

For meeting on  
16 March 2021

## **Legislative Council Panel on Manpower**

### **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**

#### **PURPOSE**

We propose to create one supernumerary post of Chief Labour Officer (CLO) (D1) with duration of three years to lead a newly established dedicated division in the Labour Department (LD) for implementing and overseeing various new measures for enhancing statutory maternity leave (ML), assisting in the formulation and execution of the operational arrangements for disbursing government subsidies to employers under the abolition of the Mandatory Provident Fund (MPF) “offsetting” arrangement, and strengthening strategic and policy support to the Assistant Commissioner for Labour (ACL) (Development). Members are invited to comment and support the proposal.

#### **BACKGROUND**

2. The Employment (Amendment) Ordinance 2020 (Amendment Ordinance)<sup>1</sup> which has increased statutory ML by four weeks took effect on 11 December 2020. Eligible female employees whose confinement occurs on or after the commencement date of the Amendment Ordinance are entitled to 14 weeks’ statutory ML. Employers should calculate the maternity leave pay (MLP) in accordance with the Employment Ordinance (EO) (i.e. four-fifths of the

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<sup>1</sup> The Amendment Ordinance also covers two technical amendments which include updating the definition of “miscarriage” under EO from “before 28 weeks” to “before 24 weeks” of pregnancy to entitle a female employee whose child is incapable of survival after being born at or after 24 weeks of pregnancy to ML if other conditions are met; and accepting a certificate of attendance issued by a medical professional as documentary proof for entitling an eligible employee to sickness allowance for any day on which the employee has attended a medical examination in relation to her pregnancy.

employee's average daily wages) and the additional four weeks of MLP is subject to a cap of \$80,000 per employee. Employers may apply to the Government for full reimbursement of the additional MLP that is required to be paid and has been paid under the Amendment Ordinance.

3. In tandem with the implementation of the Amendment Ordinance, LD needs to launch a new Reimbursement of Maternity Leave Pay (RMLP) Scheme. During deliberations of this Panel on the amendment bill of the Amendment Ordinance, Members urged for early implementation of the proposed extension of four weeks' statutory ML, which is also the general expectation of the community. To this end, the Government has decided to engage a private sector processing agent so as to assist in the administration of the RMLP Scheme and speed up the implementation process. On 3 July 2020, the Finance Committee (FC) of the Legislative Council (LegCo) approved the funding for appointing a processing agent to implement the RMLP Scheme.

4. LD set up the Preparatory Office for Reimbursement of Maternity Leave Pay (PORMLP) in the second quarter of 2020 to coordinate and commence the preparatory work for the RMLP Scheme. PORMLP completed the tendering procedures and appointed the processing agent at end-2020. PORMLP is working in close collaboration with the processing agent and pressing ahead with the preparatory work for the RMLP Scheme with a view to implementing the RMLP Scheme as soon as practicable in the first half of 2021.

## **NEED FOR A CHIEF LABOUR OFFICER POST**

5. The RMLP Scheme is a brand-new measure using public money to subsidise employers in providing employment benefits to their employees as required under EO. With reference to the statistics for 2019, it is estimated that some 27 000 female employees would benefit from the Amendment Ordinance each year and relevant employers are entitled to seek reimbursement from the Government for the additional MLP involving public money around \$498 million per annum. In view of the complexity of the multi-faceted tasks involved in implementing and overseeing the RMLP Scheme continuously, LD needs a directorate officer of sufficiently senior ranking and with rich experience to carry out extensive and high-level policy coordination. As compared to the original idea of handling the reimbursement-related work by LD direct, the responsibilities and functions of the proposed CLO post under the current outsourcing mode remain the same in substance. Apart from continuously supervising the overall

operations of the RMLP Scheme, the post is required to monitor the performance of the processing agent to ensure its compliance with the policy objectives and standards laid down in the service contract. Besides, the post has to plan and lead regular tendering exercises for ensuring sustainable, stable and effective implementation of the RMLP Scheme.

6. Under the modus operandi of outsourcing service, LD needs to develop an administrative information system interfacing with the processing agent and establish a mechanism for monitoring the processing agent, including the operational guidelines and requirements for delineating the operations of the processing agent (such as processing and approving applications, conducting quality assurance checks and internal audit checks, and handling enquiries and complaints of the applicants), and the specifications and standards for monitoring and reviewing the performance of the processing agent so as to ensure that the processing agent will handle the applications properly and deliver the services effectively. In addition, appointment of the processing agent requires regular assessments and tendering exercises, and LD also needs to establish and monitor the implementation arrangements for ensuring uninterrupted provision of services of the RMLP Scheme during changes of processing agents in future.

7. To tie in with the implementation of the RMLP Scheme, LD plans to formally set up the RMLP Division in the first half of 2021. The proposed organisation chart of the Division is at Annex 1<sup>2</sup>. The proposed CLO will lead the Division to continuously implement various new measures to enhance ML, including -

- (a) Scheme Management: overseeing and reviewing the operational guidelines and procedures for the RMLP Scheme, monitoring the implementation of the RMLP Scheme and drawing up relevant improvement measures;
- (b) Contract Management and Tendering: monitoring and checking the performance of the processing agent, handling complaints lodged by applicants and members of the public against the processing agent, and conducting regular tendering exercises for the appointment of the processing agent;

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<sup>2</sup> The total number of staff of the RMLP Division is estimated to be 44, including the proposed CLO post to be created, 30 approved civil service posts and 13 contract staff planned to be engaged.

- (c) Policy Support and Public Engagement: handling policy matters pertaining to the RMLP Scheme, monitoring and reviewing the cap on the additional four weeks' MLP under EO, planning public engagement activities, handling enquiries and complaints outside the service scope of the processing agent (e.g. on the policy and implementation of the scheme and from LegCo, Ombudsman, the media, etc.), and undertaking the general administration of the RMLP Division;
- (d) Financial Management: verifying the payment recommendations of the processing agent, arranging payment of reimbursement, and formulating the necessary follow-up actions;
- (e) Project and System Support: providing advice on the Disbursement Information System (DIS) developed by the processing agent, monitoring the processing agent's operation and maintenance of DIS, and managing an in-house information system interfacing with DIS of the processing agent to facilitate the RMLP Division to monitor the work of the processing agent and arrange for reimbursement payment; and
- (f) Internal Audit: examining the workflow and the operations of the RMLP Scheme, and auditing the applications processed by the processing agent to ensure the prudent use of public funds.

8. Specifically, the CLO has to supervise and closely monitor the implementation of the RMLP Scheme, including analysing the data and information of applications, enhancing the RMLP Scheme in light of operational experience, reviewing the level of the cap on the additional four weeks' MLP under EO as appropriate, and seeking and implementing improvement measures. The CLO is also required to provide high-level steer on the effective supervision of the processing agent's performance, regular reviews and improvement of the reimbursement arrangements, relevant operational guidelines, DIS and the in-house information system, etc., so as to achieve effective processing of reimbursement applications while ensuring the prudent use of public funds. In discharging the above tasks, the CLO needs to maintain liaison with the stakeholders and discuss with relevant government bureaux, departments and organisations on the review of the reimbursement regime, data matching procedures, etc. The post is also tasked with the formulation and implementation of territory-wide promotional campaigns and publicity activities, so as to promulgate to employers and employees the RMLP Scheme and details

of submitting applications as well as to continuously enhance the public awareness of the RMLP Scheme through the dedicated online platform and other channels. In view of its complexities and multi-faceted nature, LD needs a directorate officer with able leadership and extensive knowledge of labour matters to take forward and oversee the relevant work.

9. Besides, the proposed CLO will, in light of the experience gained in implementing the large-scale RMLP Scheme, assist in the formulation and execution of the operational arrangements for disbursing government subsidies to employers in relation to the abolition of the “offsetting” arrangement of severance payment (SP) and long service payment (LSP) with employers’ mandatory contributions under the MPF System, with a view to seeking possible collaboration in the implementation of these two massive and complex government subsidy schemes for more efficient use of public resources. The proposed post will also strengthen the strategic and policy support to ACL (Development).

10. On the whole, the major responsibilities of the proposed CLO include -

- (a) leading the newly established RMLP Division for effective implementation of the new ML regime and the RMLP Scheme, which includes handling enquiries and complaints outside the service scope of the processing agent and those relating to the policy, collaborating with the Treasury and implementing the arrangements for effecting reimbursement payments, etc.;
- (b) overseeing the reimbursement regime for ensuring its smooth operations, which includes overseeing the operations of the processing agent interfacing with the RMLP Division, maintaining liaison with the concerned government bureaux and departments for enhancing the implementation arrangements, and conducting regular assessments and tendering exercises for appointing the processing agent;
- (c) collaborating with the Treasury, Audit Commission, Independent Commission Against Corruption, Department of Justice, etc. on reviewing and improving the guidelines on case processing to enhance the effective implementation of the user-friendly and flexible reimbursement regime while ensuring prudent and proper use of public funds;

- (d) monitoring and overseeing the performance of the processing agent to ensure that the reimbursement regime meets the policy objectives and operates effectively, and continuously reviewing the operational arrangements;
- (e) launching territory-wide promotional campaigns, including steering and supervising various promotional activities undertaken directly and by the processing agent, so as to promulgate the legislative requirements and operational arrangements of the new ML regime to employer and employee groups as well as the general public, and garner the views of stakeholders;
- (f) monitoring the implementation of the RMLP Scheme, including analysing the data of applications and reviewing the operational experience so as to review the level of the cap on the additional four weeks' MLP as appropriate, and seeking and implementing relevant enhancement measures;
- (g) consulting and liaising with major stakeholders, including this Panel, the Labour Advisory Board, major employer and employee groups, women's groups, etc. in the process of delivering the above-mentioned tasks;
- (h) assisting in the formulation and execution of the operational arrangements for disbursing government subsidies to employers in relation to the abolition of the "offsetting" arrangement of SP and LSP with employers' mandatory contributions under the MPF System; and
- (i) providing strategic and policy support to ACL (Development).

11. The job description of the proposed CLO post is at **Annex 2** and the proposed organisation chart of the Labour Administration Branch of LD is at **Annex 3**.

## **ALTERNATIVES CONSIDERED**

12. We have critically examined the possibility of staff redeployment to absorb the duties of the proposed post. There are currently only three permanent

CLO posts<sup>3</sup> in LD. They are respectively responsible for overseeing the Statutory Minimum Wage regime and trade union matters, labour relations, and taking forward the overall preparatory work for the abolition of the “offsetting” arrangement. As they have already been fully stretched by their own work, it is operationally not possible for them to take up the substantial duties of the proposed CLO post.

## **FINANCIAL IMPLICATIONS**

13. The proposed creation of the supernumerary CLO post will bring about an additional notional annual salary cost at mid-point of \$1,923,600. The full annual average staff cost, including salaries and on-cost, is about \$2,716,000.

14. We have included in the draft Estimates for 2021-22 the necessary provision to meet the cost of this proposal.

## **PUBLIC CONSULTATION**

15. This Panel had no objection in principle to create one permanent post of CLO to take forward various new measures to enhance statutory ML at its meeting on 19 March 2019. The LegCo Establishment Subcommittee also supported the proposal at its meeting on 28 May 2019. During FC’s deliberation of the proposal on 3 July 2020, some Members expressed concerns about the relevant responsibilities of the proposed CLO post under the modus operandi of outsourcing the RMLP Scheme. After discussion, the proposal was not passed by FC.

16. Having taken into account the latest development of the RMLP Scheme and operational needs of other relevant tasks, LD has supplemented and enriched the responsibilities and functions of the post. Moreover, pursuant to the 2020 Policy Address, LD has critically reviewed this staffing proposal and suggested that instead of a permanent CLO as set out in the previous proposal, a supernumerary CLO post be created for three years upon FC’s approval. LD will review its long-term manpower requirements before the lapse of the supernumerary post having regard to the progress of the RMLP Scheme and other relevant tasks.

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<sup>3</sup> Apart from the three permanent posts, one supernumerary CLO post, which is responsible for the working hours policy, is created up to 31 March 2021.

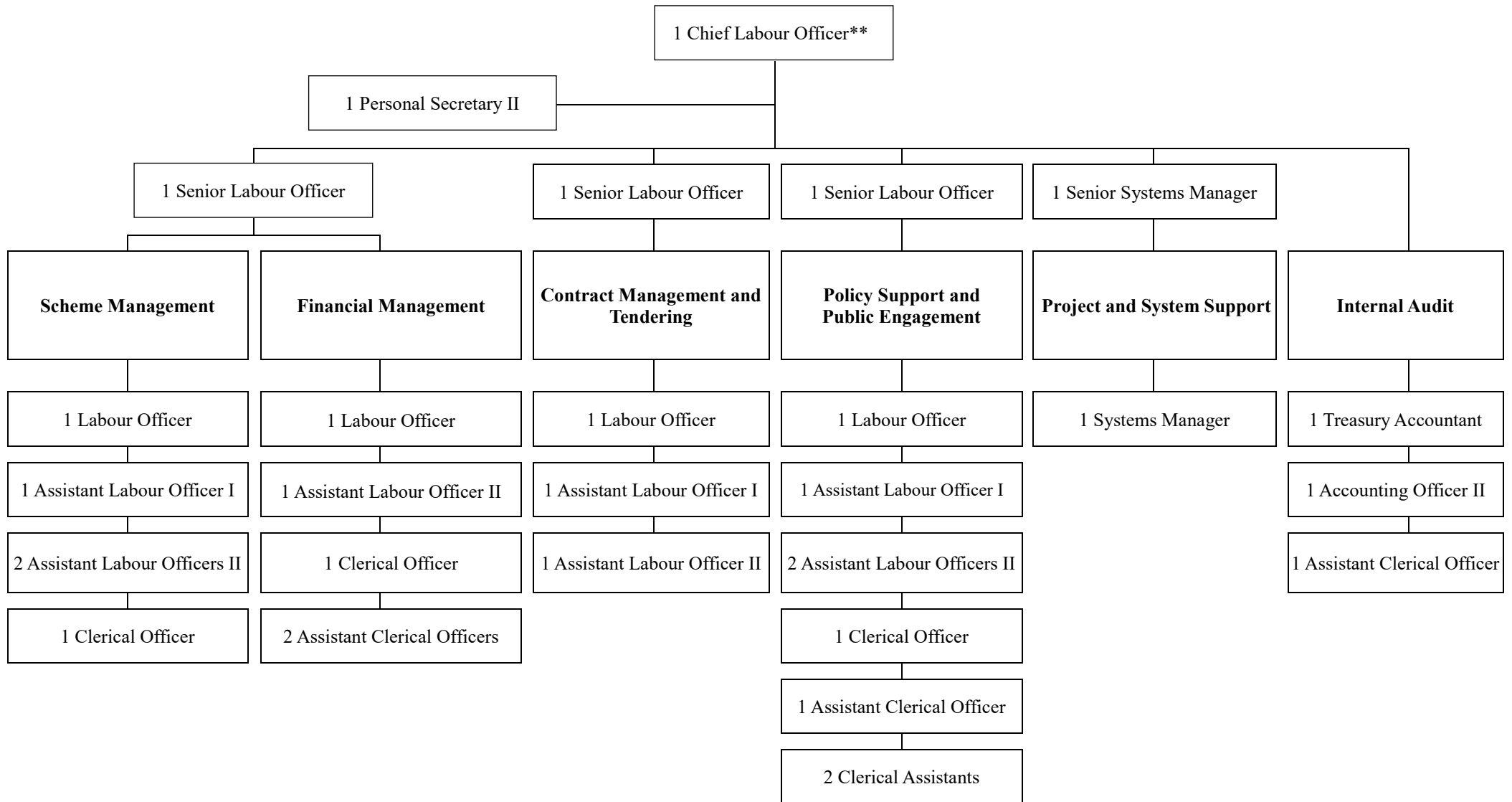
## **ADVICE SOUGHT**

17. Members are invited to note and comment on the proposal of creating the supernumerary CLO post. Subject to Members' views, we will seek FC's approval in accordance with the established mechanism.

**Labour and Welfare Bureau**  
**Labour Department**  
**March 2021**



**Proposed Organisation Chart of the Reimbursement of Maternity Leave Pay (RMLP) Division\***



Note:

\* In addition to the above 31 civil service posts, the RMLP Division plans to engage 13 contract staff to support the implementation of the RMLP Scheme.

\*\* The proposed supernumerary post of Chief Labour Officer to be created.

**Job Description  
for the Chief Labour Officer**

**Rank** : Chief Labour Officer (D1)

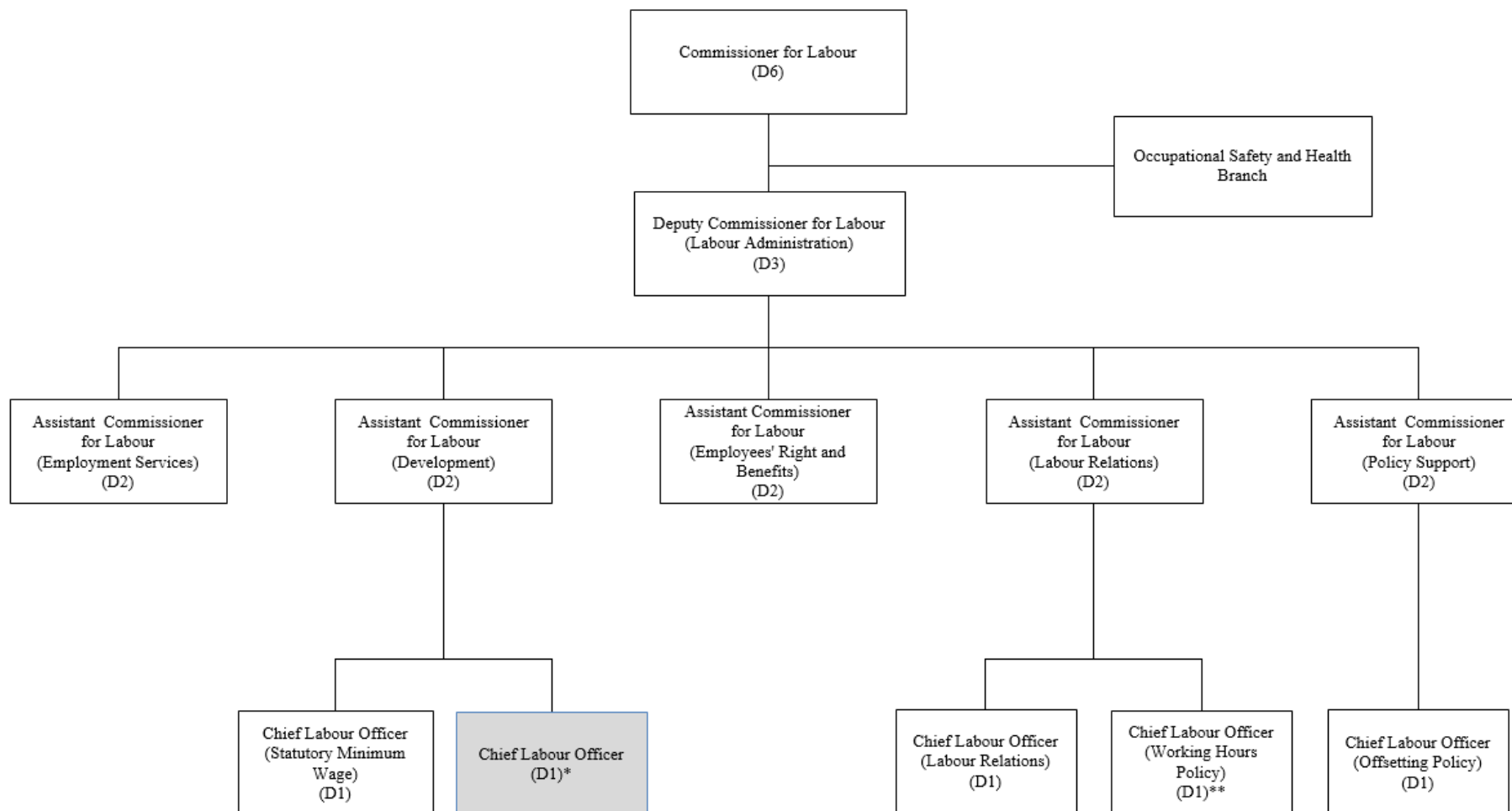
**Responsible to** : Assistant Commissioner for Labour (Development)

**Main Duties and Responsibilities:**

- (a) Leading the newly established Reimbursement of Maternity Leave Pay (RMLP) Division for effective implementation of the new maternity leave (ML) regime and the RMLP Scheme, which includes handling enquiries and complaints outside the service scope of the processing agent and those relating to the policy, collaborating with the Treasury and implementing the arrangements for effecting reimbursement payments, etc.
- (b) Overseeing the reimbursement regime for ensuring its smooth operations, which includes overseeing the operations of the processing agent interfacing with the RMLP Division, maintaining liaison with the concerned government bureaux and departments for enhancing the implementation arrangements, and conducting regular assessments and tendering exercises for appointing the processing agent.
- (c) Collaborating with the Treasury, Audit Commission, Independent Commission Against Corruption, Department of Justice, etc. on reviewing and improving the guidelines on case processing to enhance the effective implementation of the user-friendly and flexible reimbursement regime while ensuring prudent and proper use of public funds.
- (d) Monitoring and overseeing the performance of the processing agent to ensure that the reimbursement regime meets the policy objectives and operates effectively, and continuously reviewing the operational arrangements.

- (e) Launching territory-wide promotional campaigns, including steering and supervising various promotional activities undertaken directly and by the processing agent, so as to promulgate the legislative requirements and operational arrangements of the new ML regime to employer and employee groups as well as the general public, and garner the views of stakeholders.
  - (f) Monitoring the implementation of the RMLP Scheme, including analysing the data of applications and reviewing the operational experience so as to review the level of the cap on the additional four weeks' MLP as appropriate, and seeking and implementing relevant enhancement measures.
  - (g) Consulting and liaising with major stakeholders, including LegCo Panel on Manpower, the Labour Advisory Board, major employer and employee groups, women's groups, etc. in the process of delivering the above-mentioned tasks.
  - (h) Assisting in the formulation and execution of the operational arrangements for disbursing government subsidies to employers in relation to the abolition of the "offsetting" arrangement of severance payment and long service payment with employers' mandatory contributions under the Mandatory Provident Fund System.
  - (i) Providing strategic and policy support to Assistant Commissioner for Labour (Development).
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**Proposed Organisation Chart of the Labour Administration Branch of the Labour Department**



**Note:**

- \* Proposed supernumerary post of Chief Labour Officer (CLO) to be created.
- \*\* CLO (Working Hours Policy) is a supernumerary post created up to 31 March 2021.