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Panel on Manpower

**Background brief prepared by the Legislative Council Secretariat
for the meeting on 19 January 2021**

**Review of the jurisdictional limit of the
Minor Employment Claims Adjudication Board**

Purpose

This paper provides background information on the Minor Employment Claims Adjudication Board ("MECAB") and summarizes the discussions by the Panel on Manpower ("the Panel") on the proposal to increase the jurisdictional limit of MECAB.

Background

Minor Employment Claims Adjudication Board

2. MECAB is established within the Labour Department ("LD") under the Minor Employment Claims Adjudication Board Ordinance (Cap. 453) ("the Ordinance") to adjudicate employment claims arising from disputes of statutory or contractual rights of employment in a simple, quick and inexpensive manner. A claim may be referred to MECAB for adjudication if it cannot be resolved amicably through conciliation by the Labour Relations Division of LD.

3. Hearings of minor employment claims are conducted in public and no legal representation is allowed. An award or order, which is legally binding, will be made as soon as possible after the conclusion of hearing by the Adjudication Officer. Parties dissatisfied with the judgment of an Adjudication Officer may apply for a review. They may also apply to the Court of First Instance for an appeal against the Adjudication Officer's decision on point of law or question of jurisdiction.

Jurisdictional limit

4. According to section 5 of and the Schedule to the Ordinance, 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 the claim amount or number of claimants higher than the jurisdictional limit of MECAB will be adjudicated by the Labour Tribunal within the Judiciary.

5. According to the Administration, a review of the jurisdictional limit of MECAB was conducted in 2018. At the Panel meeting on 25 June 2019, members were briefed on the proposal to increase the jurisdictional limit from \$8,000 per claimant to \$12,000 per claimant, while retaining the maximum number of claimants per claim at 10 ("the Proposal").

Deliberations of the Panel

Adjustment of jurisdictional limit

6. Noting that the first jurisdictional limit of MECAB was set in 1994 at \$5,000 per claimant and claims made by not more than five claimants and the current jurisdictional limit (i.e. \$8,000 per claimant and claims made by not more than 10 claimants) had been adopted since June 1997, members raised no objection to the Proposal. However, some members considered that the proposed increase in the jurisdictional limit of MECAB was not adequate. These members pointed out that there was an increase of 70% in the median monthly employment earnings of all employees from 1997 to 2018, and there would be fewer cases falling within the jurisdiction of MECAB in the future with further increase in the overall wage level. They urged the Administration to raise the jurisdictional limit to \$13,600 per claimant to tie in with an increase of 70% in the median monthly employment earnings in the past decade.

7. Members were advised that apart from the increase in wage levels in the labour market in the past two decades, the Administration had taken into account other factors such as the caseload of MECAB and changes in the jurisdictional limits of courts of the Judiciary in determining the adjustment to the jurisdictional limit of MECAB. According to the Administration, there was a drop of 47.8% in the number of cases filed at MECAB from 1 162 cases in 2014 to 607 cases in 2018. It was expected that the Proposal would entail an addition of some 500 claims annually, representing an increase of around 80% in the caseload of MECAB. As regards the total number of cases filed with the Labour Tribunal and MECAB, the share of cases taken up by MECAB would be

increased from around 13% in 2018 to 24% following the implementation of the Proposal.

8. Concern was raised about the rationale for retaining the maximum number of claimants per claim at 10 under the Proposal. The Administration advised that among the employment claims adjudicated by MECAB in 2018, there were only 10-add cases each involving more than one claimant, with the highest number of claimants in a case being five. Hence, it did not propose to increase the maximum number of claimants per claim.

9. Members noted with grave concern that the jurisdictional limit of MECAB was reviewed after more than 20 years. They called on the Administration to conduct review of the jurisdictional limit on a regular basis in future. The Administration agreed with members' views.

Adjudication service of the Minor Employment Claims Adjudication Board

10. Members expressed concern about the adjudication service and manpower of the Labour Tribunal and MECAB, in particular the efficiency of MECAB in providing simple and quick adjudication service and whether the time required by MECAB to conduct the first hearing on a claim would be reduced under the Proposal. The Administration advised that it took around 25 days in the Labour Tribunal and 25 to 26 days in MECAB to conduct the first hearing on a filed claim in 2018. LD would make staff redeployment when necessary and there was no case delay in MECAB due to insufficient manpower.

Recent development

11. At the Panel meeting on 8 November 2019 to receive a briefing from the Secretary for Labour and Welfare on the Chief Executive's 2019 Policy Address, members were advised, among others, that taking into account members' call for a further upward adjustment in the jurisdictional limit of MECAB, the Administration was analyzing the latest trends of various relevant statistics and examining how to further adjust the proposed jurisdiction limit to an appropriate level for taking forward the Proposal.

12. The Administration will brief the Panel on its revised proposal after reviewing the jurisdictional limit of MECAB at the meeting on 19 January 2021

Relevant papers

13. A list of the relevant papers on the Legislative Council website is in the **Appendix**.

Council Business Division 2
Legislative Council Secretariat
13 January 2021

**Relevant papers on the review of the jurisdictional limit of the
Minor Employment Claims Adjudication Board**

Committee	Date of meeting	Paper
Panel on Manpower	25.6.2019 (Item III)	Agenda Minutes LC Paper No. CB(2)104/19-20(01)
	8.11.2019 (Item I)	Agenda Minutes

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