

立法會
Legislative Council

LC Paper No. CB(2)1292/20-21
(These minutes have been seen
by the Administration)

Ref : CB2/PL/MP

Panel on Manpower

Minutes of meeting
held on Tuesday, 20 April 2021, at 4:30 pm
in Conference Room 2 of the Legislative Council Complex

- Members present** : Hon LUK Chung-hung, JP (Chairman)
Hon CHAN Chun-ying, JP (Deputy Chairman)
Hon YIU Si-wing, BBS
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 attending** : Hon Holden CHOW Ho-ding
- Member absent** : Hon WONG Kwok-kin, SBS, JP
- Public Officers attending** : Item IV
Ms Agnes LO Kit-mui
Assistant Commissioner for Census and Statistics (Labour)

Ms Anny CHEUNG Kit-man
Senior Statistician (Labour)
Census and Statistics Department

Mr Eric LEE Yiu-kwong
Principal Economist
Office of the Government Economist

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

Item V

Ms Jade WONG Sin-yee
Acting Assistant Commissioner for Labour (Labour Relations)

Ms Stephanie HO Sau-fun
Senior Labour Officer (Labour Relations) (Policy Support) 2
Labour Department

Mr James CHENG Lap-yan
Senior Statistician (Social)
Census and Statistics Department

Item VI

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

Mr Chris SUN Yuk-han, JP
Commissioner for Labour

Miss CHEUNG Hoi-shan
Assistant Commissioner for Labour (Policy Support)

Mr Raymond LEUNG Kwok-kee
Chief Labour Officer (Offsetting Policy)
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 Kiwi NG
Legislative Assistant (2) 1

Action

I. Information paper issued since the last meeting

Members noted that no information paper had been issued since the last meeting.

II. Date of next meeting and items for discussion
(LC Paper Nos. CB(2)971/20-21(01) and (02))

Regular meeting in May 2021

2. Members agreed that the following items proposed by the Administration be discussed at the next regular meeting at 4:30 pm on 18 May 2021:

- (a) Implementation of the Reimbursement of Maternity Leave Pay Scheme;
- (b) Occupational disease and occupational health situation in 2020; and
- (c) Hong Kong's occupational safety performance in 2020.

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

3. The Chairman advised that as items III and VI were related, he would invite the Secretary for Labour and Welfare ("SLW") to update members on the preparatory work for abolishing the "offsetting" arrangement under the Mandatory Provident Fund ("MPF") System under agenda item VI.

Action

IV. Major findings of the 2020 Annual Earnings and Hours Survey
(2020 Report on Annual Earnings and Hours Survey, LC Paper Nos. CB(2)971/20-21(03) and (04))

4. With the aid of powerpoint presentation, Assistant Commissioner for Census and Statistics (Labour) ("AC/C&S") highlighted to members the major findings in the 2020 Report on Annual Earnings and Hours Survey ("the 2020 AEHS Report").

(Post-meeting note: The softcopy of the powerpoint presentation materials was issued to members vide LC Paper No. CB(2)1006/20-21(01) on 21 April 2021.)

5. Members noted an updated background brief entitled "Annual Earnings and Hours Survey" prepared by the Legislative Council ("LegCo") Secretariat.

Wage issues

6. Mr Vincent CHENG noted that all major percentiles of the monthly wage of employees (excluding government employees and live-in domestic workers) had registered a slight increase, except for the lowest decile, in the 2020 AEHS Report as compared with the 2019 AEHS results. He was concerned whether this was due to the provision of wage subsidies under the Employment Support Scheme ("ESS") and enquired when the latest statistics on employment earnings by industries would be available.

7. Noting that the lowest decile monthly wage was \$9,600 during the reference period of May to June 2020, representing a decrease of 3.9% as compared with the corresponding figure of \$10,000 in 2019, the Chairman was gravely concerned about the lack of bargaining power of grassroots employees in the labour market. The Chairman said that the labour sector strongly criticized that the Government had accepted the recommendation of the Minimum Wage Commission on freezing the prevailing Statutory Minimum Wage ("SMW") rate at \$37.5 per hour, which, in his view, would have adverse impact on the wage level of the grassroots employees. The Government should review the adjustment mechanism of the SMW rate and enhance the government outsourcing system so as to raise the wage level of grassroots employees.

Action

8. AC/C&S advised that the wage statistics in the 2020 AEHS Report were compiled based on the actual wages received by employees during the reference period of May to June 2020, irrespective of whether the employers concerned had been provided with wage subsidies under ESS. AC/C&S further advised that AEHS was an annual exercise and the 2021 AEHS would soon commence. In effect, the Census and Statistics Department ("C&SD") also conducted a Labour Earnings Survey ("LES") and compiled wage statistics related to full-time employees engaged in occupations at the supervisory level or below in selected industries on a quarterly basis. The most updated LES results covered the fourth quarter of 2020 and the upcoming survey results for first quarter of 2021 would be released in June 2021. Notably, it was observed that increase in the wage level had slowed down in the four quarters in 2020.

9. Having regard to the deteriorating economy in Hong Kong since mid-2019, Mr SHIU Ka-fai cast doubt about an increase of 1.5% in the median monthly wage of employees recorded for May to June 2020 as compared with that in May to June 2019.

10. AC/C&S advised that the wage statistics of the 2020 AEHS Report was consistent with the LES findings. It was found that a number of companies had made annual salary revision for their employees, including those engaged in professional, scientific and technical activities; information and communications; and financing and insurance industries, regardless of the worsening economy. That said, the year-on-year increase in overall monthly wage in 2020 was the lowest in recent years. While a year-on-year increase of 3.8% was recorded for the median monthly wage of employees in 2019, the increase in 2020 was 1.5% only.

11. Pointing out that a considerable number of employees had been asked to take no-pay leave amid the COVID-19 epidemic, Mr Vincent CHENG asked about the impact on the overall wage level and working hours as well as industries that were severely affected.

12. AC/C&S advised that it did have impact on the wages and working hours of employees concerned if no-pay leave arrangement had been agreed between employers and employees during the reference period of May to June 2020. Notably, both the monthly wage and hourly wage in 2020 registered a smaller year-on-year increase as compared with those in the past years. Specifically, industries employing a large number of low-skilled employees, such as food and beverage services, were much affected.

Action

13. Notwithstanding that the number of sale and purchase agreements of building units had increased from 6 885 in May 2020 to 7 596 in December 2020 according to the Land Registry's statistics, the Deputy Chairman was concerned about the reduction of 5.4% of the median monthly wage of the employees engaged in real estate activities in 2020 as compared with that in 2019. AC/C&S advised that the reduction was mainly attributed to the fact that sale and purchase activities of building units in 2020 was on the whole less active as compared with that in the previous years, including the second-hand property market. As such, the income of many real estate agents had significantly reduced. As a matter of fact, their working hours also reduced in 2020.

14. Given that the travel industry was hard hit by the COVID-19 epidemic, the Chairman queried why there was only a decrease of 0.7% of the median monthly wage for employees engaged in travel agency, reservation service and related activities during the reference period of May to June 2020 i.e. \$15,200 as compared with the corresponding figure of \$15,300 in 2019. Mr Holden CHOW raised a similar concern.

15. AC/C&S responded that some employees previously engaged in the travel industry had switched to other types of work or became unemployed during the reference period of May to June 2020, and were thus not included under the travel industry. In addition, some of the wage components of the travel industry practitioners were not guaranteed income under the definition of wages in AEHS. Mr Holden CHOW held the view that it would underestimate the adverse impact of the epidemic on the travel industry if unemployed persons were excluded from the compilation of wage statistics. The Administration should explain clearly the computation methodology in the relevant statistical reports.

16. Mr Holden CHOW noted with concern that although the employment situation of employees engaged in the estate management, security and cleaning services was least affected amid the COVID-19 epidemic, the median monthly wage or hourly wage of these employees remained the lowest in the reference period of May to June 2020. He considered that the wage level of these employees should be raised.

17. AC/C&S advised that the number of employees in the estate management, security and cleaning services was relatively stable in 2020. Given that the wage level of quite a portion of employees engaged in these industries was close to the SMW rate, it explained why there was

Action

not a significant rise in their median monthly wage in 2020 even though they were comparatively less affected by the epidemic.

Disparity of wage level between male and female employees

18. The Deputy Chairman was concerned that the median monthly wage of female employees (i.e. \$16,200) was lower than that of male employees (i.e. \$20,900) during the reference period of May to June 2020. The Deputy Chairman called on the Administration to make reference to overseas practices and introduce measures to narrow the disparity of wage level between male and female employees. For instance, the Administration should consider putting in place supporting measures to help women enter specific higher-paid trades and industries.

19. Ms YUNG Hoi-yan expressed grave concern that the difference between hourly wages of male and female employees during the reference period of May to June 2020 (i.e. \$83 and \$66 respectively) was around 20%. Ms YUNG asked about the respective wage levels in the past years. Pointing out that some women might have family commitment and their bargaining power was low in the labour market, Ms YUNG enquired whether the Administration had ever conducted a study on how to safeguard females' wage level and address the disparity of wage level between male and female employees in the labour market. She also called on the Administration to enhance support measures to facilitate women employment and achieve gender equality at work. The Chairman appealed to the Labour Department ("LD") to make effort in this regard, having regard to the greater disparity of wage level between male and female employees in Hong Kong when compared with those in the neighbouring developed countries/regions.

20. While acknowledging the difference in wage level between male and female employees in the 2020 AEHS, AC/C&S advised that similar findings were also observed in previous rounds of AEHS since 2009 and the difference was attributable to a number of factors.

21. Assistant Commissioner for Labour (Development) added that the Employees Retraining Board had operated schemes providing flexible study arrangement to acquire recognized qualifications so as to facilitate women to enter or stay in employment. The Government would continue to work in this direction and implement different measures to support women employment as necessary. Members' views and concerns would be relayed to relevant bureaux.

Action

Labour force

22. Pointing out that the number of employees was decreased by some 250 000 persons during the reference period of May to June 2020 as compared with the corresponding period in 2019, the Chairman was concerned whether the AEHS findings had reflected the problem of hidden unemployment.

23. AC/C&S advised that if a person (aged 15 or over) who did not have a job had not sought work because he/she believed that work was not available, he/she was also classified as unemployed, being regarded as "discouraged worker". Acknowledging that there was a decline in the labour force in the past two years, AC/C&S explained that the decline in 2020 was mainly due to the decrease in the Hong Kong resident population. Notably, some Hong Kong residents who had left Hong Kong before the epidemic might have chosen to remain outside Hong Kong because of work reason. Also, there was a decrease in the labour force participation rate. It was observed that the labour force participation rate of younger persons had slightly dropped while that of the older persons was less severe. Principal Economist/Office of the Government Economist added that there were declines in the labour force participation rates across different age groups in mid-2020. However, more recently, there were year-on-year increases in the labour force participation rates of some age groups, which to a certain extent indicated that some of the persons who had previously left the labour market rejoined the labour market.

24. Mr SHIU Ka-fai pointed out that the retail trade had been heavily hit by the local social incidents in 2019 and the COVID-19 epidemic and added that the retail trade now mainly relied on local spenders in view of the cross-boundary travel restrictions and quarantine measures in place in Hong Kong. Mr SHIU was concerned about the employment situation in the retail trade.

25. AC/C&S responded that the number of employees engaged in the retail trade had dropped from 273 700 in 2019 to 219 900 in 2020, representing a reduction of 19.7%. Some employees who previously worked in this industry might have switched to other types of work, become unemployed, or left the labour force during the survey reference period.

Action

V. Major findings of the Thematic Household Survey on employees engaged under employment contracts with short duration or working hours in 2019-2020

(LC Paper Nos. CB(2)971/20-21(05) and (06))

26. At the invitation of the Chairman, Acting Assistant Commissioner for Labour (Labour Relations) ("Ag AC for L (LR)") briefly took members through the major survey findings of the Thematic Household Survey ("THS") on employees engaged under employment contracts with short duration or working hours (referred to as "SDWH employees" hereinafter) during October 2019 to January 2020 commissioned by C&SD, as released in the THS Report No. 72. With the aid of powerpoint presentation, Senior Labour Officer (Labour Relations) (Policy Support) 2/LD highlighted to members the major survey findings.

(Post-meeting note: The softcopy of the powerpoint presentation materials was issued to members vide LC Paper No. CB(2)1006/20-21(02) on 21 April 2021.)

27. Members noted an updated background brief entitled "Continuous contract under the Employment Ordinance" prepared by the LegCo Secretariat.

Analysis of employees engaged under employment contracts with short duration or working hours

28. Noting that 27.1% and 27.2% of SDWH employees were aged 20 to 29 and 30 to 49 respectively, the Deputy Chairman expressed concern about the high proportion of SDWH employees who were at the development stage of their career life. He was concerned about the policies and measures in place to address the situation.

29. Ag AC for L(LR) said that it was believed that some SDWH employees aged 20-29 were full-time students, as supported by the findings that among the 133 900 SDWH employees who usually worked less than 18 hours per week in the present job at the time of enumeration and did not seek a job usually with 18 hours of work or more per week, 37 600 employees indicated educational pursuit as the reason.

30. Mr POON Siu-ping expressed concern that among the 203 500 SDWH employees worked in the non-government sector during the survey period, a large proportion i.e. 56.4% were females.

Action

Ag AC for L (LR) advised that according to the THS findings, the respective proportions of male and female employees working under a continuous contract were 52% and 48% while those engaged under employment contracts with SDWH were 44% and 56% respectively. The gender imbalance was not evident.

Employment benefits granted to employees engaged under employment contracts with short duration or working hours

31. Expressing concern that SDWH employees enjoyed limited employment benefits as reflected from the survey findings, Mr POON Siu-ping asked how the Administration would safeguard the labour rights and benefits of SDWH employees.

32. Ag AC for L (LR) advised that although SDWH employees were not entitled to certain statutory employment benefits stipulated under the Employment Ordinance (Cap. 57) ("EO"), the survey findings revealed that 13.3% (i.e. around 27 000 persons) were granted statutory holiday pay and 12.8% (i.e. around 26 000 persons) were granted paid annual leave. The Government would continue to encourage the employers to provide SDWH employees with employment benefits more favourable than the statutory requirements.

Protection for employees not employed under a continuous contract

33. The Chairman expressed grave concern that some employees were not entitled to full protection and benefits under EO if they did not meet the requirement of working for 18 hours per week continuously for the same employer for four weeks (the so-called "4-18 requirement"), even though these employees had worked 72 hours or more within four weeks. The Chairman asked about the relevant findings in the THS Report No. 72. The Chairman further said that the labour sector had been calling for lowering the "4-18 requirement" to "4-72 requirement" such that an employee would be considered to have satisfied the requirement for continuous contract and entitled to full employment benefits under EO if he/she had been working for 72 hours or more within four weeks. There was also a view that SDWH employees should be provided with employment benefits on a pro-rata basis if they worked less than 72 hours within four weeks. The Chairman appealed to the Administration to arrange the subject matter for discussion by the Labour Advisory Board ("LAB").

Action

34. Ag AC for L (LR) advised that as revealed from the survey findings, there were 9 900 employees who had already worked for their employers for four weeks or more and usually worked 18 hours or more per week (but not continuously) in the present job at the time of enumeration, representing 0.3% of the employees in the non-government sector. It was understood that some organizations would recruit short-term employees on a need basis, so as to maintain the flexibility in staff recruitment and respond to the market fluctuation. The THS findings also revealed that some SDWH employees were granted certain statutory employment benefits under EO, although they were not entitled to such benefits. That said, LD would closely keep in view the market situation.

35. The Chairman pointed out that the Administration had previously stated that removing or lowering the "4-18 requirement" for continuous contract under EO would have cost implications for employers as they might need to reduce their workforce in order to contain the additional staffing cost if the "4-18 requirement" was relaxed. It was, however, revealed from the survey findings that only 0.3% of the employees in the non-government sector had already worked for their employers for four weeks or more and usually worked 18 hours or more per week (but not continuously) in the present job at the time of enumeration. As such, the additional cost implications for employers should be insignificant. That said, employers were obliged to bear the cost for employment benefits of SDWH employees as many of them had in effect worked far more than 72 hours within four weeks. He called on the Administration to plug the loophole of the "4-18 requirement" as soon as possible by putting forward legislative proposal to enhance employment protection and benefits for SDWH employees.

36. Ag AC for L (LR) responded that currently, employees engaged under a continuous contract were entitled to full employment protection and benefits under EO. The eligibility threshold for the employment benefits was comparatively lower and lax than those of the neighbouring places. It was necessary to strike a proper balance between employers' affordability and employees' interest.

37. The Chairman and Mr Holden CHOW expressed concern about the protection of employees' rights and benefits of digital platform workers, such as those engaged for food delivery and express mail services. The Chairman asked whether digital platform workers were covered in THS.

Action

38. Ag AC for L (LR) said that this THS collected information on SDWH employees who worked in the non-government sector during the survey period (i.e. October 2019 to January 2020). For the purpose of the survey, "employees" referred to persons aged 15 and over who worked for an employer for wage, salary, commission, tips or payment in kind, including paid family workers but excluding foreign domestic helpers ("FDHs"). During the survey, in case the respondents of randomly selected households were not sure of their own employment status, field officers would ask the respondents certain questions, including whether they needed to approach new clients, bear investment risk or provide their own tools or equipment, etc., for the purpose of clarifying whether they were employees. Hence, digital platform workers would be included in the survey if they were employees.

39. The Chairman held the view that there existed in essence an employer-employee relationship between the digital platform workers and the platform companies, although the platform workers were very often labelled as self-employed persons ("SEPs"). The Chairman and Mr Holden CHOW drew reference to both local and overseas court cases which held that there was an employment relationship between digital platform workers and the platform companies concerned. The Chairman urged the Administration to plug the legal loophole of false self-employment of digital platform workers so as to safeguard their employees' rights and benefits. The Chairman further called on LD to proactively assist the digital platform workers involved in labour disputes and welcomed these workers to approach the Hong Kong Federation of Trade Unions for assistance if they were deprived of labour rights and benefits by means of false self-employment. The Chairman and Mr CHOW appealed to the Administration to step up its publicity efforts and provide guidelines on the legal rights of digital platform workers as well as the definition of the "4-18 requirement", in particular to the new arrivals and ethnic minorities.

40. In the light of the increasing trend of fragmented work, Mr KWOK Wai-keung expressed concern that some false SEPs would be forced by their employers to take up fragmented work. Drawing reference to the indication of the Singaporean government to study enhancing the protection of employment rights of SDWH employees in view of the increasing number of these employees amid the COVID-19 epidemic, Mr KWOK asked whether LD would likewise proactively conduct a study and introduce measures as appropriate to safeguard the labour rights and benefits of SDWH employees.

Action

41. Ag AC for L (LR) responded that the Government noted the new employment pattern and emerging industries, including that of digital platform workers. Employers were not allowed to make use of false self-employment contracts to evade granting employment benefits to their employees under EO. Even though an employee was labelled as a contractor/SEP in a contract, he/she would not be deprived of protection under the labour legislation if in essence there existed an employer-employee relationship between the two parties concerned. That said, LD would keep in view overseas and local developments in this respect.

Data collection and survey methodology

42. The Deputy Chairman expressed concern that due to difference in the coverage of this THS and the previous related Special Topic Enquiry ("STE") via the General Household Survey conducted by C&SD in 2009, the findings of both surveys were not strictly comparable. For instance, as opposed to the previous STE, for those respondents who were employed in their present jobs for less than four weeks at the time of enumeration, survey findings on whether they expected to work in their present jobs continuously for four weeks or more and hence might subsequently become continuous contract employees were not found in the THS Report No. 72. He considered that findings of surveys of similar nature should be comparable.

43. Senior Statistician (Social)/C&SD clarified that in this THS, respondents who were employed in their present jobs for less than four weeks at the time of enumeration had been asked whether they expected to work in their present jobs continuously for four weeks or more. However, in view of the small number of respondents, relevant statistics were not released in the survey report due to large sampling error. Moreover, the major difference between STE and this THS was that FDHs were not included in THS, and hence the two sets of results should be compared with care.

Future surveys on employees engaged under employment contracts with short duration or working hours

44. The Chairman and Mr POON Siu-ping expressed concern that following the launch of STE in 2009, it took more than 10 years for LD to conduct another survey on SDWH employees in 2019. Given that the employment pattern became increasingly fragmented, Mr POON called on

Action

the Administration to conduct another thematic survey on gig employees. The Chairman appealed to the Administration to increase the frequency for conducting future surveys on SDWH employees.

45. Ag AC for L (LR) responded that following the last STE on SDWH employees conducted in 2009, LAB had since May 2013 deliberated in details the pros and cons and practicability of various approaches to deal with the continuous contract requirement under EO at its several meetings but no consensus had been reached on the subject. Noting the concern on SDWH employees, LD commissioned C&SD again to conduct a THS during October 2019 to January 2020 to understand the latest situation of the employment pattern and characteristics of SDWH employees. On the basis of the survey findings, LD would continue to study the subject and listen to views of the employer and employee sides.

VI. Abolition of using employers' mandatory contributions under the Mandatory Provident Fund System to "offset" severance payment and long service payment

(LC Paper Nos. CB(2)971/20-21(07) and (08))

46. At the invitation of the Chairman, SLW briefed members on the work progress on abolishing the use of accrued benefits derived from employers' mandatory contributions under the MPF System to "offset" severance payment ("SP") and long service payment ("LSP") (the "offsetting" arrangement) and the various mandatory requirements to be set out in the draft bills, as detailed in the Administration's paper.

47. Members noted an updated background brief entitled "Offsetting arrangement under the Mandatory Provident Fund system" prepared by the LegCo Secretariat.

Abolition of "offsetting" arrangement

48. Mr POON Siu-ping and Mr KWOK Wai-keung said that the labour sector had called for abolishing the "offsetting" arrangement over the years. Expressing disappointment at the unduly long time taken for taking forward the proposal, both members held the view that it should be kicked start without further delay.

49. Mr Holden CHOW remarked that abolishing the "offsetting" arrangement had been a controversial subject in the society over the years. In the light of the deteriorating economy amid the COVID-19

Action

epidemic and in anticipation of the difficulties of economic recovery, it might not be an opportune time to abolish the "offsetting" arrangement. Mr CHOW and Mr SHIU Ka-fai pointed out that a considerable number of micro, small, and medium-sized enterprises ("MSMEs") had worries about their inability of meeting the potential SP/LSP expenses and many of them were prepared to close down their business in view of the difficult business environment. Mr SHIU further said that the "offsetting" arrangement was a consensus reached after extensive consultation in enacting the MPF legislation. In his view, it should not hold employers responsible for providing retirement protection for their employees, which was the responsibility of the Government.

50. Highlighting the provision of government subsidy under the proposed enhanced abolition arrangement and the setting up of Designated Savings Accounts ("DSAs") under employers' own names to help them save up to meet the potential SP and LSP obligations, the Chairman called on the Government and Members from the business sector to explain to MSME employers such arrangements so as to allay their concerns about discharging their full SP/LSP liabilities after the abolition of the "offsetting" arrangement. In view of the worsening economy and the increasing number of business closure incidents and staff dismissals, the Chairman held the view that the Government should instead expedite the abolition of the "offsetting" arrangement. The Chairman further pointed out the deficiency of the MPF system in providing employees with retirement protection given that a significant amount of employers' contribution to MPF was continuously withdrawn under the "offsetting" arrangement.

51. In response, SLW advised that the Government was committed to abolishing the "offsetting" arrangement as affirmed in the enhanced abolition proposal announced in the Chief Executive's 2018 Policy Address. The abolition proposal necessitated highly complicated and controversial amendments of different pieces of legislation as well as formulation of meticulous implementation arrangements. Hence, it took considerable time to engage the relevant stakeholders, prepare the amendment bill and a new bill, and map out the implementation details. SLW further advised that to assist employers (particularly MSMEs) to adapt to the policy change, the Government would extend the period of the second-tier subsidy from the originally proposed 12 years to 25 years, and the estimated Government total financial commitment was \$29.3 billion (in 2016 prices). On mandating employers to each set up a DSA under his/her own name and contribute 1% of his/her employees'

Action

monthly relevant income to DSA, it was believed that employers' contribution was manageable and there would be minimal impact on business operation. SLW stressed that the Government would step up its publicity efforts to allay concerns of employers of MSMEs about their potential SP/LSP liabilities and enhance their understanding of the policy change.

Government subsidy scheme

52. Mr Holden CHOW said that the Democratic Alliance for the Betterment and Progress of Hong Kong had suggested setting up a central fund pool to help employers meet the long-term commitment for extra expenses on SP and LSP when such needs arose after the abolition of the "offsetting" arrangement.

53. SLW advised that the suggestion of setting up a central fund pool to meet employers' SP/LSP liabilities might not be in the interests of employers as it would be most costly to employers amongst various options whereas the employers' financial commitment would be the least under the DSA Scheme. Detailed analysis of the "central fund pool" proposal was given at Annex 3 to the Administration's paper.

54. Expressing concern about the impact of the abolition arrangement on business operation of MSMEs, Mr Holden CHOW enquired whether the Administration would review the operational arrangements of the government subsidy scheme upon its implementation. SLW responded that the abolition of the "offsetting" arrangement was a major policy change and assured members that, as in the case of the introduction of SMW, the Government would closely monitor the situation and review the operation of the subsidy scheme five years after implementation of the abolition of the "offsetting" arrangement.

Penalties for contravention of the requirements under the Scheme of Designated Savings Accounts

55. Mr POON Siu-ping enquired about the basis for setting the proposed penalty level for contravention of the requirements under the DSA Scheme i.e. a maximum fine of \$50,000 for employers who contravened the relevant requirements and a maximum fine of \$100,000 for more serious nature of the offences.

Action

56. SLW advised that apart from providing subsidy to employers, the Government would also mandate employers to set up DSAs to ensure, on the one hand, sufficient savings be maintained for meeting their potential SP/LSP expenses to alleviate their financial pressure when such payment arose after the abolition, and, on the other hand, full protection for the employees' interest. The Administration considered the proposed penalty level appropriate to ensure effective implementation of the DSA Scheme.

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

Legislative amendments and relevant timetable

57. Mr POON Siu-ping pointed out that upon abolition of the "offsetting" arrangement, insolvent employers who initiated dismissals of staff might need to make use of the savings in their DSAs and the government subsidy to settle the SP/LSP payment. He sought clarification as to whether the Administration would take the opportunity to amend the Protection of Wages on Insolvency Ordinance (Cap.380) ("PWIO") to this effect. SLW advised that technical amendments would be proposed to PWIO to give effect to the implementation of the abolition of the "offsetting" arrangement.

58. The Chairman and Mr POON Siu-ping asked about the legislative timetable for abolishing the "offsetting" arrangement and the progress of relevant work and law drafting. They were particularly concerned about whether the relevant bills could be introduced into LegCo once the 2022-2023 legislative session commenced and whether the legislative amendment exercise could be completed within the current term of Government.

59. The Chairman expressed further concern about the extended period of time to be taken for the development of the DSA Information Technology System ("DSA System") and interfacing with the eMPF Platform for implementing the abolition proposal in 2025 after passage of the legislation. The Chairman called on the Government to expedite the relevant work as far as practicable.

60. On the understanding that the building of DSA functionalities on the eMPF Platform would be completed around 2023 as advised by the Financial Services and Treasury Bureau, Mr KWOK Wai-keung asked about the feasibility of advancing the Government's plan of implementing the abolition arrangement.

Action

61. Responding to members' concerns and views, SLW advised that the Government was working at full steam in the drafting work with the aim to introduce the bills into LegCo in the next legislative year as early as possible. The Government was also pressing ahead with other preparatory work. As explained earlier, implementation of the abolition proposal would necessitate highly complicated and controversial amendments of different pieces of legislation as well as formulation of meticulous implementation arrangements, including launching the employers' DSA Scheme on the eMPF Platform. The importance of building functionalities on the eMPF Platform to support the DSA Scheme should not be underestimated, particularly when the management fees and administration fees of the MPF schemes had in effect reduced the amount of the cumulative MPF accrued benefits for the employees. As it would be very costly to handle collection of employers' contributions and disbursement of DSA monies manually, the Government was working closely with the Mandatory Provident Fund Schemes Authority and its contractor in developing the functionalities on the eMPF Platform to support the DSA Scheme so as to achieve better cost-effectiveness. The Government was also developing the DSA System to support the daily operation of the DSA Scheme and formulating the operational details of the Government subsidy scheme.

62. SLW further advised that while it was expected that the eMPF Platform could be activated in 2023, it would come into full operation around 2025 subject to the orderly transition by trustees in batches starting from 2023. As the process of transition would take about two years, the Government planned to implement the abolition of the "offsetting" arrangement upon full implementation of the eMPF Platform in 2025.

63. There being no other business, the meeting ended at 6:46 pm.