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Panel on Manpower

**Background brief prepared by the Legislative Council Secretariat
for the meeting on 17 July 2018**

Importation of labour under the Supplementary Labour Scheme

Purpose

This paper provides background information on importation of labour under the Supplementary Labour Scheme ("SLS") and summarizes the discussions by the Panel on Manpower ("the Panel") on related issues since the Fifth Legislative Council ("LegCo").

Background

2. SLS commenced operation in February 1996 and is administered by the Labour Department ("LD"). Under SLS, employers with genuine difficulties in local recruitment may submit applications to import workers at technician level or below. To ensure priority of local workers in employment and safeguard their wages and benefits, employers must accord priority to filling available job vacancies with local workers.

3. According to the Administration, there are no overall or industry-specific quota ceilings under SLS. Each application has to go through the newspaper advertising procedure, a mandatory local recruitment period at LD, and the arrangement of tailor-made retraining courses by the Employees Retraining Board if appropriate. SLS is being monitored by the Labour Advisory Board ("LAB"). The Administration will seek LAB members' advice on each application before deciding approval or otherwise. The employment contract of imported workers under SLS is subject to a maximum span of 24 months. Imported workers are to be paid not less than the median monthly wages of local workers in comparable positions. Moreover, imported workers are

protected by a Standard Employment Contract and enjoy the same rights and benefits as local workers under labour legislation of Hong Kong.

4. As regards the construction industry, the Administration rolled out enhancement measures in April 2014 to help expedite the preparatory work of public sector works contractors in SLS applications involving 26 trades with manpower shortage. The Administration launched in May 2015 further enhancement measures to allow public sector works contractors to enhance flexibility in deploying imported skilled construction workers to work across more than one specified public sector works contract.

Deliberations of the Panel

Processing of SLS applications

5. Some members were of the view that importation of labour would undermine the bargaining power of local workers and expressed concern about the approving mechanism for importation of low-skilled workers under SLS. Some other members, however, considered that employers who were unable to recruit local workers to fill their job vacancies should be allowed to import workers after having conducted an open recruitment in the local labour market for a certain period of time.

6. According to the Administration, it had always been the Government's policy to accord priority to local workers in terms of employment, and to safeguard their salaries and benefits. To this end, for each application under SLS, the employer had to first launch a four-week open recruitment exercise, for which the employer must offer wages at not less than the median monthly wages of local workers in comparable positions as published by the Census and Statistics Department. During the open recruitment exercise, LD would conduct job matching for the vacancies. LD would also invite training bodies and labour unions to refer suitable local job-seekers for interview. Only if employers were genuinely unable to recruit the required workers locally would their SLS applications be considered. Each application under SLS had to be considered by LAB before the Administration made a decision. Should LAB members have any concern or objection, the employers concerned should provide justifications so that the Commissioner for Labour could take them fully into account in deliberating on individual SLS applications.

7. Members were also advised that as agreed by LAB, all employers applying for importation of worker under SLS had to maintain a manpower ratio of two full-time local workers to one imported worker.

Enhancement measures under SLS in the construction industry

8. Some members expressed concern whether the enhancement measures under SLS would be extended to other industries in addition to the construction industry, thereby expanding the importation of labour under SLS. They pointed out that labour unions were adamantly opposed to resort to imported workers to alleviate the labour shortage of the construction industry. These members also expressed grave concern as to whether the further enhancement measures to SLS would circumvent LAB in vetting importation of labour applications and asked how the Administration would ensure priority being given to the employment of local workforce.

9. Some other members, however, pointed out that as the enhancement measures under SLS were only aimed at expediting the labour importation process and were applicable to 26 trades, the manpower shortage in the construction industry remained serious. They urged the Administration to review expeditiously SLS and relax the various restrictions on labour importation, in order to meet the demand for construction workers when the infrastructure construction works were in full swing.

10. The Administration advised that approval for importation of labour for the construction industry would be considered in accordance with the existing mechanism. The Administration explained that it had rolled out the enhancement measures since April 2014 to expedite the preparatory work, largely within the Administration, for SLS applications involving 26 trades identified by the Construction Industry Council ("CIC") with manpower shortage. Having regard to the unique characteristics of the construction industry (i.e. fine divisions in construction works involving various trades with diverse skills, and the carrying out of work processes in sequential order), it had launched in May 2015 further enhancement measures to allow public sector works contractors to enhance flexibility in deploying imported skilled construction workers to work across more than one specified public sector works contract under the same contractor. According to the Administration, the resulting synergy effects was expected to lead to more effective utilization of productivity.

11. To uphold priority for employment of local workers, the Administration stressed that contractors were required to specify in their applications the public sector works contracts involved. Contractors also had to seek the relevant public sector works departments to review and give support in writing that there was shortage of relevant skilled workers in the local labour market and the imported workers were essential to the work projects.

12. Some members pointed out that the number of registered construction workers for specific work types had already been increased as a result of the training efforts of CIC in recent years. They considered that the Administration should address labour shortage in the construction industry by improving the working conditions and environment therein.

13. The Administration advised that in the light of the tight manpower situation, it had since 2010 supported CIC in strengthening the training for local construction personnel and attracting more new entrants, particularly young people, to join the construction industry. However, the shortage problem of skilled workers had yet to be fully resolved, and there was still a genuine need to import workers to cater for the development needs, on the premise of according priority to local workers in employment and safeguarding their wage levels.

Manpower shortage in industries other than the construction industry

Residential care homes for the elderly

14. Members noted that LAB had considered time and again applications from operators of private residential care homes for the elderly ("RHCEs") for importing care workers ("CWs") under SLS. Some members considered that importation of workers under SLS would help alleviate the labour shortage problem in the RCHE sector in the short run. Some other members, however, expressed reservations about the arrangements and the impact on local employment opportunities. These members were concerned about the approving criteria for such applications.

15. According to the Administration, in the light of the manpower demand for imported workers under SLS in the RCHE sector, LAB had since November 2007 adopted a special arrangement in respect of applications for imported CWs, under which a manpower ratio of 3:1 would be maintained between local workers and imported CWs under SLS. The manpower ratio could be relaxed to 2:1 when all local full-time CWs employed were paid at a level no less than the median monthly wage. LAB hoped that the special arrangement would provide an incentive for the RCHE sector to retain local CWs and to recruit new entrants to the sector.

Transport and catering industries

16. Pointing out that the transport industry and the catering industry also faced the problem of labour shortage, some members asked about the

arrangement for importation of workers in these industries. Some members called on the Administration to expand the scope of SLS, in the short to medium term, to the job category of drivers as there was an acute problem of driver shortage. The Administration advised that employers, irrespective of their industries, might apply for imported workers at technician level or below under SLS, which had no overall or industry-specific quota ceilings.

Relevant papers

17. A list of relevant papers on the LegCo website is in the **Appendix**.

Council Business Division 2
Legislative Council Secretariat
11 July 2018

**Relevant papers on importation of labour under
the Supplementary Labour Scheme**

Committee	Date of meeting	Paper
Panel on Manpower and Panel on Welfare Services	19 February 2013 (Item II)	Agenda Minutes
Panel on Manpower	27 January 2014 (Item IV)	Agenda Minutes
Panel on Manpower	20 January 2015 (Item IV)	Agenda Minutes
Panel on Manpower	9 March 2016 (Item I)	Agenda Minutes

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