

For meeting on
19 January 2021

Legislative Council Panel on Manpower

**Review of the Jurisdictional Limit of
the Minor Employment Claims Adjudication Board**

Purpose

This paper seeks Members' views on a new proposal for increasing the jurisdictional limit of the Minor Employment Claims Adjudication Board (MECAB).

Background

2. MECAB was established within the Labour Department (LD) in December 1994 under the Minor Employment Claims Adjudication Board Ordinance (Cap. 453) (MECABO) to adjudicate employment claims arising from disputes of statutory or contractual rights of employment. The purpose of setting up MECAB is to provide a simple, quick and inexpensive adjudication service which runs in parallel with the Labour Tribunal (LT). MECAB's work is largely similar to that of LT except that it has a lower jurisdictional limit.

3. MECAB has jurisdiction to handle claims with a claim amount not exceeding \$8,000 per claimant and made by not more than 10 claimants. Any employment claims with claim amount or number of claimants higher than the jurisdictional limit of MECAB will be adjudicated by LT. The mechanism has been operating effectively.

4. In June 2019, we consulted this Panel on a proposal to adjust the jurisdictional limit of MECAB from \$8,000 per claimant to \$12,000 per claimant, while retaining the maximum number of claimants per claim at 10. Members were generally supportive of the proposal and considered that the limit of claim amount could be further increased. Taking into account the views of this Panel, we have examined the rationale and feasibility of further increasing the jurisdictional limit of MECAB.

New Proposal

5. We propose to increase the jurisdictional limit of MECAB from \$8,000 per claimant to \$15,000 per claimant (new proposal), while retaining the maximum number of claimants per claim at 10.

Justifications

6. According to the median monthly employment earnings of all employees provided by the Census and Statistics Department, the relevant data increased by 80.0% between the second quarter of 1997 and the third quarter of 2020. By a similar rate of increase, the jurisdictional limit of MECAB shall be increased from \$8,000 to \$14,400. With reference to some 560 claims received by MECAB in 2019¹, it is projected that under the new proposal, the number of claims to be received by MECAB will double, meaning a total of some 1 200 claims will be received annually. The additional caseload can be accommodated within existing resources. Hence, we consider the new proposal appropriate for increasing the limit of claim amount to \$15,000 per claimant.

7. We do not recommend any change to the maximum number of claimants per claim, i.e. 10 claimants, as employment claims involving more than 10 claimants with each of them claiming a low amount are rare.

¹ As affected by the COVID-19 pandemic, the Government implemented special work arrangements for government employees during certain periods in 2020, rendering the number of claims received by MECAB in 2020 lower than expected. The projection is therefore based on the number of claims received in 2019.

8. The proposed change to the jurisdictional limit of MECAB will not affect the rights of employers and employees in seeking adjudication of their employment claims. Under the existing mechanism, any employment claims exceeding the jurisdictional limit of MECAB will be adjudicated by LT.

Consultation

9. LD has sought the views of the Judiciary on the new proposal. The Judiciary has raised no objection to it.

10. LD consulted the Labour Advisory Board on the new proposal on 25 November 2020. The employer and employee representatives were unanimously supportive of the new proposal.

Way Forward

11. The proposed change to the jurisdictional limit of MECAB will have to be effected by notice in the Gazette according to section 6 of MECABO. If supported by this Panel, the Government would proceed with the drafting of the enabling legal instrument for submission to the Legislative Council within the current session.

Advice Sought

12. Members are invited to give views on the new proposal as set out in paragraph 5 above.

Labour and Welfare Bureau
Labour Department
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