

**立法會**  
**Legislative Council**

LC Paper No. CB(2)1111/20-21  
(These minutes have been seen  
by the Administration)

Ref : CB2/PL/MP

**Panel on Manpower**

**Minutes of meeting by videoconferencing  
held on Thursday, 18 February 2021, at 10:45 am**

**Members present** : Hon LUK Chung-hung, JP (Chairman)  
Hon CHAN Chun-ying, JP (Deputy Chairman)  
Hon YIU Si-wing, BBS  
Hon LEUNG Che-cheung, SBS, MH, JP  
Hon Alice MAK Mei-kuen, BBS, JP  
Hon KWOK Wai-keung, JP  
Hon POON Siu-ping, BBS, MH  
Dr Hon CHIANG Lai-wan, SBS, JP  
Hon CHUNG Kwok-pan  
Hon SHIU Ka-fai, JP  
Hon Wilson OR Chong-shing, MH  
Hon YUNG Hoi-yan, JP  
Dr Hon Pierre CHAN  
Hon Vincent CHENG Wing-shun, MH, JP

**Member absent** : Hon WONG Kwok-kin, SBS, JP

**Public Officers attending** : Items III and IV  
  
Mr HO Kai-ming, JP  
Under Secretary for Labour and Welfare  
  
Mr Chris SUN Yuk-han, JP  
Commissioner for Labour

Item V

Mr HO Kai-ming, JP  
Under Secretary for Labour and Welfare

Mr Chris SUN Yuk-han, JP  
Commissioner for Labour

Mr Raymond HO Kam-biu, JP  
Assistant Commissioner for Labour (Development)

Ms Betty NG Shuk-fong  
Chief Labour Officer (Statutory Minimum Wage)  
Labour Department

Item VI

Mr Chris SUN Yuk-han, JP  
Commissioner for Labour

Mr Charles HUI Pak-kwan, JP  
Assistant Commissioner for Labour (Employment Services)

Ms Queenie TANG Yuen-shan  
Senior Labour Officer (Employment Services) (Operation)  
Labour Department

Mr YEUNG Chi-kit  
Senior Labour Officer (Employment Information and  
Promotion Division)  
Labour Department

Item VII

Miss Mabel LI Po-yi, JP  
Deputy Commissioner for Labour (Labour Administration)

Mr Simon LI Chi-chung, JP  
Assistant Commissioner for Labour (Employees' Rights &  
Benefits)

Mr KOO Chiu-shing  
Senior Labour Officer (Employment Claims Investigation)  
Labour Department

Mr Sam SUM Kai-wah  
Senior Labour Officer (Labour Inspection)  
Labour Department

Mr Daniel LEUNG Kwok-keung  
Senior Labour Officer (Employment Agencies  
Administration)  
Labour Department

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

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

Ms Priscilla LAU  
Council Secretary (2) 1

Ms Kiwi NG  
Legislative Assistant (2) 1

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**I. Information paper issued since the last meeting**  
(LC Paper No. CB(2)751/20-21(01))

Members noted that a letter dated 4 February 2021 from Mr Tony TSE requesting the Administration to provide supplementary information on the proposal to raise penalties of occupational safety and health legislation had been issued since the last meeting. Members further noted that on the instruction of the Panel Chairman, the Administration had been requested to provide a written response to the issues raised in the letter.

**II. Date of next meeting and items for discussion**  
(LC Paper Nos. CB(2)758/20-21(01) and (02))

Regular meeting in March 2021

2. Members agreed that the following items proposed by the Administration be discussed at the next regular meeting at 4:30 pm on 16 March 2021:

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- (a) Refining the notification requirements for construction works under the Construction Sites (Safety) Regulations; and
- (b) Creation of one supernumerary post of Chief Labour Officer (D1) in the Labour Department ("LD") to implement and oversee various new measures to enhance statutory maternity leave and strengthen support to LD for the implementation of new strategies and policies.

**III. Update on the proposal to abolish the offsetting arrangement under the Mandatory Provident Fund System**

3. At the invitation of the Chairman, the Under Secretary for Labour and Welfare ("USLW") provided members with an update on the preparatory work for abolishing the "offsetting" arrangement under the Mandatory Provident Fund System, as detailed in his speaking note. The Chairman called on the Administration to expedite the relevant work in taking forward the proposal.

*(Post-meeting note: The speaking note of USLW was issued to members vide LC Paper No. CB(2)787/20-21 on 18 February 2021.)*

**IV. Update on the proposal to increase progressively the number of statutory holidays under the Employment Ordinance**

4. At the invitation of the Chairman, USLW provided members with an update on the proposal to increase progressively the number of statutory holidays under the Employment Ordinance (Cap. 57) ("EO"), as detailed in his speaking note. The Chairman appealed to the Administration to expedite the relevant work in taking forward the proposal in view of the earnest call from the labour sector.

*(Post-meeting note: The speaking note of USLW was issued to members vide LC Paper No. CB(2)787/20-21 on 18 February 2021.)*

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**V. Proposed Member's Bill to amend the Minimum Wage Ordinance**

(LC Paper Nos. CB(2)758/20-21(03), (04) and CB(2)784/20-21(01))

*(At this juncture, the Deputy Chairman took the chair during the discussion of this item.)*

5. Mr LUK Chung-hung briefed members on his proposed Member's Bill entitled "Minimum Wage (Amendment) Bill 2020" ("the proposed Member's Bill") as detailed in LC Paper Nos. CB(2)758/20-21(03) and CB(2)784/20-21(01).

6. USLW made an initial response of the Government to the proposed Member's Bill as set out in the Administration's paper.

The prevailing Statutory Minimum Wage rate

7. Mr KWOK Wai-keung, Mr POON Siu-ping and Mr Wilson OR expressed strong dissatisfaction and regrets that the Government had accepted the recommendation of the Minimum Wage Commission ("MWC") on maintaining the prevailing Statutory Minimum Wage ("SMW") rate at \$37.5 per hour, which had caused great discontent of the labour sector. In the light of the inflation recorded for the past year, the frozen SMW rate would make it impossible for the vulnerable employees to improve their livelihood and it would aggravate the disparity between the rich and the poor. Mr KWOK and Mr POON criticized that the Government failed to pay due regard to the difficulties of the grassroots employees and inclined to the interest of the business sector. Mr POON said that to his understanding, there was no consensus on freezing the SMW rate among MWC members.

8. Noting that MWC would be required to submit the next recommendation report by 31 October 2022, Mr POON Siu-ping asked whether the Administration would consider conducting a review of the SMW rate in 2021 if the anti-epidemic measures were proven to be effective and the economy gradually recovered. Mr KWOK Wai-keung was concerned that employees earning the SMW rate would not be able to make ends meet if the economic recovery was followed by inflation.

9. In response to members' concerns and views, USLW said that MWC would submit the next recommendation report about the SMW rate

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by 31 October 2022 the latest according to the Minimum Wage Ordinance (Cap. 608) ("MWO"). MWO established the SMW regime to provide a wage floor which forestalled excessively low wages. Notably, a considerable number of employees previously earning the SMW rate were non-skilled workers engaged by government service contractors ("GSCs"). Following the implementation of a package of improvement measures since April 2019 for enhancing the employment terms and conditions as well as labour benefits of these non-skilled employees, they had notable wage gain and the median committed hourly wage of these non-skilled employees was \$45.5 as published in the "Report on Review of the Improvement Measures for Non-skilled Employees Engaged by Government Service Contractors Implemented with effect from April 1, 2019". It was expected that lower-paid employees could further improve their employment earnings when the economy recovered. To this end, the Government would in the meantime focus its efforts on implementing the anti-epidemic measures.

Review of the Statutory Minimum Wage rate

10. Mr POON Siu-ping said that the labour sector had all along called for conducting a review of the SMW rate on an annual basis and he was in support of the proposed Member's Bill.

11. Ms Alice MAK, Mr KWOK Wai-keung and Dr CHIANG Lai-wan pointed out that most of the employees in Hong Kong, including the government employees, enjoyed annual salary adjustment. Ms MAK and Mr KWOK held the view that the biennial review of the SMW rate was unfair to those vulnerable employees earning the SMW rate. It was highlighted that the adverse impact of biennial review of the SMW rate had caused considerable hardship to the grassroots workers because of the time lag in wage adjustment. Mr KWOK pointed out that the increase of the SMW rate from \$28 per hour in May 2011 to \$37.5 per hour in May 2019 (i.e. 33.9% increase) lagged behind the increase of the median hourly wage of all employees in Hong Kong from \$52.4 in May 2011 to \$73 in May 2019 (i.e. 39% increase). As such, it could hardly mitigate the disparity between the rich and the poor.

12. Dr CHIANG Lai-wan sought explanation for conducting the review of the SMW rate within a biennial framework and asked whether the Government would consider putting in place a formula for adjusting the SMW rate.

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13. Referring to the Annex to the Administration's paper in respect of comparison between the increases in the SMW rate over its past upratings and inflation over the corresponding periods, Mr SHIU Ka-fai highlighted that both the cumulative increases in the SMW rate from May 2011 to May 2019 as well as from May 2017 to May 2019 in effect exceeded the Headline Composite Consumer Price Index ("CPI") and the Underlying Composite CPI in the same periods and should therefore have safeguarded the livelihood of the grassroots employees earning the SMW rate. In face of the deteriorating economic situation and the adverse impact of the COVID-19 epidemic on the economy, Mr SHIU held the view that the need for securing employment was far more imminent than adjusting the SMW rate.

14. Mr YIU Si-wing echoed a similar view. While affirming the benefits of implementing the SMW rate in safeguarding the minimum wage level of labour force and providing employers with the wage standards over the years, Mr YIU was of the view that it might not be an opportune time to make change to the existing review cycle of the SMW rate in view of the deteriorating economy amid the COVID-19 epidemic. Pointing out that the seasonally adjusted unemployment rate had increased to 6.6% in October - December 2020 as released by the Census and Statistics Department, Mr YIU envisaged that it would be further pushed up. Mr YIU also asked about the time required for conducting a review of the SMW rate.

15. Responding to members' views and concerns, USLW and Commissioner for Labour ("C for L") advised that the SMW regime provided a wage floor which forestalled excessively low wages, without unduly jeopardizing Hong Kong's labour market flexibility, economic growth and competitiveness, and minimizing the loss of low-paid jobs. In making its recommendation about the next SMW rate, MWC would consider a host of socio-economic factors, the labour market conditions and price forecasts, as well as other relevant factors that were pertinent to the review but might not be quantifiable. C for L added that MWC would also undertake extensive and intensive consultations to take full account of the views of various sectors on the review of the SMW rate. Thereafter, MWC would submit to the Chief Executive in Council its recommendation report about the SMW rate. As a whole, the process would last about two years.

16. Given that the prevailing median hourly wage of non-skilled employees engaged by GSCs was much higher than the existing SMW

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rate, Ms Alice MAK held the view that the review of the SMW rate on an annual basis as set out in the proposed Member's Bill would not incur additional public expenditure. Pointing out that the President of the Legislative Council ("LegCo") would, upon presentation of a Member's Bill to LegCo, invite the Administration's views on the bill if it related to public expenditure or Government policies, Ms MAK asked about the Government's initial stance on the proposed Member's Bill, i.e. conducting the review of the SMW rate on an annual basis.

17. USLW responded that upon the presentation of the proposed Member's Bill to LegCo, the Government would provide its views on the bill in accordance with the established mechanism.

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18. At Mr Wilson OR's request, the Administration agreed to provide after the meeting information on the number of employees currently earning the SMW rate and the number of households involved; and whether the Administration would consider exploring the feasibility of conducting the review of the SMW rate on an annual basis based on these data as well as the number of affected employers and the impacts on enterprises concerned if an annual review of the SMW rate was to be implemented.

Timeframe of the proposed Member's Bill

19. Mr POON Siu-ping sought information on the timeframe of the proposed Bill. In response, Mr LUK Chung-hung said that after consulting the Panel on his proposed Member's Bill, he would take it forward in accordance with the relevant procedures for presentation of bills by Members to LegCo, including seeking the President's opinion on the proposed Bill and seeking the written consent of the Chief Executive in respect of the proposed Member's Bill if needed. His intention was to present the proposed Member's Bill to the Council within the 2020-2021 legislative session. He appealed to the Government to support his proposed Member's Bill.

20. Mr LUK Chung-hung recapitulated the justifications for the proposed Member's Bill. He remarked that it was imperative that the grassroots employees receiving the SMW rate would be able to share the fruits of economic success and benefit from wage increase in addition to catching up with the inflation. Mr LUK highlighted that the minimum wage rates in a number of countries/places had been accordingly adjusted regardless of economic recession. Given that labour policy was



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formulated for long-term implementation and that economy of Hong Kong was expected to be recovered from recession, Mr LUK did not subscribe to the view that it would not be an opportune time to change the review cycle of the SMW rate. He called on the Government to seriously consider conducting the review of the SMW rate on an annual basis.

21. In response, USLW said that the Government ought to adopt a prudent approach in the formulation and implementation of each and every labour policy. The Government would continue to closely monitor the labour market and to maintain an appropriate balance between forestalling excessively low wages and minimizing the loss of low-paid jobs.

**VI. Latest development in the employment services of the Labour Department**

(LC Paper Nos. CB(2)758/20-21(05) and (06))

*[At this juncture, the Chairman resumed the chairmanship.]*

22. At the invitation of the Chairman, C for L briefed members on the latest development in the employment services of LD, as detailed in the Administration's paper.

23. Members noted an updated background brief entitled "Employment support services of the Labour Department" prepared by the LegCo Secretariat.

Latest labour market situation and projection

24. Expressing concern about the prevailing high and aggravating unemployment rate, in particular among the grassroots people, Dr CHIANG Lai-wan considered it imperative for LD to formulate corresponding manpower policy to address the problem. Dr CHIANG then sought information on the sectors/industries with the highest unemployment rate and labour shortage and the projection in the coming six months. Mr POON Siu-ping echoed the concern and said that the labour market would continue to face significant pressure arising from the COVID-19 epidemic.

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Admin 25. C for L said that the Government was concerned about the notable pressure of unemployment and underemployment faced by various sectors. LD was committed to providing various employment support services, including organization of online job fairs, provision of employment advisory services, etc., to help unemployed workers of various sectors secure employment. Detailed information requested would be provided after the meeting.

Greater Bay Area Youth Employment Scheme

26. Expressing support for the Greater Bay Area ("GBA") Youth Employment Scheme ("the Scheme") which provided young people with diversified work types and opportunities to pursue their career in the Mainland cities of GBA, Mr Vincent CHENG was concerned about the recruitment progress and employment situation under the Scheme. Mr CHENG was concerned about the respective numbers of job vacancies under the Scheme, posts filled and participants who had commenced to work in GBA as well as the accommodation arrangements for these participants since the launch of the Scheme in January 2021.

Admin 27. C for L advised that the Scheme was launched on 8 January 2021 and started inviting participation of enterprises. So far, the response was favourable. As at 16 February 2021, 1 239 job vacancies were offered by participating enterprises, including 637 general posts and 602 innovation and technology ("I&T") posts. For the majority of these posts, the recruitment process was underway. LD would continue to closely liaise with the enterprises concerned and provide assistance to the participants as appropriate. Other detailed information requested by Mr Vincent CHENG would be provided after the meeting.

28. The Chairman noted with concern that although 2 000 places were provided under the Scheme, only 1 239 job vacancies were offered by enterprises as at 16 February 2021. The Chairman called on the Administration to consider relaxing the eligibility and expanding the scope of target participants, who were awarded their bachelor's degrees or above in 2019 to 2021, to graduates who were awarded their bachelor's degrees or above from 2015 or 2016.

29. C for L said that as there were tens of thousands of graduates awarded bachelor's degree or above from 2019 to 2021, this did not seem to be a factor that would limit enterprises' participation in the Scheme. Having assessed the progress, it was believed that the number of vacancies submitted by enterprises would meet the Scheme's target of

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providing 2 000 places for target participants. In fact, the number of I&T posts received was almost reaching the target of 700 places. Given that the Scheme had just been launched for a short period of time and enterprises needed some time to gather suitable vacancies, the Government considered the progress of the Scheme satisfactory.

Enhancing employment programmes

*Increasing on-the-job training allowance*

30. The Chairman was concerned that there was a limited number of participants under the Employment Programme for the Elderly and Middle-aged, Youth Employment and Training Programme and Work Orientation and Placement Scheme ("WOPS") ("the three employment programmes"). The Chairman pointed out that there were concerns about the difficulties in meeting the eligibility criteria for receiving the on-the-job training ("OJT") under the three employment programmes. The Chairman further asked whether any mechanism was put in place to prevent abuse of the OJT allowance under the three employment programmes such that employers would not dismiss programme employees after drawing down the allowances.

31. Assistant Commissioner for Labour (Employment Services) ("AC for L (ES)") responded that under the requirements of the employment programmes, employers should undertake not to displace existing staff of the same position with the employee newly placed under the programmes. As the programmes aimed to encourage employers to hire and train up the target employees through the provision of an allowance, provision of OJT was an integral part of the programmes. The OJT period, and thus the total amount of allowance payable, would be commensurate with the training need of the posts concerned. The Administration had also been closely monitoring the retention status of those placed into employment under the employment programmes to forestall abuse of the OJT allowance. For instance, LD had since 2015 extended the post-placement follow-up period for job seekers with disabilities under WOPS up to 12 months of their employment. Through the follow-up on their employment situation, LD noted that most of the termination cases involved persons with disabilities quitting the job on their own accord due to various reasons. Only a small percentage of WOPS participants were dismissed during the ninth to twelfth months of employment. There was no evidence showing that employers abused WOPS and dismissed employees with disabilities after drawing down the allowances.

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32. The Chairman called on the Administration to step up its publicity efforts in respect of the three employment programmes targeting at job seekers with employment difficulties. At the Chairman's request, the Administration agreed to provide information on the respective numbers of employees engaged under the three employment programmes, together with their respective duration of employment in the past few years.

*Providing retention allowance*

33. Referring to LD's launch of a pilot scheme in September 2020 to encourage the elderly aged 60 or above, young people and persons with disabilities who had participated in the three employment programmes to undergo and complete OJT through the provision of a retention allowance ("the pilot scheme"), Mr POON Siu-ping was concerned about the retention rate of employees engaged under the three employment programmes. C for L responded that given that the pilot scheme had been implemented for a rather short period of time since its launch in September 2020, detailed statistics on the retention situation of employees engaged were not yet available as the OJT period for a considerable number of placements had not ended yet.

Racial Diversity Employment Programme

34. Mr Vincent CHENG was concerned about the employment situation of ethnic minority ("EM") job seekers under the Racial Diversity Employment Programme ("RDEP") since its implementation in November 2020. Mr CHENG further enquired whether LD or other government departments would consider recruiting EM job seekers, say, for carrying out anti-epidemic work or providing interpretation services.

35. AC for L (ES) advised that a total of 12 placements of EM job seekers were recorded under RDEP from 1 November 2020 to 31 January 2021. For the Employment Services Ambassador ("ESA") Programme for Ethnic Minorities, LD had so far engaged a total of 169 ESAs in 12 batches since its implementation in September 2014, with the 12<sup>th</sup> batch currently working in LD. As for the 149 ESAs of the first 11 batches, apart from those who had no intention to seek employment for various personal reasons, such as leaving Hong Kong, pursuing further studies, etc., all had successfully found a job.

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General employment and recruitment services

36. In the light of the need for practising social distancing measures amid the COVID-19 epidemic, Mr SHIU Ka-fai said that it was understandable that LD had not organized job fairs to disseminate employment information and conducted on-the-spot recruitment interviews. In anticipation of the continued rise of the unemployment rate amid the COVID-19 epidemic and the difficulties faced by job seekers in finding employment, Mr SHIU called on LD to make endeavours to assist job seekers in finding employment through other channels to provide employment and recruitment services.

37. C for L advised that to reduce the risk of viral infection posed by the congregation of people during COVID-19, LD cancelled many of its physical job fairs scheduled for 2020. Nevertheless, in order to assist job seekers in seeking jobs, LD introduced online job fairs and strived to resume the organization of smaller-scale district-based recruitment activities in job centres and recruitment centres when each wave of the epidemic situation became stabilized.

38. With respect to 41 180 job seekers who registered with LD for the general employment services and LD's record of 686 297 private sector vacancies in 2020, Mr POON Siu-ping sought information on the number of job seekers who successfully secured employment through LD's 13 job centres and three recruitment centres for the catering, retail and construction industries, and how the figures compared with the pre-epidemic situation. Mr POON also sought information on the number of job seekers who successfully secured employment through LD's employment services available on the Interactive Employment Service ("iES") website and Telephone Employment Service Centre ("TESC"). Mr SHIU Ka-fai sought information on the respective numbers of job seekers and employers undergoing staff recruitment in 2018 and the corresponding figures in 2020 i.e. amid the COVID-19 epidemic outbreak.

39. C for L and AC for L (ES) responded that currently, the vast majority of vacancies advertised through LD provided employers' contact details. Job seekers could obtain information of job vacancies through channels such as the iES website and its mobile application without registration with LD, and make direct application to employers. Job seekers who were placed into employment through direct application were not required to report their employment status to LD. LD therefore

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did not have the number of job seekers placed into employment through iES online platform. In 2018 and 2020, there were respectively 38 567 and 41 180 job seekers registered with LD for employment services. The number of job vacancies submitted by employers was 686 297 in 2020, representing a substantial reduction as compared with the corresponding figure of 1 468 394 in 2018.

40. AC for L (ES) supplemented that LD estimated the number of job seekers who secured placements through direct application to employers by conducting periodic sample surveys with employers advertising vacancies via LD. In 2019 and 2020, LD respectively recorded 111 568 and 126 785 placements, including placements secured through LD's referral services and placements made through job seekers' direct applications to employers who advertised vacancies via LD. Care should be taken in comparing the 2020 placement figures with those in previous years owing to changes in parameters of the sample survey. As regards provision of employment services through TESC, the number of job seekers using the service in 2020 was 27 732 which represented an increase of over 53% as compared to 18 082 job seekers using the service in 2019.

*[The Chairman directed that the meeting would be extended by 15 minutes.]*

**VII. Enforcement of labour legislation by the Labour Administration Branch of the Labour Department**  
(LC Paper Nos. CB(2)758/20-21(07) and (08))

41. At the invitation of the Chairman, Deputy Commissioner for Labour (Labour Administration) ("DC for L(LA)") briefed members on the latest enforcement actions taken by the Labour Administration Branch of LD to protect the statutory rights and benefits of employees under relevant labour legislation, details of which were set out in the Administration's paper.

42. Members noted an updated background brief entitled "Enforcement of labour legislation" prepared by the LegCo Secretariat.

Enforcement of the Employment Ordinance

43. With respect to the 565 convictions secured by LD for wilful defaults of wage payment in breach of EO in 2020, Mr POON Siu-ping

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sought information on the number of cases, amount of wage default and the number of employees concerned. DC for L(LA) advised that the respective numbers of convictions secured by LD for wilful defaults of wage payment in breach of EO in 2018, 2019 and 2020 were 513, 836 and 565. In 2020, the highest fine imposed on a single case was \$310,000. The other information requested by Mr POON, if available, would be provided after the meeting.

44. Noting that there were 233 convictions on holiday and leave offences in 2020 and that the number of conviction was close to that in the previous year, Mr POON Siu-ping asked whether further measures would be adopted by LD to address the situation. DC for L(LA) advised that holiday and leave entitlements were important statutory rights and benefits of employees under EO. LD had all along been proactive in conducting inspections, initiating investigation upon receipt of relevant complaints and taking vigorous enforcement action.

45. With respect to the 657 inspections conducted by LD's labour inspectors and interviews of 2 294 workers of 76 GSCs in 2020 for protection of GSCs' non-skilled workers, Mr POON Siu-ping asked whether there were GSCs in breach of EO. DC for L(LA) advised that there were successful prosecutions against GSCs in breach of labour legislation in the past years. Assistant Commissioner for Labour (Employees' Rights & Benefits) ("AC for L (ERB)") added that between 2018 and 2020, there were four cases of successful prosecution against GSCs. Among them, three cases involved breaches of the Employees' Compensation Ordinance (Cap. 282) such as failure in paying compensation to the employee concerned, and one case was related to wage issues under EO.

46. With respect to a total of 1 405 inspections of employment agencies ("EAs") conducted by LD in 2020 and that 11 EAs were successfully prosecuted for breaching relevant provisions of EO or the Employment Agency Regulations (Cap. 57A) ("EAR"), Mr SHIU Ka-fai considered the prosecution figures against EAs were on the very low side. Mr SHIU said that to his knowledge, there were a considerable number of cases of EAs' overcharging of commission from job seekers and enquired about the enforcement action against EAs and how inspections of EAs were conducted.

47. DC for L(LA) advised that the Employment Agencies Administration ("EAA") of LD was responsible for enforcing Part XII of EO and EAR in regulating EAs. Apart from conducting regular and

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surprise inspections of EAs, EAA would initiate investigations immediately upon receipt of complaints. During the inspections, LD officers would make inquiries with the responsible persons of EAs and check the records showing particulars of job applicants, fees and commission received and placement details maintained by EAs, which were required to be kept by EAs under the law. Where required, LD officers would contact the employers and job seekers, including foreign domestic helpers, of individual placement cases to request them to provide information to ensure that EAs operated in compliance with the law. Prosecution would be initiated accordingly when there was sufficient evidence. In 2020, LD conducted a total of 1 405 inspections of EAs and successfully prosecuted 11 EAs, of which six were convicted of offences of overcharging of commission from job seekers or unlicensed operation of EAs.

Protection of employees' rights and benefits

48. Ms Alice MAK expressed concern that in the light of the worsening economic situation in 2020, there were an increasing number of employees seeking assistance from labour unions, such as wage defaults. Ms MAK referred members to the intervention of the Council of the Law Society of Hong Kong into a law firm's practice in December 2020 because of a suspected case of dishonesty. As a result, the liquidity and bank account of the law firm were withheld and its employees could not receive their wages and other payments amounted to over \$4 million. Ms MAK was concerned as to whether LD would provide assistance to the employees concerned under such circumstances.

49. DC for L(LA) responded that employees in general were protected under EO which stipulated, among others, the statutory time limit that an employer should pay wages to his employee. An employer was required to pay interest on the outstanding amount of wages to the employee if he failed to pay wages to the employee within seven days when it became due. If wages were not paid within one month after it became due, an employee might deem his contract of employment to be terminated by his employer without notice and was entitled to payment in lieu of notice in addition to other statutory and contractual termination payments. DC for L(LA) appealed to the employees concerned to approach LD for assistance in respect of their wages in arrears and other payments owed by employers. LD would duly follow up in accordance with the labour legislation. Notably, the Protection of Wages on Insolvency Fund ("PWIF") provided a safety net in the event that an employer failed to pay



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employees' outstanding wages and termination payments due to insolvency.

50. With reference to her earlier cited case, Ms Alice MAK considered it equally important to accord priority to safeguarding the labour rights and benefits of employees concerned when the professional regulatory body assumed statutory powers and functions over its member organizations. She called on LD to relay to relevant bureaux to take this into account when drawing up empowering legislation for the professional bodies concerned. DC for L(LA) said that Ms MAK's view was noted.

51. Mr SHIU Ka-fai pointed out that in face of difficult operating environment in various trades and industries due to the worsening economy amid of the COVID-19 epidemic in 2020, some employees were asked to take no-pay leave. Mr SHIU was concerned whether these employees had approached LD for assistance and if so, the relevant statistical information in the past months.

52. DC for L (LA) responded that while there was no breakdown by cause of no-pay leave on the labour disputes involving over 20 employees, the number of labour disputes handled by LD had increased from 76 in 2019 to 85 in 2020. DC for L (LA) added that employees could approach LD for enquiries on no-pay leave arrangement and conciliation service could be provided as necessary.

*(The Chairman suggested and members agreed that the meeting be further extended by 15 minutes.)*

Protection of Wages on Insolvency Fund

53. The Chairman referred members to a wage dispute case handled by the Hong Kong Federation of Trade Unions in which a number of employees, who worked in a restaurant and were affected by the cessation of business of the restaurant, could not receive ex gratia payment from PWIF to cover arrears of wages and other termination payments because they were engaged by another company to work in that restaurant. The Chairman was concerned as to whether LD would provide assistance to the employees concerned under such circumstances and appealed to handling of application for ex gratia payment from PWIF in a flexible manner.

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54. DC for L (LA) advised that PWIF provided timely financial relief to employees affected by the cessation of business or insolvency of their employers. LD would provide appropriate assistance to the affected employees to file claims for outstanding wages and other termination payments and refer the cases to PWIF for application of ex gratia payment, if applicable. DC for L (LA) further advised that applicants should meet the criteria as specified in the Protection of Wages on Insolvency Ordinance (Cap. 380) when applying for ex gratia payment. AC for L (ERB) added that applicants were required to observe the relevant procedures, including completing an application for ex gratia payment in respect of wages in arrears and various termination payments within the prescribed time period and providing the necessary information, such as details of employer and employment records, for verifying their application. As regards the case cited by the Chairman, it was understood that certain statutory requirements had not been met owing to some unforeseen circumstances. That said, LD would offer assistance to the employees concerned as far as practicable.

Importation of labour

55. The Chairman expressed concern about the employment rights of imported workers under the Supplementary Labour Scheme ("SLS"), in particular those working in the residential care homes for the elderly. The Chairman said that to his understanding, there was a common phenomenon of wage deduction/rebate and uncompensated overtime work among these imported care workers. Such malpractice would infringe upon the labour rights of the imported workers as well as affect the local employment. The Chairman was concerned about the relevant inspections and enforcement work.

56. DC for L (LA) responded that in general, LD's labour inspectors would conduct interviews with imported workers individually during inspections without interference of any third party, including the employer, so as to ensure that the imported workers could freely provide information to LD and, where needed, lodge complaints on employment issues. During interviews with imported workers, labour inspectors would also inquire and explain to them their statutory rights and benefits under EO and contractual entitlements under SLS.

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57. The Chairman requested the Administration to provide the Panel with information on the enforcement work taken to check employers' compliance with relevant labour laws and SLS requirements in its future

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discussion paper for the enforcement of labour legislation by the Labour Administration Branch of LD.

58. There being no other business, the meeting ended at 1:13 pm.

Council Business Division 2  
Legislative Council Secretariat  
26 May 2021