

立法會

Legislative Council

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Report of the Panel on Manpower for submission to the Legislative Council

Purpose

1. This report gives an account of the work of the Panel on Manpower ("the Panel") during the 2013-2014 session of the Legislative Council ("LegCo"). It will be tabled at the Council meeting of 9 July 2014 in accordance with Rule 77(14) of the Rules of Procedure of the Council.

The Panel

2. The Panel was formed by a resolution passed by the Council on 8 July 1998 and as amended on 20 December 2000, 9 October 2002, 11 July 2007 and 2 July 2008 for the purpose of monitoring and examining Government policies and issues of public concern relating to labour and manpower planning matters. The terms of reference of the Panel are in **Appendix I**.

3. The Panel comprises 19 members in the 2013-2014 session. Hon LEE Cheuk-yan and Hon WONG Kwok-kin were elected Chairman and Deputy Chairman of the Panel respectively. The membership list of the Panel is in **Appendix II**.

Major Work

Implementation of the statutory minimum wage ("SMW")

4. The implementation of SMW was high on the agenda of the Panel. Noting that the Minimum Wage Commission ("MWC"), which was established under the Minimum Wage Ordinance (Cap. 608) ("MWO") to review the SMW rate, would recommend to the Chief Executive ("CE") in Council before October 2014 the next SMW rate, the Panel received views from deputations on the revised SMW rate before MWC making a recommendation.

5. Members expressed diverse views on the revised SMW rate. Some members and employers' associations/representatives pointed out that the implementation of SMW had narrowed the wage gap among various industries and it had been difficult for specific industries with comparatively less favourable working environment to retain existing staff and recruit new entrants. As staff cost was the main component of the operation cost of small and medium enterprises ("SMEs"), there was little room for an upward adjustment of the SMW rate, especially in the catering and retail business.

6. Some other members and labour unions/concern groups generally considered that the increase in operation cost was largely attributed to the high rental. The next SMW rate should be adjusted upwardly to at least \$35 per hour in order to achieve the policy objective of maintaining the basic living standard of workers. In addition, MWC should review and adjust the SMW rate annually so as to ensure that the employees' purchasing power would not be eroded by inflation.

7. The Administration advised that as stipulated in MWO, the SMW rate should be reviewed at least once every two years, without precluding more frequent rate review if this was considered appropriate and necessary. The Administration stressed that in considering the SMW rate, MWC must give regard to the need of maintaining an appropriate balance between the objectives of forestalling excessively low wages and minimizing the loss of low-paid jobs and the need to sustain Hong Kong's economic growth and competitiveness.

Major findings of the 2013 Annual Earnings and Hours Survey ("AEHS")

8. Since the launch of the mandatory AEHS in 2009 to collect wage, employment and demographic information of employees from business undertakings in Hong Kong, the Panel received an annual briefing by the Administration on the major findings of the survey. Many members expressed concern that MWC would make reference to the 2013 AEHS findings in recommending the next SMW rate which would take effect in 2015. They strongly requested the Administration to look into the time lag between data collection for AEHS and the implementation of the revised SMW rate in the biennial review of the SMW rate.

9. According to the Administration, there would inevitably be a time lag between the data collection/analysis and implementation of the revised SMW rate. Apart from making reference to the annual statistical data from AEHS, MWC would take into account the short-term economic and labour market, and more frequently released indicators on employment earnings and the findings of other surveys conducted by the Census and Statistics Department ("C&SD") in conducting the review of the SMW rate.

10. Given that working hours statistics compiled from AHES covered contractual/agreed working hours and overtime hours worked at the direction of employers only, members considered that the Administration should also collect raw data on actual working hours from employees so as to enhance the accuracy of the findings.

Work progress of the Standard Working Hours Committee (SWHC)

11. Legislating for standard working hours ("SWH") was another major concern of the Panel. Following the formation of SWHC in April 2013, the Panel closely followed up with the Administration on the work progress of SWHC. Members noted that SWHC had established two working groups on "Working Hours Consultation" and "Working Hours Study" to respectively conduct wide public consultation and comprehensive working hours surveys.

12. Most members noted with concern that SWHC would, upon receipt of the reports from the two working groups by end of 2014, further deliberate and formulate proposals on the direction of a working hours policy suitable for the circumstances and future development of Hong Kong, and submit an endorsed report to the Government. These members expressed grave concern as to whether the Administration could complete the relevant legislative process for introducing an SWH regime within the term of the Fifth LegCo and the tenure of the current Government. They strongly urged the Administration to expedite the introduction of the legislative proposal on SWH by streamlining and compressing the work schedule of SWHC.

13. Some members however considered that the subject of working hours policy involved a wide range of complex issues with far-reaching implications on the overall labour market. It was imperative that the Administration should, in tandem with the study on legislating for SWH, enhance the public understanding of the various working hours issues, for example, standard versus maximum working hours, so as to facilitate an informed and objective discussion on the important subject.

Unleashing potential labour force

14. The Steering Committee on Population Policy ("SCPP") released in October 2013 a consultation paper on population policy entitled "Thoughts for Hong Kong" and launched a four-month public engagement exercise. SCPP proposed to tackle the demographic challenges arising from the ageing population and the lowering of labour force participation rate through five policy strategies, including exploring effective measures to increase the quantity of labour force by encouraging more people to work. The Panel discussed the proposed policy strategies under its purview and received views of deputations on related issues at three meetings.

Women employment

15. Noting that there were 682 800 economically inactive females in 2012, members urged the Administration to create a supportive environment conducive to these women to enter or re-join the labour force, while balancing their needs to take care of their families at the same time. Members shared the views of deputations that provision of comprehensive subsidized child care services and after-school care services with extended service hours was crucial to releasing female homemakers to join the labour force.

16. According to the Administration, the number of subsidized full-day child care centre places stood at a similar level with the number of children aged below three, and there were still unused quotas for various child care services in some districts. Given that the actual service needs varied at the district level, the Administration would, as a short-term measure, examine the feasibility of in-situ service expansion in existing child care centres. In the long run, the provision of child care services in specific districts would be drawn up having regard to the demographic profile and service needs in different districts.

17. To encourage more females to join the workforce, members suggested that the Administration should enhance the protection and benefits of those female employees who were not engaged under a continuous contract as they were not entitled to certain employment benefits (including rest days, paid statutory holidays, annual leave, sickness allowance, severance payment and long service payment) under the Employment Ordinance (Cap. 57) ("EO"). The Administration advised that it was reviewing the continuous contract requirements under EO, and several approaches had been put forward for deliberation of the Labour Advisory Board ("LAB"). Members of LAB were consulting their respective employers' associations and employees' unions. The Administration would revert to the Panel after LAB's deliberation on the results of the consultation.

Extending employment age

18. Members noted that there were some 548 500 economically inactive persons aged 50 to 64 under the categories of engagement in household duties and retirement/old age. Some members pointed out that many early retirees stayed out of the labour force simply because they did not possess the job skills required of in the emerging industries. These middle-aged were willing to re-join the labour market if they were provided with appropriate training and retraining. Given the sizeable potential workforce, members urged the Administration to address the skills mismatch problem and enhance employment services and support for the middle-aged job seekers. Some members considered that the Administration should legislate for age

discrimination against job seekers and at workplaces.

19. Having regard to the better health, higher education levels and rich experience among the current and future elderly generations, members expressed general support for extending the retirement age of employees. Members however stressed that it needed to strike a balance of not hindering the career aspiration of younger generations when promoting a longer working life.

Youth employment

20. Noting that the unemployment rate for young people was relatively higher than the overall employment rate in Hong Kong, the Panel examined the employment situation of and employment support services for young people. Some members considered that the unemployment problem of young people was attributed to the failure of the existing education system in meeting the different needs of young people at school age. Members urged the Administration to inject more diversity into the education system to give students more choices in the selection of schools and curricula which could cater for individual aptitude and interests. Members also requested the Administration to co-ordinate the work of various policy bureaux and government departments for optimal use of resources to help the youth develop their potentials and upgrade their vocational skills as well as secure employment in the labour market.

21. Members were advised that as highlighted in the 2014 Policy Address, the positioning of vocational education in the education system would be re-established in the light of the ageing population and the impending succession gaps in the skilled labour industries. According to the Administration, it would introduce a pilot Training and Support Scheme at the Vocational Training Council to integrate structured apprenticeship training programmes and clear career progression pathways for specific industries, if the industry was willing to provide allowance or subsidy to trainees and to offer a certain salary level to trainees who had completed the apprenticeship training and were willing to join relevant industries. Members also noted that the Youth Employment and Training Programme launched by the Labour Department ("LD") provided one-stop pre-employment and on-the-job training for young school leavers aged 15 to 24 with educational attainment at sub-degree or below.

Manpower Projection to 2022

22. The Administration reported to the Panel on the key findings of the Manpower Projection to 2022. Members noted with concern that there would be a manpower shortfall of 55 700 people at the education level of lower secondary and below in 2022. Members were concerned that the Administration would make use of the findings and expand the Supplementary

Labour Scheme to bring in workforce from outside Hong Kong. In these members' view, the projected manpower shortage could be tackled if more female homemakers were provided with suitable employment opportunities for joining the labour force. They suggested that the Administration should enhance the child care services and retraining courses targeting at the needs of female homemakers as well as encourage the business sector to adopt family-friendly measures in workplace to assist female employees to maintain a balance between family and work.

23. According to the Administration, the projection findings mainly offered useful reference on the broad trends in the future manpower supply and requirement of the economy at the macro level as well as the potential manpower balance at different education levels. Relevant bureaux/departments would consider conducting further sector-specific manpower planning and studies, having regard to the future development and characteristics of the manpower supply and demand of the specific sectors concerned, the policy direction and other practical considerations.

Work Incentive Transport Subsidy ("WITS") Scheme

24. Following the introduction of the additional option of individual-based applications to household-based applications, i.e. a "dual-track" approach under the WITS Scheme in August 2012, the Panel was updated on the latest implementation of the Scheme. The Panel also received views from deputations on the subject.

25. Members expressed dissatisfaction that the level of subsidy would be reviewed under the context of the comprehensive review of the WITS Scheme which would commence in October 2014. They strongly requested the Administration to advance the timetable for conducting the comprehensive review and adjust upwardly the subsidy rate to meet the rising transport costs. The Administration explained that to keep WITS simple and easy to administer, a flat rate of \$600 per qualified applicant per month was adopted. According to the General Household Survey conducted by C&SD in the fourth quarter of 2012, the average monthly expense of WITS target beneficiaries on public transport for travelling to and from work was \$436, and that for those working across districts was \$489. A transport subsidy of \$600 per eligible person per month was considered adequate to relieve the burden of travelling expenses of the beneficiaries. Members were assured that the Administration would closely monitor the changes in transport costs and would review and update the level of subsidy rate where necessary.

26. Noting that as at end-November 2013, a total subsidy payment of \$489.9 million had been made to 61 809 applicants, members expressed concern that the take-up rate of the WITS Scheme was far below the

Administration's estimation of 200 000 beneficiaries put forward in the relevant funding proposal. They urged the Administration to enhance its publicity efforts in promoting the WITS Scheme to the eligible applicants.

Arrangement of offsetting severance payments and long service payments against Mandatory Provident Fund ("MPF") accrued benefits ("the offsetting arrangement")

27. The impact of the offsetting arrangement was of great concern to the Panel. Pointing out that CE had stated in his election manifesto the initiative to progressively reduce the proportion of accrued benefits attributable to employers' contribution that could be applied for the offsetting arrangement, some members expressed strong disappointment that the Administration had not followed up on the matter. They strongly called on the Administration to devise a concrete work plan and a timetable for implementation.

28. On the other hand, some members were concerned that abolition of the offsetting arrangement would increase the financial burden on employers, especially SMEs. They objected to the abolition of the offsetting arrangement and stressed that the mechanism was a consensus reached after extensive consultations in enacting the MPF legislation.

29. Members noted that LAB exchanged views on the offsetting arrangement at its meeting in December 2013, with employer and employee representatives holding widely divergent views. According to the Administration, the subject was an issue with wide read-across implications and of major concern to the community, it would continue to listen to the views of different sectors and examine the issue in a holistic and careful manner.

Recognition of medical certificates issued by chiropractors

30. The Panel was briefed on the Administration's review findings on whether medical certificates issued by chiropractors should be recognized under labour legislation. Most members disagreed with the Administration's observation that there were still insufficient justifications to recognize the medical certificates issued by chiropractors under labour legislation on the ground that the prevalence of chiropractic treatment in the local community still remained low. These members pointed out that it was an anomaly that medical expense on receiving chiropractic treatment for work injury was reimbursable under the Employees' Compensation Ordinance (Cap. 282) ("ECO") but medical certificates issued by the chiropractors were not duly recognized under labour legislation.

31. The Administration advised that when considering whether the medical certificates issued by chiropractors should be recognized under labour

legislation, it would take various factors into account, including the development and prevalence of chiropractic, the community knowledge and acceptance of chiropractic, the availability of sufficient ancillary facilities, and the views and concerns of stakeholders.

32. Members urged the Administration to be more proactive in assisting the chiropractor sector to address the above issues of concern, such as explaining to the stakeholders, including employers and insurers underwriting employees' compensation insurance, their new legal obligations or liabilities if medical certificates issued by chiropractors were recognized under labour legislation. Noting that the Chiropractors Council of Hong Kong had set up two committees to study the formulation and drafting of guidelines for the issuance of sick leave certificates and to review its Code of Practice on handling medical records respectively, members agreed that pending the work progress of these two committees concerned, the Panel would revisit the issue.

Occupational safety performance

33. Members noted with concern that the construction industry recorded the highest number of fatalities and accident rate among all industries. In the light of commencement in sequence a number of mega infrastructure projects, members expressed grave concern about the effectiveness of preventive and enforcement measures adopted by the Administration in safeguarding the occupational safety of construction workers.

34. The Administration advised that more than half of the construction fatal accidents were related to fall of persons from height. Apart from stepping up the publicity and promotional efforts on raising the awareness of occupational safety in the construction industry, LD and the Occupational Safety and Health Council ("OSHC") had jointly launched the RMAA (repair, maintenance, alteration and addition) safety accreditation scheme, under which those accredited as star enterprises could enjoy up to 50% premium discount when procuring employees' compensation insurance from the Employees' Compensation Insurance Residual Scheme. In addition, complementary to the conventional inspections to the regular worksites to deter unsafe work practices, LD had adopted a new enforcement mode under which surprise audit inspections were conducted by LD inspectors to construction sites of large-scale infrastructure projects engaging a large number of construction workers.

35. Pointing out that a significant number of new entrants to the construction industry were ethnic minorities who might encounter communication problem at work, some members expressed grave concern about the specific measures put in place by the Administration to raise their occupational safety awareness. The Administration advised that LD had prepared promotional leaflets and posters with simple and easy-to-understand pictorial aids which were printed in

different ethnic languages. In addition, LD in collaboration with labour unions in the construction industry organized outreaching seminars at construction sites to deliver occupational safety message to ethnic minorities.

Review of occupational diseases in Hong Kong

36. The Panel was briefed by the Administration on the latest situation of occupational diseases in Hong Kong. Members called on the Administration to review the list of compensable occupational diseases in the Second Schedule to ECO and to examine whether its scope and coverage should be expanded to cover musculoskeletal disorders as occupational disease in order to enhance the protection for employees.

37. The Administration explained that Hong Kong followed international practices and would make reference to the criteria adopted by the International Labour Organization in determining whether a disease should be prescribed as an occupational disease for employees' compensation. One of the criteria was whether a causal relationship between the disease and the occupation could be reasonably presumed or established in individual cases. It would review the list of compensable occupational diseases from time to time and had updated the list in the light of international development.

Policies relating to foreign domestic helpers ("FDHs")

38. Following wide media coverage on cases of alleged abuse of FDHs, the Panel discussed with the Administration at a special meeting and received views from deputations on the policies relating to FDHs and regulation of employment agencies ("EAs"). Members noted with concern that some FDHs had incurred huge debt because of the high level of fees charged by EAs or recruiters in their home countries. Some members pointed out that the two-week rule whereby FDHs were required to leave Hong Kong within two weeks upon termination or completion of their contracts would deter FDHs from coming forward to lodge claims and following through the legal process even if their rights were infringed. Some members however considered that the two-week rule would help prevent FDHs from job hopping and taking up illegal work in Hong Kong after contract termination.

39. The Administration advised that the operation of EAs providing FDH placement services was regulated through licensing, inspection and complaints investigation, and prosecution would be instituted against EAs for breaching the law. EAs were only allowed to receive from FDHs the prescribed commission specified in the Second Schedule of the Employment Agency Regulations (Cap. 57A). For FDHs who were overcharged by EAs could file a complaint with LD. For employers who considered the services provided by EAs unsatisfactory or did not match the service agreements, they could lodge a

complaint with the Consumer Council and seek advice and assistance as appropriate. The provision of services by EAs to employers was also regulated under the Trade Description (Unfair Trade Practices)(Amendment) Ordinance 2012.

40. Members were also advised that the two-week rule was required for maintaining effective immigration control, preventing job-hopping and imported workers working illegally after the termination of contracts. As for the operation of overseas EAs, the Administration would continue to bring the matter to the attention of the relevant Consulate Generals of FDH exporting countries and urge them to tackle the issue at source.

41. Notwithstanding the Administration's explanation, members maintained the view that the Administration should strengthen the regulation of local EAs. Members were advised that the Administration was working with the Department of Justice on the proposal of introducing additional licensing conditions for EAs placing FDHs, it would revert to the Panel on the matter in one year's time.

Working Holiday Scheme ("WHS")

42. Members acknowledged the satisfactory progress in developing WHS to help broaden the horizon and exposure of young people and provide an opportunity for them to live and work in other economies. On the concern about the plan for signing of bilateral arrangements for WHS with more economies, the Administration advised that since WHS was launched in 2001, the number of partner economies had increased to nine. The Administration had been discussing with Chile on the establishment of a WHS arrangement, and would continue to actively explore signing of such arrangements with more economies.

43. On the assistance provided to WHS participants, the Administration advised that in case of accidents, WHS participants might approach the relevant Chinese Embassy or Consulate, or call the 24-hour hotline of Assistance to Hong Kong Residents Unit of the Immigration Department for assistance. Moreover, the participants had been reminded of taking out suitable medical insurance to cover possible costs that might be incurred while they were abroad and seeking assistance where necessary.

Funding proposals

Injection into the Employees Retraining Board ("ERB")

44. The Panel was consulted on the Administration's proposal to seek approval from the Finance Committee ("FC") for the injection of \$15 billion

into ERB, as proposed by the Financial Secretary in the 2013-2014 Budget, to sustain ERB's current level of service and operation. According to the Administration, the collection of the Employees Retraining Levy had been the major source of funding of ERB. Consequent upon the abolition of the Levy imposed on FDH employers, ERB relied on the remainder of its Employees Retraining Fund ("ERF") to sustain its services and operation.

45. Since ERB was expected to provide its service and operation mainly with the investment income from the \$15 billion injection, members were concerned about the sustainability of the Fund and ERB's future directions and focus of work. The Administration advised that if the proposed injection of \$15 billion was approved by FC, the Administration would discuss with the Hong Kong Monetary Authority the investment arrangement for the injection, involving the placement of a substantial portion of ERF with the latter. The placement would enable ERB to earn an investment return that was linked to the performance of the Exchange Fund which had been proven to be stable in the past years. In respect of its future directions, ERB would make reference to its Three-year Strategic Plan to strengthen the employment support for special needs groups to enhance their employability. With the support of the Panel, the funding proposal had been approved by FC.

Proposed introduction of a Qualifications Framework ("QF") Fund

46. Following the announcement of CE in the 2014 Policy Address to establish a \$1 billion QF Fund to provide a steady source of income to support the sustainable development and implementation of QF, the Panel was consulted on the funding proposal. Members expressed general support for the proposed introduction of the QF Fund. There was a suggestion that additional resources from the QF Fund should be provided for the education or training providers to organize QF-related programmes to encourage more practitioners of different industries to pursue learning and upgrading.

Meetings held

47. During the period between October 2013 and June 2014, the Panel held a total of 12 meetings, as well as one joint meeting with the Panel on Welfare Services on women employment and one joint meeting with the Panel on Financial Affairs on the offsetting arrangement. The Panel has scheduled another meeting in July 2013.

Appendix I

Legislative Council Panel on Manpower

Terms of Reference

1. To monitor and examine Government policies and issues of public concern relating to labour, manpower planning, vocational training and education, and qualifications framework.
2. To provide a forum for the exchange and dissemination of views on the above policy matters.
3. To receive briefings and to formulate views on any major legislative or financial proposals in respect of the above policy areas prior to their formal introduction to the Council or Finance Committee.
4. To monitor and examine, to the extent it considers necessary, the above policy matters referred to it by a member of the Panel or by the House Committee.
5. To make reports to the Council or to the House Committee as required by the Rules of Procedure.

**Legislative Council
Panel on Manpower**

Membership list for 2013-2014 session

Chairman Hon LEE Cheuk-yan

Deputy Chairman Hon WONG Kwok-kin, SBS

Members

Hon Albert HO Chun-yan
Hon LEUNG Yiu-chung
Hon Tommy CHEUNG Yu-yan, SBS, JP
Hon CHAN Kin-por, BBS, JP
Dr Hon LEUNG Ka-lau
Hon CHEUNG Kwok-che
Hon IP Kwok-him, GBS, JP
Hon LEUNG Kwok-hung
Hon CHAN Yuen-han, SBS, JP
Hon LEUNG Che-cheung, BBS, MH, JP
Dr Hon KWOK Ka-ki
Hon KWOK Wai-keung
Hon SIN Chung-kai, SBS, JP
Hon POON Siu-ping, BBS, MH
Hon TANG Ka-piu, JP
Dr Hon CHIANG Lai-wan, JP
Hon CHUNG Kwok-pan

(Total : 19 members)

Clerk Miss Betty MA

Legal adviser Ms Clara TAM

Date 2 July 2014