

Chapter XV : Labour

15.1 At the invitation of the Chairman, the Secretary for Economic Development and Labour (SEDL), Mr Stephen IP, briefed members on key measures to promote labour relations, ease unemployment, enhance occupational safety and health and protect employees' rights and benefits (Appendix V-13).

Labour relations

15.2 Mr Andrew CHENG referred to the statistics on labour disputes and claims handled by the Minor Employment Claims Adjudication Board in 2002-03. He was disappointed to note that in the cases resolved, the number of workers and claims only amounted to 10% of the total workers and claims. Mr CHENG expressed grave concern about whether staff of the Labour Department (LD) had adequate ability and capacity to handle the large number of labour disputes and claims, and enquired whether more manpower resources would be allocated to this area of work.

15.3 Mr LEE Cheuk-yan shared Mr CHENG's view and pointed out that conciliation meetings at LD could not be arranged within the pledged five weeks for 25% of claims lodged in 2002. He urged the Administration to consider giving priority to those cases which had been pending for more than five weeks for first appointment of conciliation meeting.

15.4 In response, the Commissioner for Labour (C for L) pointed out that as far as the number of cases was concerned, more than 60% of the cases handled in 2002-03 had been resolved through conciliation. This settlement rate was not low by international standard. The Permanent Secretary for Economic Development and Labour (Labour) (PSL) added that very often, verification revealed that the amount claimed by employees might exceed their entitlements. They considered that the existing system of resolving labour disputes and claims through conciliation had worked well and no immediate change was required. Seven additional officers had been deployed in 2002 to handle the increasing number of conciliation cases. The manpower required for handling disputes and claims for 2003 would be met through internal re-deployment. In this connection, SEDL stressed that whether or not a claim/dispute could be resolved would hinge on a host of factors. Cases which could not be settled by conciliation very often involved employers who were insolvent and in such cases, claimants had to be referred to the Legal Aid Department and the Protection of Wages on Insolvency Fund (PWIF) for assistance.

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15.5 Noting that the target of effecting payment under PWIF within 10 weeks could only be met in 76.3% of the applications in 2002, Ms LI Fung-ying was concerned whether the increased provision for employing additional temporary staff for PWIF in 2003-04 would be adequate in coping with the increasing workload. She was keen to ensure that the affected employees could receive payment under PWIF within the pledged 10 weeks.

15.6 In response, C for L attributed the longer time required to complete the processing of applications in 2002 to the large number of applications received following several major insolvency cases, the complexity of the cases and the staffing resources available to process them. Some applications took a long time to verify due to the lack of supporting documentary evidence. To shorten the processing time and obviate the need for applicants to submit supplementary information, LD had drawn up a list of documents required to be attached to the application forms. LD would streamline the work procedures and where necessary, re-deploy additional manpower to process any upsurge in applications. C for L further confirmed that the estimated number of applications under PWIF to be processed in 2003 was made on the basis of the actual number of such applications received in 2002.

15.7 Referring to the hardship faced by employees with outstanding wages, Mr LEE Cheuk-yan urged LD to handle these claims with top priority. In response, C for L pointed out that it was often difficult to single out claims for outstanding wages because many of the claims also involved severance payment, holiday pay and other terminal entitlements. Nevertheless, Mr LEE urged that claims for outstanding wages should be dealt with expeditiously, say, within a week.

Employment contract

15.8 Members noted that 82% of 221 survey respondents who reported that they were not using written employment contracts would enter into such contracts after attending publicity activities promoting the good employment practice. Ms Emily LAU was concerned that in the absence of legislation mandating the use of written employment contracts, the rights of both the employers and employees could not be safeguarded. She enquired about the percentage of current employment contracts that were not in written form and the problems which might arise.

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15.9 In this connection, C for L confirmed that all employment contracts, whether written or verbal, were legally binding. However, the LD had always encouraged the use of written employment contracts in which the terms and conditions of employment were stipulated, thus avoiding unnecessary doubt and dispute. The Administration did not have information on the proportion of written employment contracts since employers/employees were not required to report the form of contracts being adopted. To promote the wider use of written contracts, LD had published guidebooks and produced CD-ROMs on "Sample Employment Contract" to facilitate its adoption, especially among small and medium enterprises (SMEs) which might not have specialized human resources units.

Employment services

15.10 Notwithstanding the positive feedback received by the Administration from employers and trainees on the Youth Work Experience and Training Scheme (YWETS), Mr Tommy CHEUNG pointed out that very few young people were interested in taking up vacancies in the catering trade. He was concerned about the mismatch and urged the Administration to step up measures to encourage young people to join the catering trade.

15.11 C for L highlighted the overall effectiveness of YWETS and said that certain jobs might be less popular among young people, perhaps due to long working hours and the need to work on holidays. Nevertheless, LD would brief young people through their case managers on the nature and prospect of the catering business. It would also organize recruitment drives in which catering professionals would share their experience with young people.

15.12 In reply to Mr LEUNG Fu-wah, C for L confirmed that three separate offices had been/would be set up to oversee the operation of YWETS, the Youth Pre-employment Training Programme and other programmes to assist middle-aged unemployed persons.

15.13 Noting that the Administration would allocate \$26 million to implement an attachment training scheme for 2 000 university graduates to enhance their employability, Mr SIN Chung-kai was concerned about any possible overlap between this scheme and the career counseling services currently available at individual universities. He considered that it might be more appropriate to allocate resources to assist other groups of unemployed persons.

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15.14 In response, PSL highlighted that through this programme and other schemes designed for young people and the middle-aged, the Government would be providing employment support services on all fronts to meet the needs of people of different educational levels and age groups. In fact, following the freeze on civil service recruitment and the drop in job opportunities in the private sector for university graduates, the Administration had considered it necessary to enhance the employability of university graduates. A working group whose members included career and student counselors from the universities in Hong Kong was set up for this purpose. PSL also reported that the proposed six-month attachment training had received favourable response from SMEs.

Safety and health at work

15.15 In response to Mr TAM Yiu-chung's concern about the safety and health of healthcare workers following the outbreak of Severe Acute Respiratory Syndrome, PSL stressed that LD was fully aware of the possible hazards faced by healthcare workers and had been in close liaison with the Hospital Authority. A team of experts on occupational safety and health had also been set up in LD to monitor the conditions at various hospitals.

15.16 Noting that the number of fatal and non-fatal accidents in industrial undertakings had dropped from 28 515 in 2001 to the provisional 20 556 in 2002, Mrs Selina CHOW sought information on the forecast number of accidents for 2003. She highlighted that this figure was a critical indicator in determining the premium for employees' compensation insurance, particularly for high-risk occupations such as construction work. She pointed out that in the past few years, some employers had encountered difficulties in obtaining the required insurance coverage due to the unreasonably high level of premium. Mrs CHOW considered that a reduction in the number of industrial and non-industrial accidents could help lower the currently high insurance premium and enquired about measures to be undertaken on this front.

15.17 SEDL assured members that despite the reduction in the number of accidents, the Administration would continue to promote safety and health at work through the three-pronged strategy of enforcement, publicity and education. On publicity, PSL highlighted that at the International Forum organized by the Occupational Safety and Health Council (OSHC) in the previous week, messages on the importance of maintaining safety and health at work were delivered to high-risk sectors such as the catering and construction industries. To ensure compliance of the relevant safety legislation, the Deputy Commissioner for

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Labour (Occupational Safety and Health) (DC(OSH)) said that industry-based inspections had been conducted for working-at-height and scaffolding work in late 2002 and early 2003. The Administration had also organized seminars for the construction industry with a view to enhancing safety awareness. DC(OSH) remarked that Hong Kong had made good achievements in reducing industrial accidents in the construction industry, from 19 588 in 1998 to 6 239 in 2002, representing a reduction rate of 68.1%. It was encouraging to note that the number was reduced by 32.2% from 9 206 in 2001 to 6 239 in 2002. Nevertheless, SEDL reckoned that the number of industrial accidents was a critical factor in determining the level of insurance premium and would study the issue further with OSHC and related organizations.

Employees' rights and benefits

15.18 On eliminating age discrimination in employment, Mr LAU Chin-shek highlighted the importance of enacting legislation to prohibit age and race discrimination in employment. He also questioned the effectiveness of education and publicity in eliminating such discrimination.

15.19 Referring to the findings of the opinion survey conducted in December 2001 to gauge public views on age discrimination in recruitment, PSL remarked that the most effective way to deal with age discrimination was through education and publicity. In 2003-04, the Administration would continue to take forward education and publicity measures to promote public awareness, such as revising the Practical Guidelines on the Elimination of Age Discrimination in Recruitment. On whether legislation against age and race discrimination in recruitment should be introduced, PSL did not consider that a consensus had been reached in the community over the issue. As such, the Administration did not consider it appropriate to take the legislative approach at this stage.

15.20 To facilitate the successful implementation of the policy on the imposition of a levy on employers of foreign domestic helpers (FDHs), Miss CHOY So-yuk urged the Administration to consider abolishing the minimum allowable wage for FDHs. She also sought information on the resources, if any, set aside to meet the expenditures arising from possible litigation over the imposition of the aforesaid levy. In reply, SEDL said that the Administration was not aware of any such litigation. He informed members that the Panel on Manpower would consider the issue of minimum allowable wage for FDHs on 28 March 2003.

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15.21 In reply to Mr LEUNG Fu-wah about the work of the new Employment Claims Investigation Unit, the Administration undertook to provide the information on the number of cases currently handled by the Unit.

