

立法會
Legislative Council

LC Paper No. CB(2)1499/19-20
(These minutes have been seen
by the Administration)

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Panel on Manpower

Minutes of special meeting
held on Tuesday, 7 July 2020, at 8:30 am
in Conference Room 2 of the Legislative Council Complex

Members present : Hon Vincent CHENG Wing-shun, MH, JP (Chairman)
Hon WONG Kwok-kin, SBS, JP
Hon YIU Si-wing, BBS
Hon KWOK Wai-keung, JP
Dr Hon Fernando CHEUNG Chiu-hung
Hon POON Siu-ping, BBS, MH
Dr Hon CHIANG Lai-wan, SBS, JP
Hon Andrew WAN Siu-kin
Hon SHIU Ka-fai, JP
Hon SHIU Ka-chun
Hon YUNG Hoi-yan, JP
Dr Hon Pierre CHAN
Hon LUK Chung-hung, JP

Members absent : Hon CHU Hoi-dick (Deputy Chairman)
Hon LEUNG Yiu-chung
Hon Claudia MO
Dr Hon KWOK Ka-ki
Dr Hon Helena WONG Pik-wan
Hon Elizabeth QUAT, BBS, JP
Hon CHUNG Kwok-pan
Hon Jeremy TAM Man-ho

Public Officers attending : Item I

Dr LAW Chi-kwong, GBS, JP
Secretary for Labour and Welfare

Ms Joyce HO Kwok-shan, JP
Deputy Head (3)
Policy Innovation and Co-ordination Office

Mr Francis CHAU Siu-hei
Deputy Secretary for Development (Works) 3

Clerk in attendance : Miss Betty MA
Chief Council Secretary (2) 1

Staff in attendance : Ms Rita LAI
Senior Council Secretary (2) 1

Miss Lulu YEUNG
Clerical Assistant (2) 1

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I. Employment Support Scheme and unemployment support measures

(LC Paper Nos. CB(2)1294/19-20(01) and (02))

At the invitation of the Chairman, Secretary for Labour and Welfare ("SLW") briefly took members through the Employment Support Scheme ("ESS") and unemployment support measures, as detailed in the Administration's paper.

2. Members noted a background brief entitled "Employment Support Scheme and unemployment support measures" prepared by the Legislative Council Secretariat.

Unemployment support at times of worsening economy

3. In view of the deteriorating economy and business environment brought by the Coronavirus disease 2019 ("COVID-19") epidemic, Dr CHIANG Lai-wan said that a considerable number of small- and medium-sized enterprises ("SMEs") were worried about business closure

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within a short period of time. Dr CHIANG asked whether there was an increase in the number of applications for ex gratia payment from the Protection of Wages on Insolvency Fund ("PWIF") in the past months. While acknowledging that provision of wage subsidies under ESS could help relieve the financial burden of SMEs in the short term, Dr CHIANG enquired about the long-term supporting measures for enterprises and the unemployed people.

4. Noting that ESS under the second round of the Anti-epidemic Fund only provided time-limited financial support to employers to retain employees who might otherwise be made redundant till November 2020, Mr KWOK Wai-keung was concerned that the unemployment situation might continue to aggravate. Mr KWOK asked whether the Labour and Welfare Bureau would liaise with the Commerce and Economic Development Bureau ("CEDB") and other bureaux regarding the introduction of measures to boost economic recovery.

5. SLW said that there was a rebound in the number of applications for ex gratia payment from PWIF after the first quarter of 2020. Given the global recession and high degree of external orientation of Hong Kong economy, SLW shared the view that Hong Kong's economic situation was not optimistic. The Government would keep in close view the development of the pandemic and introduce measures to boost the economy as appropriate. Notably, the second tranche of wage subsidies to be disbursed to eligible employers under ESS would cover the period till November 2020. SLW advised that the Second Reading debate on five Bills in relation to the local economy were to be resumed shortly. He appealed to members to render support to the passage of these Bills.

6. Expressing further concern about the worsening unemployment situation, Dr CHIANG Lai-wan sought information on whether the number of applications for the Comprehensive Social Security Assistance ("CSSA") from the unemployed people had increased and the relevant processing time for the applications.

7. SLW responded that the number of CSSA applications under the unemployment category received in April 2020 registered a month-on-month increase of over 100% while there was sign of easing in May 2020. Generally speaking, if CSSA applicants provided all the necessary information, the processing of applications could be completed in four weeks.

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8. Mr KWOK Wai-keung expressed concern that some unemployed people refrained from seeking financial assistance under the CSSA Scheme because of its means test. Mr LUK Chung-hung shared a similar concern. SLW responded that the means tests under the CSSA Scheme were conducted on a household basis in keeping with the concept of promoting mutual support among family members.

9. In the light of the worsening economic situation and the increase in the unemployment CSSA caseload from 12 570 cases in December 2019 to 18 427 cases in May 2020 i.e. some 47%, Mr POON Siu-ping was gravely concerned about the financial difficulties faced by the unemployed people. Envisaging that it might take years to improve the unemployment situation, Mr POON called on the Administration to consider providing unemployment support for the unemployed people, including setting-up of unemployment assistance fund and unemployment loan fund, and conducting a comprehensive review of the relationship among severance payment ("SP"), long service payment ("LSP"), Mandatory Provident Fund ("MPF") and PWIF. Mr LUK Chung-hung echoed that since the occurrence of the social incidents in June 2019, the Hong Kong Federation of Trade Unions had been suggesting the setting up of an emergency relief fund for the unemployed people since October 2019. Given that only about two-third of eligible employers had applied for the first tranche of subsidies under ESS, Mr LUK suggested making use of the remainder of the earmarked fund to set up an emergency relief fund as a temporary measure to provide support for the unemployed people.

10. SLW advised that under the Employment Ordinance (Cap. 57), employees in Hong Kong meeting relevant eligibility criteria were provided with employment protection by way of SP and LSP. As the Government had accorded a high priority to abolishing the "offsetting" of SP and LSP with employers' mandatory contributions under the MPF System and aimed to complete the abolition within the current term of the Government, it would complicate the matter if a review of relationship among SP, LSP and provision of unemployment assistance was conducted at the same time. Moreover, in the light of the worsening economy and global recession, it might take several years to improve the unemployment situation. As such, provision of unemployment assistance would involve a substantial policy change which should be studied in great details.

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11. The Chairman urged the Administration to consider relaxing the working hours requirements under the Working Family Allowance ("WFA") Scheme, so as to enable employees who were underemployed to apply for the allowance.

12. SLW responded that the minimum requirement of the total monthly working hours for the WFA Scheme was 144 only for non-single-parent households. Applicants with weekly working hours above 34 hours, which was defined as underemployment in the relevant survey, might be eligible for WFA.

Employment Support Scheme

13. The Chairman welcomed the introduction of ESS to help the enterprises to tide over the financial difficulties and considered that the scheme was receptive to the enterprises. Dr CHIANG Lai-wan was of the view that ESS could provide assistance to the employees of enterprises in the short term.

14. Mr POON Siu-ping declared that he was a member of an organization which had applied for wage subsidies under ESS.

15. Mr YIU Si-wing declared that his employing company had applied for relief measures funded by the Anti-epidemic Fund. Mr YIU was appreciative of the Government's positive response to the views of some of the sectors (including inbound travel) hard hit by the COVID-19 epidemic and adjusted the "specified month" for the purpose of applying for the first tranche of wage subsidies under ESS to any one month between December 2019 and March 2020, instead of between January and March 2020 as previously proposed as well as relaxed the penalty concerned for violating the conditions of ESS.

16. While expressing support for the Government's measures to safeguard enterprises and employment, Mr LUK Chung-hung held the view that there were certain loopholes under ESS. Notably, with respect to the name list of the third batch of employers who had received wage subsidies under the first tranche of ESS as published by the ESS Secretariat on 6 July 2020, Mr LUK was gravely concerned that the committed headcount of paid employees of 154 employers was zero.

17. Sharing a similar concern, Ms YUNG Hoi-yan enquired about the follow-up action to be taken if employers who had received wage subsidies subsequently wound up their business.

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18. SLW responded that employers who had received the wage subsidies had to comply with the undertakings i.e. the number of employees on the payroll in any one month of the three-month subsidy period (i.e. June to August 2020) must not be less than the total number of paid and unpaid employees in March 2020, and the subsidy for each month of the subsidy period should be fully spent on paying the wages of employees in the same month. If employers in receipt of the first tranche of wage subsidies failed to use all the wage subsidies received for a particular month to pay the wages of the employees in the same month during the three-month subsidy period, the Government would claw back the unspent balance of the subsidies. If the number of employees on the payroll in any one month of the subsidy period was less than the number of paid and unpaid employees in March 2020, the employer receiving wage subsidies would have to pay a penalty to the Government. As regards employers who wound up their business after having received wage subsidies under ESS, the Government would also claw back the subsidies.

19. Dr Fernando CHEUNG commented that some employers whose businesses were not really hard hit by the COVID-19 epidemic or they were not genuinely in need also benefitted from ESS. He considered that public money was not used properly to provide wage subsidies to these employers/enterprises. Pointing out that employers in various sectors had already received subsidies/relief grant from various employment support measures under the Anti-epidemic Fund, Dr CHEUNG held the view that the Government should focus its efforts on helping the unemployed persons under ESS. Mr SHIU Ka-chun shared a similar view and concern. Dr CHEUNG called on the Government to make reference to the relief packages introduced by the governments in the western countries, such as the United Kingdom, which targetted at the employees rather than the enterprises.

20. Mr SHIU Ka-fai expressed the view that while it was imperative to safeguard employment, it was equally important to assist the enterprises in maintaining the business operation. To his understanding, a considerable number of enterprises was considering winding up their businesses. The provision of wage subsidies under ESS had helped relieve the imminent financial difficulties of these enterprises and thereby safeguarding employment. Mr SHIU pointed out that the huge amount of wage subsidies received by some enterprises simply indicated that a large number of employees were engaged by these enterprises.

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21. The Chairman and Ms YUNG Hoi-yan were of the view that the Administration should help both the employers and employees so as to maintain the business and employment.

22. In response to members' views and concerns, SLW advised that the primary objective of ESS was to help businesses stay afloat so as to keep workers in employment. The Government aimed to introduce bold and prompt measures to provide subsidies to employers as soon as possible so that they could pay employees' wages and thereby retaining jobs for employees. In order to assist employers and employees as soon as practicable, the Administration had to implement ESS in the simplest and fastest manner. In the meantime, the Government aimed at expeditiously processing most of the remaining applications by mid-July 2020 and disbursing the wage subsidies to approved applicants as soon as possible.

Eligibility of self-employed persons

23. With respect to the provision of one-off lump sum subsidy of \$7,500 to eligible self-employed persons ("SEPs") under ESS, Ms YUNG Hoi-yan said that to her knowledge, many applications submitted by SEPs (including her own application) were rejected. Ms YUNG sought information on the number of rejected applications and the reasons for rejection as well as the relevant follow-up work taken. Sharing a similar concern, the Chairman asked how the Administration would address the problem.

24. SLW advised that apart from providing wage subsidies for employers, ESS also provided one-off lump-sum subsidy of \$7,500 to SEPs. About 270 000 applications had been received from SEPs during the application period, which were more than the estimated number of 215 000 eligible SEPs based on the information provided by the Mandatory Provident Fund Schemes Authority ("MPFA"). After vetting the applications, about 160 000 applications failed to meet the eligibility requirements. Notably, many applications were submitted based on an employee MPF account or a personal account created after termination of previous employment, rather than a dedicated SEP MPF account, or the relevant SEP MPF accounts had already been terminated on or before 31 March 2020. Deputy Head (3)/Policy Innovation and Co-ordination Office ("DH(3)/PICO") added that there were also cases where some applicants had provided in the application forms information regarding their SEP MPF accounts, which was not consistent with the records kept

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by the MPF trustees. The ESS Secretariat had already informed these applicants that, if they had any questions, they should get in contact with the ESS Secretariat within 14 days from the date of receipt of the notification from the ESS Secretariat. The ESS Secretariat would duly follow up.

25. In the light of the huge number of unsuccessful applications for the subsidy from SEPs, Ms YUNG Hoi-yan called on the Administration to explain to MPFA/MPF trustees regarding issuing certificates on the MPF records for SEP applicants and strengthen the relevant publicity work on the eligibility criteria for SEPs. The Chairman requested the Administration to allow unsuccessful SEP applicants for the first tranche to apply for the \$7,500 one-off lump sum subsidy in the second tranche of ESS.

26. In response, SLW said that the Administration would take note of members' views and consider accepting applications from SEPs in the second tranche of subsidy under ESS and addressing relevant issues.

Eligibility of employees aged 65 or above

27. Mr YIU Si-wing was concerned that employers participating in the first tranche of ESS could not apply for wage subsidies for those employees aged 65 or above if they had not made MPF voluntary contributions for these employees' MPF accounts or failed to provide salary proof of employees in accordance with the specified requirements. In such circumstances, Mr YIU considered it unfair to require the employers concerned to include these employees aged 65 or above in the undertaking in respect of the committed headcount of paid employees on the payroll in any one month of the three-month subsidy period. Mr SHIU Ka-fai shared a similar concern and considered that the Administration should plug the loophole. Mr YIU called on the Government to accept applications for wage subsidies for employees aged 65 or above in the second tranche of ESS if the employers could provide these employees' payroll records. Mr SHIU and the Chairman urged the Government to provide subsidies to employees aged 65 or above as appropriate and address these issues during the second tranche of ESS.

28. Responding to members' views and concerns, SLW said that in order to provide timely assistance to large number of employers and employees within the shortest period of time, the administrative

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arrangement for ESS had to be simple. Hence, the wage subsidy amount was calculated based on the certificates on the relevant MPF records issued by MPF trustees. It was noteworthy there were more than 100 000 employees aged 65 or above had MPF accounts but employers had not made MPF voluntary contributions for these relevant employees or had not provided information on the basic salaries of these employees. Detailed vetting of other information provided by individual applicants would involve highly complex vetting procedures. It was expected that processing of most of the applications under the first tranche of ESS could be completed by mid-July 2020. The Administration was reviewing the experiences and arrangements of the first tranche of ESS, and would take into account members' various views in fine tuning the application details of the second tranche.

Monitoring mechanism

29. Mr LUK Chung-hung were concerned about the monitoring of the implementation of ESS. To create more time-limited jobs to relieve the worsening unemployment situation due to the COVID-19 epidemic, he suggested that temporary teams be set up in the civil service to check whether the employers had violated the conditions of ESS, such as whether the number of employees was less than the committed headcount and whether there was unreasonable dismissal of employees and replacement by employees with a lower wage level.

30. SLW responded that appropriate monitoring and auditing mechanisms had been put in place under ESS. Specifically, the ESS Secretariat and/or its processing agent had been vetting and verifying information relating to ESS applications and following up reports or complaints concerning abuse or violation of the conditions of ESS. It was believed that the ESS Secretariat/its processing agent had recruited temporary staff if so needed.

31. The Chairman said that to his understanding, there was some 30 reported cases of violating the conditions of ESS as of early July 2020. The Chairman sought information on the details of these cases and asked about the monitoring measures put in place as well as the relevant penalty. Dr Fernando CHEUNG sought information on the violation of the conditions of ESS by employers and the level of penalty so imposed.

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32. SLW and DH(3)/PICO advised that since the ESS Secretariat published on 22 June 2020 the name list of employers who had received wage subsidies, a total of 38 reports had been received as at 5 July 2020. DH(3)/PICO added that the cases mainly involved inappropriate calculation of the number of staff for making application for wage subsidies, unreasonable staff reductions and/or dismissal of employees, and suspected company closures or change of operators. The ESS Secretariat and the processing agent were proactively following up the cases, including conducting on-site checking, reviewing the eligibility of the concerned employers and the amount of subsidies they received, as well as their records of MPF contributions submitted. In addition, PICO had set up a review panel to monitor the progress of cases being handled, as well as to handle and keep in view any special cases. If necessary, the cases would be referred to relevant enforcement departments for further follow-up actions.

33. Mr POON Siu-ping sought information on the percentage of sample verification of the information submitted by the employers applying for wage subsidies under ESS as conducted by the ESS Secretariat and the processing agent. SLW advised that a risk-based strategy had been adopted in conducting the sample verification of the information submitted by the employers so as to check whether they had abused or violated the conditions of ESS.

Response of the first tranche of ESS and way forward

34. Mr SHIU Ka-chun was concerned that only two-third of the eligible employers had submitted applications in the first tranche of ESS, which was lower than the Government's estimation. Mr SHIU asked whether the Administration would study the reasons for less favourable response.

35. Acknowledging that the application number of employers in the first tranche of ESS was below the expectation of the Government, SLW said that it might be attributed to the concern about the potential risk of creating a negative corporate reputation on the enterprises if they received wage subsidies under ESS. For some enterprises, they had not applied for wage subsidies simply because of the decision to wind up the business. The Administration would study ways to encourage applications from employers in need while preventing abuse of wage subsidies in the second tranche of ESS.

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36. In response to Mr SHIU Ka-chun's concern about the effectiveness of ESS in reducing the unemployment rate, SLW advised that the Administration would closely monitor the unemployment figures (i.e. the seasonally adjusted unemployment rate in April - June 2020) to be released soon by the Census and Statistics Department in late July 2020. While it was expected that the effectiveness of ESS could be assessed six months after its implementation, it was noteworthy that some employers had revised their business plan after receiving wage subsidies under ESS, including giving up the ideas of closing down the business or dismissal of employees, or even re-engaging employees.

37. Mr POON Siu-ping was concerned when the details of the second tranche of wage subsidies under ESS would be made available. The Chairman appealed to the Administration to make improvement as appropriate when disbursing the wage subsidies in the second tranche under ESS.

38. Mr LUK Chung-hung sought clarification as to whether employers participating in the second tranche of ESS would be required to provide an undertaking in respect of a committed headcount not less than that in the first tranche of ESS.

39. SLW responded that the framework of the second tranche of wage subsidies under ESS had not been finalized. It was expected that the details would be announced in early August 2020.

Other concerns

40. Pointing out that the COVID-19 epidemic had dealt a heavy blow to the aviation industry and aviation support services operators as well as the travel industry, and that employees concerned had been asked to take no pay leave, Mr LUK Chung-hung enquired whether the Administration would consider providing special wage subsidies for employees concerned. The Chairman shared a similar concern.

41. In recognition of the severe adverse impact on the aviation industry and the travel industry brought by the COVID-19 epidemic, SLW advised that apart from ESS, there were other employment support measures under the Anti-epidemic Fund to provide eligible applicants in the two industries with timely financial support. To his understanding, the Transport and Housing Bureau and CEDB would respectively monitor the situation in the aviation industry and the travel industry.

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Employment support for young people

42. Pointing out that the seasonally adjusted unemployment rate rose to 5.9% in March - May 2020, Ms YUNG Hoi-yan expressed concern that the young people, including fresh university graduates and secondary school leavers, would face great difficulties in entering the labour market amid of the COVID-19 epidemic. Ms YUNG asked about the supporting measures to assist young people in finding employment.

43. SLW responded that to relieve the worsening unemployment situation due to the COVID19 epidemic, \$6 billion had been earmarked under the Anti-epidemic Fund to create 30 000 time-limited jobs in the public and private sectors in the coming two years for people of different skill sets and academic qualifications, including seasoned professionals and fresh graduates. At the same time, bureaux and departments concerned were engaging their stakeholders to formulate job creation plan in the non-governmental sector. For example, the Development Bureau and Environment Bureau launched subsidy schemes for the employment of graduates and assistant professionals in the engineering and graduates in the environment-related area respectively by private employers so as to enable the graduates and/or assistant professionals to acquire the necessary work experience.

44. SLW further advised that with respect to support for secondary school leavers in acquiring hands-on working experience for entering the labour market, the Labour Department ("LD") implemented the Youth Employment and Training Programme ("YETP") to encourage employers to hire young people and provide them with on-the-job training ("OJT") through the provision of OJT allowance. Several thousand young people benefitted from the programme each year. LD would raise the ceiling of OJT allowance payable to employers under YETP from September 2020 with a view to further encouraging employers to hire young people.

Admin

45. At Mr POON Siu-ping's request, the Administration agreed to provide information on the number of applications so received for the time-limited Executive Service Assistant positions offered under the Anti-epidemic Fund.

[The Chairman directed that the meeting would be extended to allow sufficient time for handling of a motion.]

Action

Motion proposed by members

46. The Chairman said that Mr LUK Chung-hung and Mr KWOK Wai-keung had indicated their intention to propose a motion under this agenda item. He ruled that the motion was directly related to the agenda item. Members agreed that the motion should be proceeded with.

Motion moved by Mr LUK Chung-hung and Mr KWOK Wai-keung

47. Mr LUK Chung-hung and Mr KWOK Wai-keung moved the following motion:

"在黑暴風波和 2019 冠狀病毒病雙重打擊下，市民生活大受影響，不少行業更面對嚴重衝擊。整個勞動市場正值風雨飄搖之際，社會對失業及相關支援措施的需求大增，如何「保就業」、「救失業」已成為特區政府必須正視、回應和解決的問題。就此，本事務委員會促請政府制訂有效的應對措施，以加強對各行業僱員的支援及保障，包括：

- (a) 加強對「保就業」計劃的巡查及堵塞相關漏洞，以防止僱主濫用「保就業」計劃，而未能保障員工的就業權益；
- (b) 為失業人士提供失業現金津貼，並落實緊急失業援助金制度；
- (c) 加快開創臨時職位及增加再培訓名額；及
- (d) 把 2019 冠狀病毒病列為職業病，令僱主的責任更為清晰。"

(Translation)

"Amid the double blows of the black-clad mob unrest and the Coronavirus disease 2019 ("COVID-19"), people's livelihood is gravely affected while many trades and industries are hard hit. As the whole labour market is under a volatile atmosphere, the demand for unemployment and related support measures has significantly increased, and preserving employment as well as assisting the jobless are issues that the HKSAR Government must face squarely, respond and address. In this connection, this Panel urges the Government to formulate effective counter measures to enhance the support and protection to employees in various trades and industries, including:

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- (a) stepping up inspection in respect of the Employment Support Scheme and plugging the loopholes so as to safeguard employees' employment rights and benefits by preventing employers from abusing the Employment Support Scheme;
- (b) providing unemployment cash allowance for the unemployed and implementing the emergency unemployment assistance system;
- (c) expediting the creation of temporary jobs and offering more retraining places; and
- (d) prescribing COVID-19 as an occupational disease, thus making employers' liabilities clearer."

48. The Chairman put the motion of Mr LUK Chung-hung and Mr KWOK Wai-keung to vote. The Chairman said that four members voted for the motion, three members voted against it, and one member abstained from voting. The Chairman declared that the motion was carried.

49. In concluding the discussion, the Chairman requested the Administration to take heed of members' concerns and views and make improvement to the second tranche of ESS and other employment support measures as appropriate.

50. There being no other business, the meeting ended at 10:01 am.