enhancement measures

Scope of Continuing Education Fund courses

24. Mr Charles MOK expressed support for the Administration's proposed enhancement measures to improve the operation of CEF, including relaxing the upper age limit for CEF applicants, expanding the scope of CEF courses, allowing greater flexibility for CEF applicants by lifting the restrictions on validity period and maximum number of reimbursement claims and enhancing the quality assurance of CEF courses. Mr MOK, however, was concerned about the decreasing participation rate in continuing education in Hong Kong. Drawing reference to the successful experience of Singapore in promoting continuing education through its SkillsFuture movement since 2015, he said that the Administration should consider further expanding the scope of CEF courses to include Massive Open Online Courses and information technology-related courses run locally and overseas.

25. Dr CHIANG Lai-wan pointed out that some training organizations/course providers had financial difficulties in applying to the Hong Kong Council for Accreditation of Academic and Vocational

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Qualifications ("HKCAAVQ") for registration of their learning programmes/courses under the Qualifications Register ("QR") as CEF courses. To encourage the public to pursue continuing education, Dr CHIANG remarked that the Administration should consider relaxing the criteria for registration as CEF courses so as to provide more course options.

26. SLW advised that with the proposed expansion of the scope of CEF courses, on top of the existing 7 800 registered CEF courses, an addition of around 4 000 courses currently registered in QR, which covered basically all course areas as suggested by the stakeholders during the review of CEF, would become eligible for registration as CEF courses. This would greatly increase the choices for learners. In effect, the Administration would not rule out the possibility of registration of appropriate online courses under QR as CEF courses. SLW further advised that the Administration considered it imperative to strike a balance between course variety and quality assurance of the CEF courses. It was believed that the existing mechanism of registration of CEF courses under QR would help safeguard the quality assurance of the courses. Course operators might apply for the Accreditation Grant for Self-financing Programmes which covered the fees charged by HKCAAVQ for various types of accreditation services provided, including Learning Programme Accreditation.

27. Mr Charles MOK, however, expressed reservations that overseas course operators would register their online courses under QR as CEF courses proactively. He also appealed to the Administration to liaise with the stakeholders in different trades and industries so as to keep abreast of their needs for continuing education and training.

Scope of subsidy

28. Mr HO Kai-ming advised that according to the findings of a survey on continuation education of working people conducted by HKFTU in June to August 2017, over 80% of the respondents in the past two years had not applied for CEF subsidy. Mr HO was of the view that the scope of subsidy should be extended to cover the examination fees of professional qualifications in various occupations, as well as various licences for professional drivers so as to help better equip the labour force. Dr CHIANG Lai-wan shared a similar view.

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29. SLW responded that CEF was established to encourage local workers to pursue further education by providing them with subsidies for continuing education and training. At present, the scope of subsidy would generally cover the course fees but not the examination fees. The Administration was committed to promoting the development of Qualifications Framework ("QF") and enlisting occupation-related courses under QR as appropriate.

Subsidy ceiling

30. Mr Charles MOK held the view that it was inappropriate to set a maximum subsidy limit under CEF. Mr MOK called on the Administration to make reference to the provision of allowance under SkillsFuture in Singapore and provide periodic top-ups for those who had exhausted the allowance, so as to encourage more people to pursue continuing education.

31. Noting from paragraph (h) of Annex A to the Administration's paper that the Consultant recommended that the Government should review the maximum subsidy limit, Mr POON Siu-ping expressed disappointment that the Administration proposed no revision to the existing subsidy ceiling of \$10,000.

32. Sharing a similar concern, Dr CHIANG Lai-wan said that the Administration should consider increasing the amount of subsidy under CEF from \$10,000 to \$20,000 so as to benefit more young people and encourage members of the public to pursue continuing education.

33. Mr LUK Chung-hung considered the amount of CEF subsidy insufficient for lifelong learning and was concerned that the subsidy ceiling had remained unchanged at \$10,000 since the inception of CEF in 2002. In his view, it could hardly catch up with the inflation over the years and maintain the "purchasing power" of the CEF subsidy to support continuing education. The Chairman and Mr POON Siu-ping echoed similar views and concerns. Mr LUK said that HKFTU suggested that the amount of subsidy under CEF should be substantially increased from the existing \$10,000 to \$40,000, where four rounds of applications could be made for different courses, with a cap at \$10,000 for each round. The Chairman sought clarification as to whether the Administration would need to reactivate the 666 000 closed accounts of CEF beneficiaries if the amount of subsidy under CEF was to be increased.

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34. SLW advised that the Administration took note of members' views and concerns about the subsidy ceiling of CEF and would study the matter seriously. It was noteworthy that most of the CEF beneficiaries had made use of the subsidy to attend short-term courses and among the 666 000 closed accounts of CEF beneficiaries, more than half (or around 380 000) actually did not use up the subsidy of \$10,000. To safeguard against adverse unintended consequences of delayed use of the subsidy arising from expected continuous increase in the subsidy amount, the Administration aimed to maintain the subsidy at a stable level and had no plan to reactivate the closed CEF accounts.

35. Mr LUK Chung-hung pointed out that the subsidy of \$10,000 was not used up in many of the closed accounts of CEF beneficiaries was largely because the remaining sum was insufficient to meet the course fees for another CEF course.

Monitoring of courses

36. Expressing concern about possible abuse of CEF by course operators, Mr SHIU Ka-chun sought information on the quality assurance and monitoring of the CEF courses, including statistics on the number of inspections on course providers and the number of cases of non-compliance found during the inspections in the past years as well as the penalty concerned.

37. Head of the Working Family and Student Financial Assistance Agency responded that the Office of CEF ("OCEF") had conducted around 250 inspections each year, including surprise class inspections and checking of class records at offices of course providers, whereas HKCAAVQ had conducted some 80 inspections each year on course providers. OCEF would issue warning letters to the course providers concerned when non-compliance was detected during the inspections. If the non-compliance cases were serious in nature, OCEF would refer the cases to the Labour and Welfare Bureau for consideration as to possible suspension or de-registration of the relevant course(s) from the list of CEF courses as appropriate. SLW added that the information requested by Mr SHIU Ka-chun would be provided after the meeting.

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Promotion and publicity

38. Dr CHIANG Lai-wan and Mr SHIU Ka-chun shared similar concerns that CEF was not well-publicized and a considerable number of members of the public were not aware of the availability of the \$10,000 CEF subsidy to pursue continuing education. Dr CHIANG said that according to a survey conducted by DAB in July 2017, around 65.8 % of the respondents were not aware of CEF. She called on the Administration to step up its promotional and publicity efforts in this respect.

39. SLW responded that the Administration would step up the publicity of the proposed enhancement measures, so that the public could be better informed of the enhancement measures, and more eligible Hong Kong residents would be encouraged to pursue continuing education.

Effectiveness of Continuing Education Fund courses

40. With reference to the implementation experience of QF in the security service industry, the Chairman said that the attainment of QF-recognized qualifications had enabled the industry practitioners to move upwards along the career path with higher income. He enquired whether the Administration would consider conducting assessment on the benefits of CEF courses brought about to the participants in various industries.

41. SLW responded that the Administration had no plan to conduct such assessment at the moment, having regard to the large number of the CEF courses and the fact that a majority of the courses were short courses in nature. In the light of the existing arrangement of requiring the learners to co-pay 20% of the course fees, it was believed that it would help safeguard the effective use of the subsidy.

Proposed funding injection

42. Members noted the Administration's proposal to inject \$1.5 billion into CEF in 2017-2018 so as to sustain its operation.

43. Mr POON Siu-ping asked about the impact on the operation of CEF if the amount of the subsidy per eligible applicant on successful completion of reimbursable CEF course(s) was increased.

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44. SLW explained that subject to the approval of the Finance Committee ("FC"), the total funding provision for CEF would increase from \$6.2 billion to \$7.7 billion. The funding would be used to meet the payment of subsidy and costs for administering CEF. The actual cash flow and duration of CEF would depend on the speed at which eligible applicants came forward and sought reimbursement as well as the amount of subsidy sought under the enhanced measures. For illustration and budgetary purposes, it was estimated that with the \$1.5 billion injection, CEF might continue to operate until late 2024, assuming the number of new applications would arise at the current pace. Nevertheless, assuming there was an obvious increase of applications, say 50% (i.e. from 35 000 to 52 500 per year), the Fund might operate until 2022. Should there be increase in the subsidy amount, it was expected that the Fund would be exhausted at a faster speed.

Provision of support

45. Referring to HKFTU's survey findings, Mr HO Kai-Ming expressed concern that the long working hours situation in various trades and industries had made it difficult for working people to pursue further education and training. Mr POON Siu-ping and Mr SHIU Ka-chun shared similar concerns. To tie in with the development of CEF, these members called on the Administration to consider legislating for the provision of paid study leave so as to encourage employees to pursue further studies or skills upgrading.

46. SLW responded that the suggestion of members and the labour sector for paid study leave was noted.

Motions

47. The Chairman put the following motion proposed by Mr HO Kai-ming and seconded by Mr LUK Chung-hung to vote:

"由於持續進修基金資助金額多年來保持在一萬元的水平未有調整，未能發揮基金本身鼓勵進修的功効，本事務委員會建議大幅提升持續進修基金資助金額，由目前的一萬元增加至四萬元，分四輪申請不同的課程，每輪上限為一萬元；同時增加持續進修基金至更多可資助課程、擴展資助範圍至各項職業專業資格的考試費，例如國家職業資格證書、水電工、技工牌及各項「職業車」車牌等，以及放寬相關的申領限制。"

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(Translation)

"Given that the amount of subsidy under the Continuing Education Fund ("CEF"), which has remained at \$10,000 without any adjustment for years, fails to serve CEF's purpose of encouraging continuous education, this Panel suggests that the amount of subsidy under CEF be substantially increased from the existing \$10,000 to \$40,000, where four rounds of applications can be made for different courses, with a cap at \$10,000 for each round; and at the same time, more reimbursable courses under CEF should be added, the scope of subsidy should be extended to cover the examination fees of professional qualifications in various occupations, such as the National Occupational Qualification Certificates, licences for plumbers, electricians and artisans, as well as various licences for professional drivers, etc., and the relevant restrictions on application should be relaxed."

All members present voted for the motion, and no member voted against it or abstained from voting. The Chairman declared that the motion was carried.

48. The Chairman put another motion proposed by Dr CHIANG Lai-wan to vote:

"本事務委員會促請政府在對持續進修基金檢討時，研究將持續進修基金的受惠金額提高至二萬元，使得更多年輕人受惠，以及鼓勵市民積極進修、更專業的奉獻社會。"

(Translation)

"That this Panel urges the Government to consider increasing the amount of subsidy under the Continuing Education Fund ("CEF") to \$20,000 when conducting a review on CEF, so as to benefit more young people and encourage members of the public to pursue continuous education and to make contribution to society with professionalism."

The Chairman said that all members present voted for the motion with the exception of one member who abstained from voting. He declared that the motion was carried.

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49. In concluding the discussion, the Chairman said that the Panel raised no objection in principle to the Administration's proposal to inject \$1.5 billion into CEF and its submission to FC for consideration.

50. There being no other business, the meeting ended at 6:21 pm.

Council Business Division 2
Legislative Council Secretariat
13 December 2017