



LABOUR DEPARTMENT (Headquarters)

勞工處 (總處)

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Chairperson
Establishment Subcommittee
Legislative Council
Legislative Council Complex
1 Legislative Council Road
Central, Hong Kong
(Attn: Ms Connie SZETO
Clerk to the Establishment Subcommittee)

4 December 2018

Dear Ms SZETO,

Creation of a Chief Labour Officer post in the Labour Department

The Honourable SHIU Ka-chun wrote to the Chairperson of the Establishment Subcommittee (ESC) on 20 November 2018 requesting the Government to provide supplementary information respecting the Government's proposal of creating one permanent post of Chief Labour Officer in the Labour Department (LD) in the ESC paper EC(2018-19)16. The Government's reply is as follows –

Questions 1 and 2

Abolishing the “offsetting” of the employers' mandatory contributions under the Mandatory Provident Fund (MPF) System with severance payment (SP) and long service payment (LSP) is a major policy change. The Government would like to assist enterprises, in particular micro-, small- and medium-sized enterprises (MSMEs), to adapt to the policy change for them to

shoulder the SP/LSP liabilities. This would also help safeguard the employment opportunities of employees during the transitional period. Since putting forth the preliminary idea on abolishing the “offsetting” in March this year, the Government has in the past few months proactively listened to the views of major stakeholders, including the business and labour sectors. Having carefully considered the views of various stakeholders, the Chief Executive announced in the 2018 Policy Address the enhanced arrangements for abolishing the “offsetting”. The two-tier subsidy scheme for employers under the enhanced arrangements is a time-limited subsidy, the purpose of which is to focus the use of resources to assist the MSMEs and those enterprises which are more prone to large-scale retrenchment. Among others, the enhanced arrangements also include providing subsidy to employees. In a case where an employee may in aggregate receive a smaller amount of benefits (SP/LSP entitlement together with the accrued benefits attributable to the employer’s mandatory contributions to his/her MPF account) than what he/she would otherwise receive under the current “offsetting” regime, the Government would make up for the shortfall.

The Government will commence the preparatory work for implementing the abolition of the “offsetting” as soon as possible, including to map out the operational details for abolishing the “offsetting” with the relevant Government bureaux and departments as well as the Mandatory Provident Fund Schemes Authority, and to prepare the related enabling legislation. The Government proposes in the paper EC(2018-19)16 to the ESC of the Legislative Council (LegCo) the creation of a permanent post of Chief Labour Officer in LD, with the responsibilities of executing the afore-mentioned tasks related to the implementation of the arrangements for abolishing the “offsetting”. The Government would continue to listen to the views of different stakeholders, including the Labour Advisory Board, the LegCo and its relevant Panels, employer associations, labour unions and various political groups, etc. in the course of preparing the relevant enabling legislation and drawing up the operational details for the supporting measures for abolishing the “offsetting”.

Questions 3 and 4

As stated in the Government’s paper EC(2018-19)16 to the ESC of the LegCo, the permanent Chief Labour Officer post proposed to be created is dedicated to handle the various new tasks related to the abolition of the

“offsetting”, including the preparatory and legislative work in the early stage, and the implementation and execution of the arrangements for abolishing the “offsetting” after the LegCo’s passage of the enabling legislation.

Regarding the review of the outsourcing system and work relating to the working hours policy, designated staff in LD are already handling such tasks. In fact, the Chief Executive has announced in the Policy Address in October the measures to be taken by the Government to strengthen the protection of non-skilled employees engaged under the Government’s outsourcing system, including increasing the technical weighting in marking schemes for tender assessment; increasing the weighting for “wage level” as a criterion for technical assessment; enhancing the employment benefits of non-skilled employees by providing for a contractual gratuity, statutory holiday pay upon employment for one month, and additional remuneration for working whilst No. 8 or higher Tropical Cyclone Warning Signal is in force; and encouraging procuring departments to adopt a tenure of not less than three years for their service contracts where operational situations permit. Regarding the Hon SHIU’s concern that there would be increasing number of employers evading their SP/LSP liabilities after abolishing the “offsetting”, one of the major duties of the Chief Labour Officer post the Government presently proposes to create in LD is to closely monitor, after the abolition of “offsetting”, the new labour relations trend emerging after the abolition; and depending on the circumstances, to formulate and adopt appropriate strategies and measures to tackle the relevant changes with a view to promoting the healthy development of labour relations in the long run. Where necessary, the Government would in future increase the manpower to safeguard the employees’ rights and benefits.

Yours sincerely,



(Ms Melody LUK)

for Commissioner for Labour