

**立法會**  
**Legislative Council**

LC Paper No. CB(2)1945/17-18  
(These minutes have been seen  
by the Administration)

Ref : CB2/PL/MP

**Panel on Manpower**

**Minutes of meeting**  
**held on Tuesday, 15 May 2018, at 4:30 pm**  
**in Conference Room 2 of the Legislative Council Complex**

- Members present** : Hon KWOK Wai-keung, JP (Chairman)  
Hon LEUNG Yiu-chung  
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 Andrew WAN Siu-kin  
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  
Hon Vincent CHENG Wing-shun, MH
- Members attending** : Hon Tommy CHEUNG Yu-yan, GBS, JP  
Hon Starry LEE Wai-king, SBS, JP  
Hon CHUNG Kwok-pan  
Hon AU Nok-hin
- Members absent** : Dr Hon Fernando CHEUNG Chiu-hung (Deputy Chairman)  
Hon WONG Kwok-kin, SBS, JP  
Hon Michael TIEN Puk-sun, BBS, JP  
Hon CHU Hoi-dick

**Public Officers  
attending** : Item V

Dr LAW Chi-kwong, GBS, JP  
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 Chris SUN Yuk-han, JP  
Deputy Secretary for Financial Services and the Treasury  
(Financial Services) 1

Mr Victor TSANG Chiu-hok  
Head of CreateHK

Miss Vicky CHEUNG  
Principal Assistant Secretary for Transport and Housing  
(Transport) 11

Mr LEE Tin-yan  
Senior Assistant Solicitor General (Arbitration)  
Department of Justice

Mr Michael LUI Hok-leung  
Principal Environmental Protection Officer  
(Food Waste Management)  
Environmental Protection Department

Item VI

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

Mr Carlson CHAN Ka-shun, JP  
Commissioner for Labour

Ms Melody LUK Wai-ling, JP  
Assistant Commissioner for Labour (Labour Relations)

Mr Desmond HOU Ka-chun  
Principal Economist  
Financial Secretary's Office

Miss Grace CHAN Wing-han  
Senior Labour Officer (Labour Relations)  
Labour Department

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

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

Miss Lulu YEUNG  
Clerical Assistant (2) 1

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**I. Confirmation of minutes of previous meeting**  
(LC Paper No. CB(2)1372/17-18)

The minutes of the meeting held on 20 March 2018 were confirmed.

**II. Information paper issued since the last meeting**

2. Members noted that no information paper had been issued since the last meeting.

**III. Date of next meeting and items for discussion**  
(LC Paper Nos. CB(2)1374/17-18(01) and (02))

Regular meeting in June 2018

3. Members agreed that the following items proposed by the Administration be discussed at the next regular meeting at 4:30 pm on 19 June 2018:

- (a) Rehabilitation services for injured employees; and

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- (b) Working hours policy: Way forward.

Members further agreed that deputations would be invited to give views on item (a) above.

**IV. Matters arising from the meeting on 27 April 2018**  
(LC Paper No. CB(2)1308/17-18(01))

4. The Chairman advised that at the last Panel meeting on 27 April 2018, a motion proposed by Mr HO Kai-ming under agenda item V "Implementation of statutory minimum wage" was tabled at the meeting. Owing to insufficient meeting time, members agreed to deal with the motion at the May meeting.

5. The Chairman put the following motion moved by Mr HO Kai-ming to vote:

"按《收入及工時按年統計調查》的主要結果顯示，2016 及 2017 年每小時賺取最低工資的僱員，已跌至佔所有僱員的不足 1%，這反映了最低工資只能惠及極少數的僱員，並未真正發揮最低工資對基層勞工的應有保障作用。就此，本事務委員會促請政府全面檢討現行的法定最低工資制度，並按下述準則訂定最低工資水平：

- (a) 最低工資水平應「一年一檢」，以及早因應市場狀況及通脹等因素作出調整；
- (b) 確切考慮僱員實際生活開支的需要，包括贍養家庭人口的基本生活需要開支等，提高最低工資金額的訂立標準；及
- (c) 綜合考慮各項因素後，確立一個科學、合理和操作性高的參考基準，包括以時薪中位數的 60%，或覆蓋勞動人口不少於 15% 等，作為每次調整討論的參考基礎，以減少勞資雙方不必要的爭拗。"

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(Translation)

"According to the major findings of the Annual Earnings and Hours Survey, the percentages of employees earning the minimum hourly wage dropped to less than 1% of all employees in 2016 and 2017. This reflects that the minimum wage can only benefit very few employees and fails to fully serve its intended purpose of protecting grassroots workers. As such, this Panel urges the Government to conduct a comprehensive review of the existing statutory minimum wage regime and set the minimum wage rate in accordance with the following criteria:

- (a) reviewing the minimum wage rate on an annual basis in order to make timely adjustments in response to factors such as market conditions and inflation;
- (b) raising the standards for setting the minimum wage rate by giving due regard to the actual living expenses of employees, including the basic needs of their dependent family members; and
- (c) after taking a holistic account of various factors, establishing a scientific, reasonable and highly-operable benchmark which includes using 60% of the median hourly rate or covering not less than 15% of the working population as a reference point for deliberations on each adjustment, so as to reduce unnecessary disputes between employers and employees."

6. The Chairman said that five members voted for the motion, no member voted against it, and one member did not vote. The Chairman declared that Mr HO Kai-ming's motion was carried.

**V. Draft talent list**

(LC Paper Nos. CB(2)1374/17-18(03) and (04))

7. At the invitation of the Chairman, Secretary for Labour and Welfare ("SLW") briefed members on the progress of drawing up a draft Talent List by the joint effort of the bureaux/departments concerned, the 11 Industry Segments and Occupations ("ISO") proposed to be included in the draft Talent List, and the proposed implementation of the Talent List through the Quality Migrant Admission Scheme ("QMAS")

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administered by the Immigration Department ("ImmD"), details of which were set out in the Administration's paper.

8. Members noted an information note entitled "Drawing up a talent list" prepared by the Legislative Council ("LegCo") Secretariat.

Drawing up a Talent List

9. Dr CHIANG Lai-wan welcomed the drawing up of a Talent List to attract talented persons to settle in Hong Kong in a more focused manner to support Hong Kong's development into a high value-added and diversified economy. The Chairman expressed support for the implementation of the Talent List to enhance the quality of manpower in Hong Kong through knowledge transfer.

10. Mr SHIU Ka-fai was in support of implementing the Talent List so as to recruit as many global talents as possible to Hong Kong to enhance Hong Kong's development into a knowledge-based economy and its competitiveness with neighbouring places. Mr SHIU was gravely concerned that manpower shortage problem in various trades and industries would be further aggravated in view of the ageing population. Importation of more professionals and labour would help sustain the economic growth of Hong Kong. Citing the provision of rental subsidy by relevant authorities on the Mainland to attract enterprises to enter the Guangdong-Hong Kong-Macao Bay Area with a view to optimising the business environment in the region, Mr SHIU called on the Administration to seriously consider formulating support measures in tandem with the drawing up of a Talent List in order to attract talented persons to work in Hong Kong.

11. While expressing support for the draft Talent List and its implementation upon finalization, Mr YIU Si-wing considered it imperative for the Administration to conduct studies so as to understand the development potentials of specific ISO included in the draft Talent List and update the types of talents and ISO to be included in the list and formulate appropriate support measures. For instance, having regard to the great development potentials of the tourism and hotel industry, the Administration should formulate concrete measures to address manpower shortage of various job types in the hotel industry, including the feasibility of importing labour. Echoing a similar concern about shortage of professional drivers of land transportation, Mr Frankie YICK asked whether the Administration would consider including it in the Talent List.

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12. Given that the Administration had already put in place various talent admission schemes, including the General Employment Policy, the Admission Scheme for Mainland Talents and Professionals, Immigration Arrangement for Non-local Graduates and Capital Investment Entrant Scheme, Mr POON Siu-ping asked whether the Administration would review why these schemes could not attract talents from the 11 selected ISO in the draft Talent List. Noting that the Consultant, who was engaged to study the feasibility of drawing up a talent list, had met with around 60 industry organizations covering some 240 stakeholders, Mr POON sought information on the details of these organizations. Mr LUK Chung-hung was concerned whether the Consultant had met with labour unions of the relevant ISO.

13. Dr KWOK Ka-ki said that he did not object to the admission of talents so identified in the draft Talent List under QMAS. Dr KWOK, however, commented that the lack of local talent professionals in the 11 ISO was attributable to the Administration's failure in nurturing adequate talents timely to meet the development needs of the economy.

14. Responding to members' concerns and views, SLW said that each of the existing admission schemes for non-local talents had its own objective. The Administration planned to implement the Talent List upon finalization through ImmD's QMAS, under which the annual quota was 1 000. According to records, the highest number of approved cases was 593 in 2009 whereas a total of 273 applications had been approved in 2016. The Talent List would highlight to world talents which specific ISO were needed most for Hong Kong's further economic development, and would help attract them to come to Hong Kong. On the other hand, the shortage of frontline staff of specific sectors would need to be handled by the respective policy bureaux. SLW further said that to his knowledge, there was no dedicated labour union for the selected ISO. That said, relevant professional bodies were consulted in respect of drawing up the draft Talent List.

15. Mr SHIU Ka-fai considered that the annual quota of 1 000 under QMAS should be increased. SLW responded that at present, the annual quota of 1 000 under QMAS had not been used up. It could be adjusted accordingly if the need arose. At the Chairman's request, the Administration agreed to provide information on the reasons why the quotas under QMAS had not been used up in the past years.

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16. In response to Mr POON Siu-ping's enquiry, SLW clarified that the implementation of the Technology Talent Admission Scheme ("TechTAS") would be overseen by the Innovation and Technology Bureau. Under TechTAS, eligible technology companies and institutes might apply for quota to bring in overseas/Mainland technology talents to work in specified areas of research and development.

17. The Chairman asked about the duration of stay of the talents admitted under QMAS in Hong Kong. SLW said that successful applicants under QMAS would normally be granted an initial stay of 24 months in Hong Kong. At the end of the first 24 months, an entrant who wished to further extend his stay had to demonstrate to the satisfaction of the Director of Immigration that he had taken steps to settle in Hong Kong and was making contribution to Hong Kong such as by having obtained gainful employment in a graduate/specialist/senior level job.

*Nurturing local youths*

18. Mr SHIU Ka-chun held the view that it was more important for the Administration to nurture local youths in good time and formulate complementary policies and measures rather than relying on admission of non-local talents to support Hong Kong's economic development.

19. Mr LEUNG Yiu-chung and Dr KWOK Ka-ki considered that the Government should have long-term planning for economic development and attach more importance, as well as encourage the business sector, to nurture and build a pool of local talents through continuing education and training, instead of recruiting talents from outside Hong Kong or importing labour. Mr LEUNG was concerned that entrants of admission schemes/imported labour would obtain permanent residence after they had worked in Hong Kong for a continuous period of seven years, and thus incurred additional social cost.

20. Mr LUK Chung-hung asked whether the Administration would, in light of shortage of professionals in the 11 ISO, consider nurturing local youths in these ISO by providing appropriate training to enable them to acquire the relevant qualifications.

21. SLW shared members' views on the importance of nurturing local youths. It was noteworthy that professionals of the 11 ISO in the draft Talent List were not readily available in the local employment market,



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and these talents could not be nurtured by local training in good time. The draft Talent List had been drawn up after taking into account stakeholders' views and available manpower statistics under the specific assessment criteria. Moreover, the ISO concerned were usually of niche and emerging industries. It might not be cost-effective for providing such training locally in view of the small number of trainees concerned. SLW added that it was expected that the Talent List would be regularly updated to ensure that it would keep up with Hong Kong's latest economic development and the changing needs for specific types of talents. If local talents of a certain ISO were found adequate to meet the demand in future reviews, the relevant ISO could be taken out from the Talent List.

*Manpower projection*

22. Expressing concern about employment and career development of the younger generation and the problem of mismatch in manpower requirement and supply, Dr CHIANG Lai-wan was of the view that the Administration should make projection for manpower supply and requirements for specific trades and industries in the coming five years or 10 years, so as to facilitate the planning and provision of education and training courses by training institutes and organizations to meet the evolving development needs as well as career planning by the younger generation.

23. In response, SLW said that the Administration was conducting a new round of manpower projection on the basis of the latest available manpower statistics, which was expected to be completed by June 2019, and would revert to the Panel in due course. While the manpower projection would assess the broader trends of the manpower supply and requirements at the macro level in the medium term, as well as the potential manpower imbalances at different education levels, SLW advised that there would be technical difficulties in making manpower projection for specific trades and industries, having regard to the considerable number of trades and industries involved and their varying development needs.

Assessment criteria and monitoring efforts

24. Mr LEUNG Yiu-chung, Mr POON Siu-ping, Mr HO Kai-ming and Mr LUK Chung-hung were concerned that the implementation of the Talent List under QMAS would deprive local professionals and talents of

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their employment opportunities. They expressed concern about the assessment criteria for the talents listed in the 11 selected ISO, in particular the meaning of "high skill". In the absence of local expertise in the 11 ISO, the Chairman raised query about the qualifications of the approving authority for the applications concerned.

25. Responding to members' concerns, SLW said that the "high skill" criterion was assessed through indicators such as salary level, education and training requirements, and required work experience of relevant professionals. Specifically, it was expected that talents in the 11 ISO should in general possess qualifications directly relevant to the specific ISO and have at least five years' relevant working experience with current positions at managerial/professional skill level. Their monthly earnings should in general be broadly equivalent to \$45,000 or above. The Advisory Committee which was responsible for advising on the applications under QMAS would scrutinize the documentary proofs to be provided by the applicants.

26. Mr POON Siu-ping, Mr HO Kai-ming and Mr LUK Chung-hung were concerned about the monitoring of the implementation of the Talent List. Mr HO pointed out that the Labour Advisory Board was not consulted during the processing of QMAS applications. To his knowledge, there were cases in which QMAS entrants had taken up employment which required less skills and experience than those specified in their applications. Mr LUK was concerned about whether QMAS entrants had taken up employment in trades and industries that were different from those specified in the applications. Both members appealed to the Administration to ensure that the admitted talents possessed the professions that were needed in Hong Kong and took up employment in relevant ISO.

27. SLW advised that in the population policy strategies and initiatives in 2015, the Administration had come to a view of making better use of the existing QMAS to attract highly skilled or talented persons to support Hong Kong's development into a high value-added and diversified economy. It was worth noting that successful applicants under QMAS were not required to have secured an offer of local employment before their entry to Hong Kong. Taking into account the available manpower analysis and statistics reflecting the existence of shortage of talents in specific ISO, it was believed that the QMAS entrants would have no major difficulties in finding employment commensurate with their expertise and experience.

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Industry segments and occupations to be included

*Financial services*

28. Given that Hong Kong was a major international financial centre providing a wide range of financial products and services to local and international investors, Mr LUK Chung-hung queried the need of including several ISO relating to financial services in the draft Talent List.

29. Deputy Secretary for Financial Services and the Treasury (Financial Services) 1 ("DS(FS)1") advised that in light of the rapid development of financial services, there was keen competition and demand for relevant experts worldwide. While the financial services sector had been taking various measures to attract new entrants and providing financial incentive to junior practitioners to pursue further professions in the sector, there was still huge demand for experienced management professionals in asset management and actuarial science, as well as professionals in marine insurance and Fintech.

30. Mr Jeremy TAM asked about the specific qualification and experience requirements for management professionals in asset management as suggested by the industry stakeholders and the relevant manpower shortage in the sector. Mr TAM also sought clarification as to whether the sales of insurance policies and investment products would be regarded as possessing relevant experience of "asset management" in the ISO of financial services in the draft Talent List and hence would be eligible for applying for QMAS.

31. DS(FS)1 and SLW assured members that unlike the frontline staff engaged in the sales of insurance and investment products, experienced management professionals in asset management included in the Talent List to be admitted through QMAS should have substantial years of specified working experience (i.e. managing assets and funds) and be able to demonstrate that they were suitable candidates meeting the specific requirements as expected by the industry.

*Creative industries*

32. Citing the Macao Special Administrative Region Government's provision of subsidy under various subsidy programmes for talented persons in the cultural and creative industries, Mr SHIU Ka-chun asked about the support measures for promoting development of creative

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industries, including music, digital entertainment and electronic sports industry in Hong Kong.

33. Head of CreateHK advised that the Government had proposed to inject \$1 billion into the CreateSmart Initiative ("CSI") in the 2018-2019 financial year to strengthen the Government's financial support for the seven specified creative sectors, including music and digital entertainment, for implementation of projects that were conducive to their further development. No less than 50 per cent of the new injection of \$1 billion would be earmarked for projects related to the strategic focus of nurturing talents, especially for grooming young talents in different sectors, and facilitating start-ups. CSI could also sponsor young practitioners' participation in different local and international festivals and competitions to help broaden their exposure and enrich their experience, and provide platforms for them to explore business opportunities and showcase their talents.

*Logistics and transport services*

34. Mr Frankie YICK expressed concern that based on a survey conducted by the maritime industry recently, the industry faced manpower shortage and difficulties in attracting young entrants. This would affect not only ocean-going vessels, but also local marine operation including ferry services. He asked whether the recruitment of professionals for logistics and transport services under items (h) and (i) in paragraph 6 of the Administration's paper would cover local marine operation as well.

35. Principal Assistant Secretary for Transport and Housing (Transport) 11 said that apart from local shipyards, naval architects, marine engineers and other related professionals were employed by shipping companies and the classification societies. The inclusion of these professionals in the ISO was considered critical to the development of the maritime industry.

**VI. Preliminary idea on abolishing the "offsetting" arrangement under the Mandatory Provident Fund System**  
(LC Paper Nos. CB(2)1374/17-18(05) to (06) and CB(2)1393/17-18(01))

36. At the invitation of the Chairman, SLW briefly took members through the Administration's paper on its preliminary idea on abolishing

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the "offsetting" arrangement under the Mandatory Provident Fund ("MPF") System ("the preliminary idea"). SLW added that the Government had made clear its determination to abolish the "offsetting" arrangement, and the preliminary idea now under deliberation was not yet the final decision of the Government. He welcomed the opportunity to gauge members' views on the preliminary idea for improving the proposal in taking the matter forward.

37. Members noted an updated background brief entitled "Offsetting arrangement under the Mandatory Provident Fund system" prepared by the LegCo Secretariat.

*[To allow sufficient time for discussion, the Chairman suggested and members agreed to extend the meeting by 15 minutes.]*

The preliminary idea

38. Mr Jimmy NG said that the Administration's idea on abolishing the "offsetting" arrangement had not fully taken into account the affordability of the micro-, small- and medium-sized enterprises ("MSMEs") and thus the business sector could hardly accept the proposal. Mr NG was concerned that according to the estimation under the preliminary idea, the proportion of incident employers (i.e. employers who had initiated dismissals that necessitated severance payment ("SP")/long service payment ("LSP")) of micro-sized firms with inadequate funds in their designated saving accounts ("DSAs") to meet SP/LSP payable to their employees would be 51% and 44% at year 10 and 20 respectively after the abolition. On average, employers of micro-sized firms who did not have adequate funds in their DSAs would need to top up some \$219,000 after exhausting their savings accrued in their DSAs. In this connection, the proposal to extend the duration of Government subsidy from 10 to 12 years was still insufficient for these employers. Mr NG held the view that the responsibility of providing retirement protection for employees should not be borne by employers only, but should be shared by the Government as well. The Administration should rationalize the relationship between SP/LSP and MPF before putting forth a better option to abolish the "offsetting" arrangement.

39. Mr SHIU Ka-fai considered that it was unfair for the business sector to shoulder all the responsibility of providing retirement protection for their employees.

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40. SLW responded that as a key element of the preliminary idea, the Government would increase its financial commitment and provide a two-tier subsidy with duration extended to 12 years to mitigate the impact of the abolition on enterprises, in particular MSMEs. Acknowledging the concerns of micro-sized firms, the Administration would explore how to refine the preliminary idea with a view to providing more assistance to micro-sized firms.

41. SLW furthered that retirement protection was a shared responsibility of individuals, employers, the Government and family members. He then drew members' attention to the fact that unemployment protection was mostly financed by social insurance schemes with contributions from employers and/or employees in other places. As a matter of fact, the Government's annual financial expenditure on the various pillars of the existing retirement protection system, including the Old Age Living Allowance and Comprehensive Social Security Assistance Scheme, was substantial. Given that the "offsetting" arrangement had greatly weakened the retirement protection function of the second pillar i.e. the MPF System, it was necessary to abolish the arrangement. After the abolition of the "offsetting" arrangement, the respective functions of MPF and SP/LSP would be reinstated.

42. Pointing out that the "offsetting" arrangement was a prerequisite for employers' support for enacting the MPF legislation years ago, Mr SHIU Ka-fai expressed grave reservation about abolishing the "offsetting" arrangement which was a breach of the Government's undertaking. Mr SHIU, Mr CHUNG Kwok-pan and Mr YIU Si-wing considered the formula for calculating the Government's subsidy to employers to share part of their SP/LSP expenditure too complicated. Mr SHIU said that MSMEs were worried that the proposal would go beyond their affordability and would be detrimental to the business environment. To address the situation, employers would offer jobs on short-term basis so as to evade the responsibility of paying LSP which would adversely affect the labour force structure. Mr SHIU asked how the Government would convince the business sector to support the abolition proposal.

43. Ms Starry LEE said that the Democratic Alliance for the Betterment and Progress of Hong Kong was in support of improving employees' rights and benefits and was aware of the call for abolishing the "offsetting" arrangement. That said, employers of micro-sized firms,

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however, were gravely concerned that they might not have sufficient money for discharging their full SP/LSP liabilities after exhausting their savings accrued in their DSAs and thus might result in business closure. Moreover, the business sector considered that the abolition of "offsetting" arrangement had breached the consensus on enacting the MPF legislation. Ms LEE appealed to the Administration to take into account concerns of the business sector, in particular micro-sized firms and improve the proposal with a view to arriving at a consensus on a finalized option for abolishing the "offsetting" arrangement.

44. Responding to members' views, SLW said that the Administration was fully aware of the concerns of the business sector. However, having regard to the divergent views of the business sector and the labour sector over the issue, it would not be too easy to come up with a consensus on the abolition of the "offsetting" arrangement but the Government would make the best efforts to seek the support of the business sector for the finalized proposal. It was believed that by way of DSAs, the impact of the abolition of the "offsetting" arrangement would be manageable for most of the medium- and large-sized enterprises. As for the challenges to be faced by the micro-sized firms and those medium-sized firms in the case of their dismissing a higher proportion of workers, the Administration would explore how to improve the preliminary idea. SLW assured members that the Administration would continue to exchange views with stakeholders on how to refine the preliminary idea to devise a more practical and acceptable proposal to both the business and labour sectors.

45. Mr POON Siu-ping said that the labour sector welcomed the preliminary idea and urged the Administration to abolish the "offsetting" arrangement without further delay. Noting that the Administration had been exchanging views on the preliminary idea with major stakeholders including the business and labour sectors, Mr POON asked about the progress. With respect to the increase in the quantum from \$7.9 billion to \$17.2 billion to help share employers' expenses on SP/LSP within the 12-year transitional period, Mr POON sought further information on the maximum amount of subsidy that could be afforded by the Government so as to mitigate enterprises' financial burden, in particular that of the micro-sized firms.

46. SLW advised that during the discussions with major stakeholders, there were views from the business sector as to how the preliminary idea could be further improved to help MSMEs while some maintained their

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opposition to the abolition of the "offsetting" arrangement. The current-term Government was committed to abolishing the "offsetting" arrangement and would endeavour to refine the preliminary idea to provide more support to the micro-sized establishments.

47. Dr Pierre CHAN pointed out that there were several thousands of private medical practitioners and dentists running clinics which were micro-sized establishments and they did not have much information about the preliminary idea. Dr CHAN asked whether they were covered in the consultation on the preliminary idea and sought information on the number and classification of micro-sized establishments.

48. SLW advised that he did not have the information on hand. In the light of Dr Pierre CHAN's concern, the Administration would consider consulting the relevant professional bodies on the preliminary idea. SLW further advised that it was estimated that only some 40% of employees who left employment might be entitled to SP/LSP. It was expected that after the abolition of the "offsetting" arrangement, not all employers would be able to save up adequately under their DSAs for discharging their full SP/LSP liabilities, and some would need to make top-up payment as many incident employers did at present. The provisions for SP/LSP for all staff would be equivalent to 5.6% of the salary cost. With the provision of Government subsidy to help share employers' expenses on SP/LSP within the 12-year transitional period, such additional cost was considered generally manageable for these sectors.

49. Mr LUK Chung-hung said that the labour sector had called for the abolition of the "offsetting" arrangement over the years and was in support of the Administration's proposal. Sharing a similar view, the Chairman said that the existing rate for calculating SP and LSP as well as the maximum SP/LSP amount should remain unchanged. Mr LUK was concerned that over \$35 billion of the employers' contribution to MPF had been withdrawn under the "offsetting" arrangement since the inception of the MPF system in 2000.

50. Mr YIU Si-wing said that MSMEs were disappointed at the time-limited provision of Government subsidy to employers to share part of their SP/LSP expenditure, which would last for 12 years only. Pointing out that MSMEs constituted over 80% of business establishments in the tourism industry, Mr YIU highlighted their difficult business environment in face of the keen competition. Mr YIU said that



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the business sector could hardly afford to make extra contribution to their own DSAs. Mr YIU appealed to the Administration to take heed of the views of the business sector and balance the interest of employers and employees in abolishing the "offsetting" arrangement.

51. SLW stressed that the Administration was willing and would continue to listen to the views of the business sector with a view to developing a more practical and acceptable proposal in taking the matter forward.

52. Mr Tommy CHEUNG said that the difficult business environment encountered by various sectors, in particular the catering sector, would be further aggravated following the abolition of the "offsetting" arrangement. Mr CHEUNG expressed the view that under the long-established "offsetting" arrangement, employees were allowed to receive prematurely the MPF accrued benefits from employers' contribution for the purpose of alleviating their short-term financial hardship caused by loss of employment. It was the high administration cost for fund management under various MPF schemes that had undermined the retirement protection function of the MPF System.

53. Mr AU Nok-hin was concerned that under the "no retrospective effect" principle, any SP/LSP payable for the employment period up to the Effective Date would be calculated on the basis of the monthly wages as at the Effective Date, as opposed to the last monthly wages at the time of dismissal (if the dismissal was after the Effective Date). Mr AU considered that it was a retrograde step in employment benefits. To help share employers' expenses on pre-Effective Date SP/LSP, Mr AU enquired whether the Administration would actively reconsider setting up a central fund pool as proposed by the Hong Kong Confederation of Trade Union ("HKCTU"), i.e. half of employers' expenses on pre-Effective Date SP/LSP to be derived from the central fund pool and the other half from employers. Specifically, it would be financed by employers plus the Government's one-off injection of \$20 billion which would be quite close to the amount (i.e. \$17.2 billion) earmarked for the Government's proposed two-tier subsidy within the 12-year transitional period. Mr LEUNG Yiu-chung remarked that the Administration should explore the feasibility of the suggestion. Mr AU further said that it would be more reasonable to adopt a sliding scale, instead of providing two-tier subsidy, for enterprises, on a need basis, to mitigate the impact of the abolition on them.

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54. SLW advised that HKCTU's proposal was not the best solution to address the concerns of the business sector over the abolition of the "offsetting" arrangement, since it would be most costly to the employers amongst various options. As regards the Government's proposed two-tier subsidy, SLW said that it was expected that the accrued balance of most enterprises in their DSAs would be sufficient to pay SP/LSP after discounting the first-tier subsidy. It was likely that most cases requiring the second-tier subsidy were micro-sized firms. The Administration envisaged that the special arrangement of the second-tier subsidy could help alleviate the financial burden of micro-sized firms and medium-sized enterprises when the need to pay SP/LSP arose.

55. Mr CHUNG Kwok-pan said that the business sector opposed the preliminary idea. In respect of the proposal of setting up a central fund pool to help share employers' expenses on pre-Effective Date SP/LSP, Mr CHUNG said that the business sector was willing to further discuss the percentage of employers' contribution to the central fund pool. He asked why the Administration refused to consider the proposal.

56. SLW advised that it was worth noting that the setting up of a central fund pool to help share employers' expenses on pre-Effective Date SP/LSP might give rise to moral hazards involving the behavioural change of both employers and employees. The Administration would explore how to make appropriate improvement to the preliminary idea so as to address concerns of the stakeholders, in particular the micro-sized firms.

57. Mr LEUNG Yiu-chung said that the labour sector in general accepted the preliminary idea and stressed that the abolition of "offsetting" arrangement should be taken forward on the premise that employees' rights and benefits under the Employment Ordinance (Cap. 57) would not be undermined. Mr LEUNG added that it was imperative for the Administration to safeguard employees against dismissal by unscrupulous employers to evade their SP/LSP liabilities before and after the abolition of the "offsetting" arrangement.

58. The Chairman expressed concern that given the subsidy rate would progressively reduce following the abolition of the "offsetting" arrangement, some employers would dismiss their employees in the first few years of subsidy period and re-employ them for the same posts. He said that the Administration should safeguard employees' rights and benefits in relation to their years of service, such as leave entitlements.

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59. SLW advised that the design of the preliminary idea had the effect of reducing the risks of massive dismissals upon the abolition. These included the Government's provision of two-tier subsidy, the progressive reduction of the subsidy rate and requiring employers each to set up a DSA under his/her own name and contribute 1% of their employees' monthly income to the DSA until reaching 15% of the employees' annual income for payment of SP/LSP.

60. Mr HO Kai-ming considered that the responsibility of providing retirement protection should be shared between employers and the Government. Pending the implementation of a non-means-tested universal retirement protection scheme, Mr HO considered that the abolition of the "offsetting" arrangement was crucial to preserve MPF's retirement protection function. He was concerned how the Administration could convince the business sector to accept the current proposal.

61. The Chairman was concerned about how the Administration would refine the preliminary idea and strengthen the MPF System as the second pillar of the retirement protection system.

62. SLW reiterated that the Administration would continue to exchange views with major stakeholders including the business and labour sectors. Thereafter, it would take some time for the Administration to consolidate and analyze all the views collected for working out a more practical and acceptable proposal.

*Offsetting SP/LSP for employment period before Effective Date*

63. Mr LUK Chung-hung expressed concern that under the preliminary idea, employers were allowed to offset the pre-Effective Date SP/LSP of employees with long years of service with their MPF contributions made after the Effective Date. Mr LEUNG Yiu-chung shared a similar concern.

64. SLW said that the arrangement under the preliminary idea which helped employers meet their SP/LSP liabilities would in turn provide better employment protection for employees. In addition, if employers were not allowed to offset the pre-Effective Date SP/LSP with their MPF contributions made after the Effective Date, it would necessitate the setting up of some three million new MPF accounts, which would result

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in high operation cost as well as much technical difficulties and disputes in the calculation of the value of the accrued benefits from employers' MPF contributions before the Effective Date.

65. Referring to paragraph 13 of the Administration's paper regarding offsetting SP/LSP for employment period before the Effective Date, Mr Jeremy TAM raised query about the projection that the accrued benefits derived from employers' MPF contributions before the Effective Date would grow due to investment returns and might outgrow the "offsettable" SP/LSP before the Effective Date. He pointed out that if the dismissal took place in times of economic downturn, it would have adverse impact on the value of the accrued benefits of employees' MPF account. Mr TAM enquired whether the Administration would consider increasing its subsidy amount to employers such that employers' out of pocket payment pertinent to SP/LSP related to the period before the Effective Date could be covered as well.

66. SLW advised that while short-term investment would be subject to various risks and fluctuations in the financial market, it was expected that long-term investment would generally increase in value. SLW added that except under very special circumstances, the enactment of legislation would have no retrospective effect. It was proposed that employers would be allowed to offset the pre-Effective Date SP/LSP with their MPF contributions made both before and after the Effective Date.

*[To allow sufficient time for discussion, the Chairman suggested and members agreed to further extend the meeting to 6:55 pm.]*

Legislative timetable

67. Mr LUK Chung-hung strongly urged the Administration to take forward the abolition arrangement as soon as practicable. He was concerned how the Administration would take forward the matter in the light of the reserved stance of the business sector and the relevant legislative timetable. Sharing a similar concern, the Chairman urged the Administration to consider setting the Effective Date, in the first instance, as soon as practicable. Mr POON Siu-ping remarked that the enabling legislation should take immediate effect after its passage.

68. SLW said that the abolition of the "offsetting" arrangement involved technical complexities in mapping out the scheme and preparing the enabling legislation and that it would be technically difficult to set the

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Effective Date prior to such work procedures. SLW further said that the Government hoped to finalize the abolition proposal for consideration by the Chief Executive in Council within 2018 and to introduce the enabling legislation into LegCo before the end of 2019. If the necessary legislative procedures for the abolition of the "offsetting" arrangement could be completed before the 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 rolled out by 2022.

69. There being no other business, the meeting ended at 6:49 pm.

Council Business Division 2  
Legislative Council Secretariat  
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