

For meeting on
19 February 2019

Legislative Council Panel on Manpower

**Enhancing the protection of non-skilled employees engaged by
government service contractors**

Purpose

The Chief Executive announced in the 2018 Policy Address that the Government would introduce new measures to enhance the protection of the employment terms and conditions as well as labour benefits of non-skilled workers engaged under government service contracts that rely heavily on the deployment of non-skilled workers. The new measures will take effect from 1 April 2019. Subsequently, the Government announced on 18 January 2019 the transitional arrangements before the effective date. This paper briefs Members on the transitional arrangements.

Background

2. The new measures announced in the Policy Address will directly benefit the non-skilled workers in three aspects. Firstly, a non-skilled worker with no less than one year's service under a Standard Employment Contract (SEC) of a government service contract will be entitled to a contractual gratuity being 6% of the total wages earned. Secondly, a non-skilled worker with no less than one month's service will be entitled to statutory holiday pay. Thirdly, the amount of wages for a non-skilled worker who is required to work when typhoon signal no. 8 or above is in force should be at least 150% of the originally entitled wages. The Government will revise the terms of SEC and government service contracts, requiring government service contractors (GSCs) to provide these enhanced employment benefits. These measures will be applicable to service contracts tendered from 1 April 2019 onwards.

Transitional arrangements

3. To enable more non-skilled workers to benefit from the new measures set out in paragraph 2, the Government announced on 18 January 2019 that transitional arrangements would be in place for service contracts at tendering stage or already awarded during the period between the announcement of the new measures in the Policy Address on 10 October 2018 and 31 March 2019 (the Transitional Period).

Contracts not yet awarded

4. During the Transitional Period, some government service contracts will expire and need to be re-tendered. As the new SEC and government service contract provisions are still being finalised, procuring departments will, as far as circumstances permit, postpone tendering with a view to incorporating the new terms so that the non-skilled workers can benefit from the new measures. During this period, some tenders for government service contracts may have been invited under the old terms but not yet closed. In such cases, the procuring departments will, as far as circumstances permit, extend the tender closing date with a view to revising the tender documents to incorporate the new terms related to the new measures after the new SEC and government service contract provisions are finalised. In other words, the new measures will be implemented under these contracts as far as possible to enhance the protection of the employment terms and conditions as well as labour benefits of the non-skilled workers.

5. If tenders must be invited under the old terms before 1 April 2019 to meet operational needs, the procuring departments concerned will shorten the contract period (e.g. from the normal duration of three years to one year) as far as practicable so that a re-tendering exercise can be carried out under the new terms at an earlier time to enable the non-skilled workers to benefit sooner.

Contracts already awarded under the old terms

6. Some government service contracts will have already been awarded during the Transitional Period. The procuring departments concerned will negotiate with the relevant GSCs to vary the contracts, thereby incorporating the new terms into these contracts and benefiting the non-skilled workers

concerned from the new measures starting from 1 April 2019.

Expenditure involved

7. In line with the contract spirit, the Government must seek the relevant GSCs' consent before amending the terms of awarded contracts. Taking into account the additional expenditure incurred by the GSCs as a result of such amendment, the Government will provide them with top-up payment as a one-off special measure. The total top-up payment is estimated to be around \$400 million, covering about 170 contracts procured through tendering process and benefiting more than 13 000 non-skilled workers. Contracts to be tendered from 1 April 2019 will benefit more workers. As the new measures have been announced and the expenditure arising from the incorporation of new terms will be reflected in the tender prices of government service contracts, the Government will not provide top-up payments for contracts to be tendered from 1 April 2019.

Responsibility of GSCs

8. Under the government service contracts awarded with the new measures incorporated and the contracts varied in accordance with paragraph 6 above, the Government will require the GSCs to sign the new SEC with their employees to ensure that the non-skilled workers will benefit from the new measures under the employment contracts. The government service contracts will also specify that the GSCs should provide such benefits, or they may be penalised under the contracts.

9. Members are invited to note the above improvement measures.

Financial Services and the Treasury Bureau
February 2019