

For information on
15 November 2007

LegCo Panel on Manpower

Proposal to revise the rate of Business Registration Certificate levy for the Protection of Wages on Insolvency Fund

Purpose

This paper informs Members of a proposal to revise the rate of the Business Registration Certificate (BRC) levy for the Protection of Wages on Insolvency Fund (the Fund) from the current level of \$600 per annum to \$450 per annum.

Background

2. The Fund was set up in 1985 to provide timely relief in the form of ex gratia payment to employees of insolvent employers. Employees who are owed wages, wages in lieu of notice and severance payment by their insolvent employers may apply for ex gratia payment from the Fund. The maximum payment that an employee can receive from the Fund is \$278,500, comprising \$36,000 for wages, \$22,500 for wages in lieu of notice, and severance payment up to \$50,000 plus 50% of the remainder of the entitlement.

3. The Fund is mainly financed by a levy at the rate of \$600 per annum on each BRC issued under the Business Registration Ordinance (Cap. 310). Other sources of income include money recovered from the remaining assets of insolvent employers through subrogation as well as bank deposit returns. The Labour Department (LD) is responsible for processing the applications and the operation of the Fund. The Protection of Wages on Insolvency Fund Board (Fund Board), established under the Protection of Wages on Insolvency Ordinance (Cap. 380), has the statutory functions of administering the Fund and making recommendations to the Chief Executive with respect to the rate of levy.

Previous adjustments of BRC levy

4. When the Fund was set up in 1985, the levy rate was then set at \$100. Since the Fund's establishment, the levy rate has been revised twice. The first revision took place in July 1991 when the levy rate was raised from \$100 to \$250.

5. In May 2002, the levy was further increased from \$250 to the current rate of \$600 as the upsurge in claims for ex gratia payment after the Asian financial crisis had fast depleted the Fund. After the Fund Board considered that the levy had to be increased to \$600, the Labour Advisory Board (LAB) was consulted. The proposed increase was endorsed by the LAB and it was agreed that a review of the new levy rate be conducted in the following year. The LD, together with the Fund Board, has been closely monitoring the Fund's financial position and the levy rate. The Fund Board reviewed the levy rate in February 2003 and February 2004 and considered that it should remain unchanged. The LD and the Fund Board have continued to monitor the financial position of the Fund and the levy rate thereafter.

Financial position of the Fund

6. Concomitant with the continual improvement in the local economy in recent years and the LD's all-out efforts in combating wage default, claims payment by the Fund has subsided significantly, as shown in Table A below.

Table A: Claims Payment since 2003-04

	2003-04 (\$m)	2004-05 (\$m)	2005-06 (\$m)	2006-07 (\$m)
Claims Payment	465.7	315.8 (-32%)	191.9 (-39%)	137.1 (-29%)

(% – change over previous year)

7. As a result, the financial position of the Fund has improved steadily. The Fund's reserve rose from an accumulated deficit of \$18.4 million as at end of March 2004 to an accumulated surplus of \$772.1 million as at end of March 2007, as shown in Table B below. For the first seven months of the current 2007-08 financial year, claims payment by the Fund continued to decline and only amounted to \$49.8 million. The accumulated fund reached a record figure of \$1,045.3 million as at end of October 2007.

Table B: Financial Position of the Fund since 2003-04

	2003-04 (\$m)	2004-05 (\$m)	2005-06 (\$m)	2006-07 (\$m)
Income	436.0	452.4	502.0	522.1
Expenditure	489.5	337.8	215.6	160.1
Surplus/(Deficit)	(53.5)	114.6	286.4	362.0
Reserve (Accumulated Fund)	(18.4)	96.3	410.1	772.1

Proposal

8. The LD together with the Fund Board has reviewed the level of the BRC levy. At the meeting on 19 September 2007, Members of the Fund Board agreed unanimously that the levy should be reduced from the current level of \$600 per annum to \$450 per annum. The LAB also supported the proposal at its meeting held on 10 October 2007.

9. As indicated in the Annex, with a levy rate of \$450, the Fund should still be able to maintain a healthy yearly surplus of over \$200 million. This would allow the Fund to maintain sufficient reserve and cash flow to save for rainy days, including the possible need to cope with any sudden outbreak of major insolvency cases.

10. Furthermore, the Fund Board has agreed to work out an objective mechanism for triggering future reviews of the levy rate. Details of the mechanism would be deliberated at its next meeting. This would facilitate necessary adjustment of the levy in view of the Fund's future needs and financial position.

Implementation plan

11. The BRC levy rate as set out in Schedule 2 of the Business Registration Ordinance has to be amended by Order published in the Gazette. The Administration plans to arrange gazettal of the Order and tabling at the LegCo early next year. The new levy rate will take effect after the expiry of the negative vetting period of the LegCo.

Labour and Welfare Bureau
Labour Department
November 2007

**Protection of Wages on Insolvency Fund
Analysis of Income and Expenditure**

	2003-04 <u>Actual</u> \$m	2004-05 <u>Actual</u> \$m	2005-06 <u>Actual</u> \$m	2006-07 <u>Actual</u> \$m	2007-08 Forecast at levy rate of \$600 \$m	2007-08 Forecast at levy rate of \$450 \$m
INCOME						
Levy on BRC	426.8	440.1	485.2	490.8	492.0 ⁽¹⁾	369.0 ⁽¹⁾
Subrogation Income	8.9	11.9	7.9	7.6	8.0 ⁽²⁾	8.0 ⁽²⁾
Interest on Deposits	0.3	0.4	8.9	23.7	35.8	33.4
	<u>436.0</u>	<u>452.4</u>	<u>502.0</u>	<u>522.1</u>	<u>535.8</u>	<u>410.4</u>
EXPENDITURE						
Claims Payment	465.7	315.8	191.9	137.1	173.8 ⁽³⁾	173.8 ⁽³⁾
Other Expenses	23.8	22.0	23.7	23.0	23.4 ⁽²⁾	23.4 ⁽²⁾
	<u>489.5</u>	<u>337.8</u>	<u>215.6</u>	<u>160.1</u>	<u>197.2</u>	<u>197.2</u>
Surplus/(Deficit) of Income over Expenditure	(53.5)	114.6	286.4	362.0	338.6	213.2
Plus: Building Reserve	-	-	27.5	-	-	-
Total Accumulated Fund as at end of Financial Year	<u>(18.4)</u>	<u>96.3</u>	<u>410.1</u>	<u>772.1</u>	<u>1,110.7</u>	<u>985.3</u>

Notes:

- (1) Based on the estimation that a total of 820 000 BRCs would be issued in 2007-08, the projected levy income is \$600 x 820 000 and \$450 x 820 000 respectively.
- (2) Based on the Estimates of Income and Expenditure for 2007-08 of the Fund.
- (3) Based on actual payment from April to August 2007 and projected payment from September 2007 to March 2008.