

For meeting on  
21 November 2017

## **Legislative Council Panel on Manpower**

### **A proposal to create a Chief Labour Officer post in the Labour Department to assist in the various duties in relation to the abolition of the Mandatory Provident Fund “offsetting” arrangement**

#### **PURPOSE**

The Labour Department (LD) proposes to create one permanent post of Chief Labour Officer (CLO)(D1) to take up the various new tasks in relation to the abolition of the “offsetting” of the severance payment (SP) and the long service payment (LSP) with employers’ mandatory contributions under the Mandatory Provident Fund (MPF) System. Members are invited to note and comment on the proposal.

#### **JUSTIFICATION**

##### **Background**

2. Launched in 2000, the MPF System is a key pillar of Hong Kong’s retirement protection system. The Mandatory Provident Fund Schemes Ordinance (MPFSO) permits employers to use the accrued benefits of their MPF contributions made in respect of an employee to offset against SP/LSP payable to the concerned employee under the Employment Ordinance (EO). Currently, over \$3 billion accrued benefits of employers’ MPF contributions are used for offsetting SP and LSP each year, thereby reducing substantially the amount of MPF accrued benefits receivable by an employee upon retirement. This greatly undermines the role of the MPF System for retirement purpose.

3. One of the priority tasks of the current-term Government is to abolish the MPF “offsetting” arrangement. Since July this year, the Government has been actively engaging the business and labour sectors to explore a feasible option that takes account of the interests of both parties. As noted in the Chief

Executive's Policy Address announced on 11 October this year, the Government is now considering the option of developing a mechanism to assist employers to save up a dedicated reserve in advance to meet their potential SP or LSP obligations in future. We aim to draw up a preliminary proposal in the coming months.

### **Need for a Chief Labour Officer Post**

4. It is envisaged that implementation of the proposal would necessitate highly complicated and controversial amendments of different pieces of legislation including but not limited to MPFSO and EO, as well as formulation of meticulous implementation arrangements for taking forward the proposal. All these involve extensive and high level policy and co-ordination work including –

- (a) studying various possible options and evaluating their impacts on the business sector and the rights and benefits of the workforce;
- (b) engaging major stakeholders, including the Labour Advisory Board, the Legislative Council (LegCo) Panel on Manpower, major employer and employee groups, etc.;
- (c) liaising with Government bureaux and departments, the Mandatory Provident Fund Schemes Authority, trustees of MPF schemes and occupation retirement schemes and other relevant stakeholders with a view to mapping out the operational details for abolishing the “offsetting”;
- (d) preparing the relevant draft legislative instruments in conjunction with the Department of Justice to give legal effect to the new regime;
- (e) seeing through the legislative exercise;
- (f) drawing up and finalising details of the implementation arrangements including the possible Government subsidy scheme and the relevant procedures and rules;

- (g) after the passage of the relevant legislation by the LegCo, overseeing and ensuring the effective implementation of the abolition of the MPF “offsetting” arrangement, and launching full-scale publicity programmes to promulgate the legislative requirements and the operation arrangement of the new regime to employer and employee groups as well as the public; and
- (h) formulating suitable strategies and overseeing the implementation of the employers’ dedicated reserve, maintaining close communication with stakeholders on all related matters; and handling the new labour relations trend emerging after the abolition of “offsetting” with a view to promoting the healthy development of labour relations in the long run, etc.

5. The new areas of work outlined above will have to be undertaken by a dedicated team to be headed by a sufficiently senior officer with rich experiences in labour issues and political acumen in handling contentious and complex issues. Having considered the above requirements, LD proposes to create one permanent post of CLO to take charge of the team. The non-directorate posts of the dedicated team to be set up within LD, including one Senior Labour Officer and two Labour Officers, will be created under delegated authority according to the established mechanism.

6. The newly created CLO will lead the dedicated team to see through both the preparatory and implementation of the abolition of MPF “offsetting”. In the preparatory stage, the CLO will undertake extensive preparatory work in respect of policy formulation, legislative amendments and thrashing out the framework for implementation as listed in paragraph 4(a) to (e) above. The Government is committed to completing the entire exercise, including the legislative process, as soon as practicable. Given the political intricacies and technical complexities in mapping out the scheme and preparing the enabling legislation, it is essential to set up the dedicated team to be led by a sufficiently senior officer (i.e. the CLO) to see through the entire exercise.

7. Upon passage of the enabling legislation, the CLO will be tasked to ensuring the effective and smooth implementation of the “no-offsetting” regime. The major tasks include those listed in paragraph 4(f) to (h) above. Besides, employers will need to save up a dedicated reserve in advance to cover their

potential expenses on SP/LSP under the new regime in future. This will require massive daily monitoring work as well as close and constant communication with stakeholders for thorough and smooth implementation of the new arrangement. Furthermore, the CLO needs to closely monitor the labour relations situation after the abolition of “offsetting” so as to formulate strategy to handle the relevant changes and take appropriate measures to promote the healthy development of the labour relations in the long run. All the above tasks are crucial to the smooth implementation of the abolition of “offsetting”. There is also a need to launch extensive and continuous publicity to enhance the understanding of the employer and employee groups as well as the public of the new regime. The direction and mode of publicity, particularly in respect of the labour relations or the operation of the employers’ dedicated reserve, etc., will require constant adjustments and enhancement. All of the tasks mentioned above require both long-term and high-level strategic, planning and co-ordination work. We further envisage the manpower strength of the new team would need to be substantially enhanced for the effective administration of the Government subsidy scheme, monitoring the operation of employers’ dedicated reserve and handling of the labour relations scene after the abolition of “offsetting” arrangement. We will seek additional resources in accordance with the established resources allocation mechanism at suitable juncture.

8. Having regard to the extensive responsibilities of the CLO post both before and after the abolition of the MPF “offsetting” arrangement, it is essential to create the CLO post on a permanent basis. The proposed CLO will report to the Assistant Commissioner for Labour (Labour Relations) of the Labour Administration (LA) Branch of the LD.

9. The job description of the proposed CLO post is at **Annex A**. The proposed organisation chart of the LA Branch of the LD is at **Annex B**.

## **ALTERNATIVES CONSIDERED**

10. We have critically examined the possibility of redeployment to absorb the duties of the proposed permanent post. There are currently only three CLOs in the LD, each of them supporting an Assistant Commissioner for Labour in overseeing the statutory minimum wage regime, the labour relations and trade

union matters, and the working hours policy respectively. They have already been fully stretched coping with their own work and it is operationally not possible for them to take up the heavy duties of the proposed CLO.

## **FINANCIAL IMPLICATIONS**

11. The proposed creation of the permanent CLO post will bring about an additional notional annual salary cost at mid-point of \$1,765,000. The full annual average staff cost, including salaries and on-cost, is \$2,513,000. For the three non-directorate permanent posts as set out in paragraph 5 above, the notional annual salary cost at mid-point is \$3,368,000 and the full annual average staff cost, including salaries and on-cost, is \$5,143,000.

12. We will include the necessary provision in the draft Estimates for 2018-19 to meet the cost of this proposal.

## **ADVICE SOUGHT**

13. Members are invited to note and comment on the proposed creation of the CLO post. Subject to Members' views, we will seek the necessary funding approval from LegCo.

Labour and Welfare Bureau  
Labour Department  
November 2017

**Job Description  
for the proposed Chief Labour Officer**

**Rank** : Chief Labour Officer (D1)

**Responsible to** : Assistant Commissioner for Labour (Labour Relations)

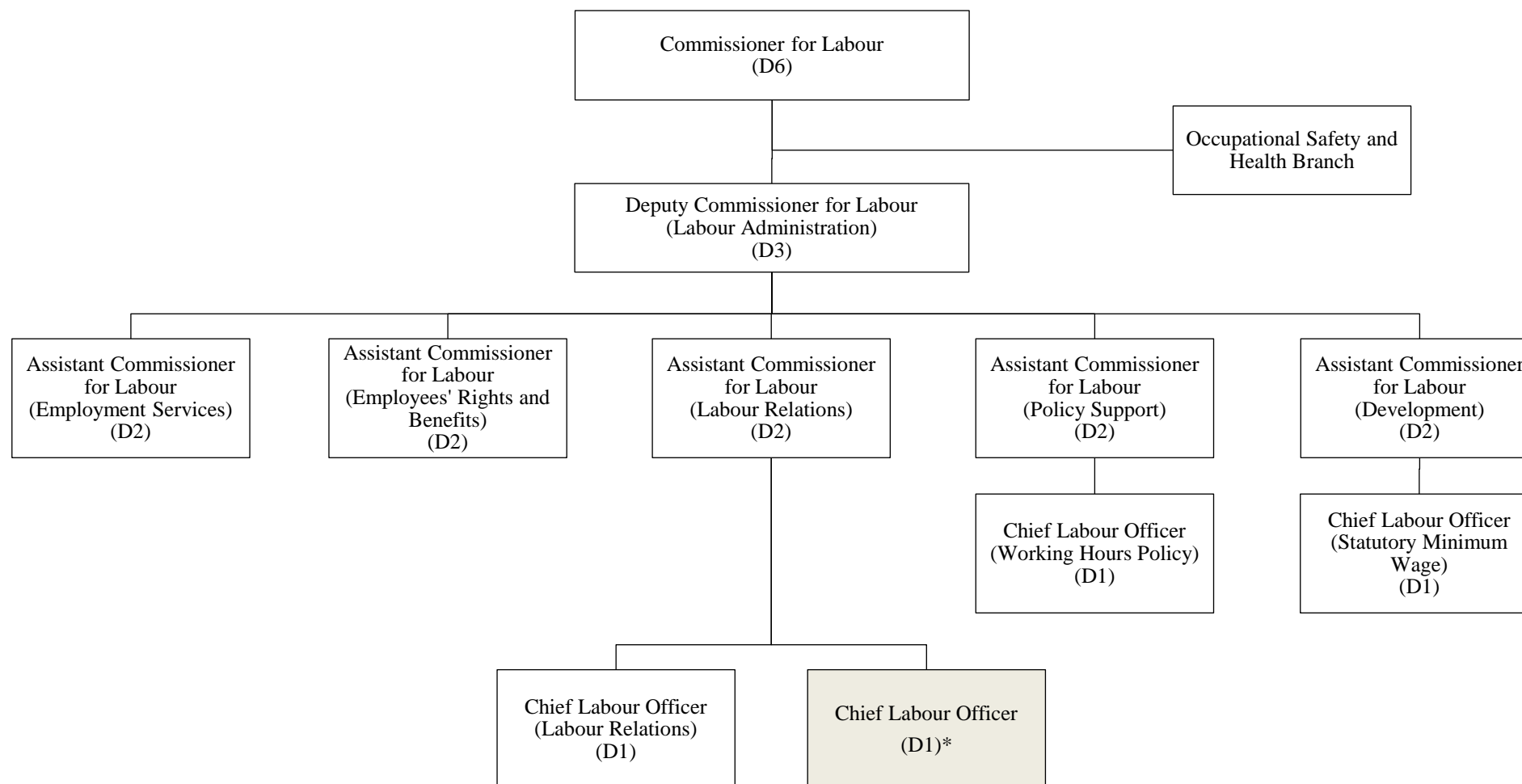
**Main Duties and Responsibilities:**

1. To lead a dedicated team in studying options to abolish the Mandatory Provident Fund (MPF) “offsetting” arrangement, and to assess the impacts of different options on the business and labour sectors.
2. To assist senior officers in engaging labour groups and employer groups on the proposal for abolishing the MPF “offsetting” arrangement; to attend meetings of Labour Advisory Board and the LegCo on the abolition of MPF “offsetting”; and to prepare papers, reports and presentational materials in connection with the meetings and discussions.
3. To liaise with Government bureaux and departments, the Mandatory Provident Fund Schemes Authority (MPFA) and its relevant trustees, etc., with a view to working out the implementation details of abolishing the “offsetting”.
4. To take part in preparing the relevant draft legislative instrument by preparing the draft drafting instructions, liaising and meeting with the Department of Justice, and liaising with relevant Government bureaux and departments on details of the bill.
5. To assist the Assistant Commissioner for Labour (Labour Relations) in any work relating to the passage of the bill at LegCo including preparation of papers and attending meetings.
6. To draw up and take forward details of the implementation arrangements,

including the possible Government subsidy scheme and the relevant procedures and rules.

7. After the passage of the relevant legislation by the LegCo, to oversee and ensure the effective implementation of the abolition of the MPF “offsetting” arrangement, and to launch full-scale publicity programmes to promulgate the legislative requirements and the operation arrangements of the new regime to employer and employee groups as well as the public.
8. To formulate suitable strategies and oversee the implementation of the employers’ dedicated reserve, to maintain close communication with stakeholders on all related matters; and deal with the new labour relations trend emerging after the abolition of “offsetting” so as to promote the healthy development of labour relations in the long run.

## Proposed Organisation Chart of the Labour Administration Branch of the Labour Department



\* Proposed permanent post of Chief Labour Officer to be created.