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From : Clerk to the Legislative Council

To : All Members of the Legislative Council

Council meeting of 19 January 2022

**Amendments to Hon Judy CHAN's motion on
"Regulating employment agencies for placement of foreign domestic
helpers to protect the interests of employers and employees"**

Further to LC Paper No. CB(3) 14/2022 issued on 10 January 2022, the President has given permission for three Members (Ir Hon LEE Chun-keung, Hon NGAN Man-yu and Hon Paul TSE) to move amendments to Hon Judy CHAN's motion, and has directed that the amendments be printed in the terms in which they were handed in on the Agenda of the Council.

2. The President will order a joint debate on the above motion and the amendments. I set out below the relevant proceedings in which the President will:

- (a) call upon the motion mover to speak and move the motion;
- (b) propose the question on the motion;
- (c) call upon the Members who wish to move amendments to the motion to speak in the following order, but no amendment is to be moved at this stage:

- (i) Ir Hon LEE Chun-keung;
 - (ii) Hon NGAN Man-yu; and
 - (iii) Hon Paul TSE;
- (d) call upon the public officer(s) to speak;
 - (e) invite other Members to speak;
 - (f) call upon the motion mover to speak on the amendments;
 - (g) call upon the public officer(s) to speak again;
 - (h) deal with the amendments in the order set out in paragraph (c) above, i.e. first invite the mover of the first amendment to move the amendment and forthwith propose and put to vote the question on the amendment, and thereafter proceed to deal with the remaining amendment(s); and
 - (i) after all amendments have been dealt with, call upon the motion mover to reply, and then put to vote the question on the motion, or the motion as amended, as the case may be.

3. The terms of the original motion and the marked-up version of the amendments are set out in the **Appendix** for Members' easy reference.

4. Members are reminded that in accordance with Appendix IIIA to the House Rules, the **maximum duration of this joint debate (including voting) is four hours**. The motion mover will have a total of 10 minutes to make introductory speech and reply, and another five minutes to speak on the amendment(s). The mover(s) of the amendment(s) and other Members may each speak once up to a maximum of five minutes. The public officer(s) will not be subject to any speaking time limit.

(Miranda HON)
for Clerk to the Legislative Council

Encl.

(Translation)

**Motion debate on
“Regulating employment agencies for placement of foreign domestic
helpers to protect the interests of employers and employees”**

1. Hon Judy CHAN’s original motion

That there are currently some 350 000 foreign domestic helpers (‘FDHs’) in Hong Kong who play a significant role in supporting family caregiving and unleashing female labour force, however, the employment agencies for placement of FDHs (‘EAs’) have all along been criticized as their quality varies and some of them have engaged in malpractices; the outbreak of COVID-19 has given rise to numerous problems, including the rising cost of employing FDHs, extremely long waiting time for FDHs to come to Hong Kong, insufficient quarantine facilities for FDHs as well as the worsening situation of job-hopping of FDHs, causing much distress to middle-class families; in this connection, this Council urges the Government to:

- (1) review the existing legal provisions and codes, including studying the enhancement of the Employment Ordinance, the Employment Agency Regulations and the Code of Practice for Employment Agencies, so as to upgrade the service quality of EAs, enhance the transparency of their operation and curb the operation of non-compliant EAs;
- (2) review the standard employment contract which has been in use for a long time, examine the outdated parts thereof, and consult the public on and make amendments to it, so as to balance the interests of employers and employees;
- (3) set up a unified support platform to assist employers and employees to understand their respective rights and obligations, including providing recruitment information, handling employment relationship, providing a list of licensed EAs and explaining practical information such as the relevant legislation;
- (4) establish a mechanism for regular exchanges with consulates and organizations of employers and employees in respect of the matters relating to the interests of FDHs, and take the initiative to strengthen communication, cooperation and publicity on matters such as the implementation of new policies by the relevant countries and the combat against unlawful behaviour; and

- (5) strengthen the functions of the Labour Department and the Labour Tribunal, thereby shortening the waiting time required for adjudication.

2. Motion as amended by Ir Hon LEE Chun-keung

That there are currently some 350 000 foreign domestic helpers ('FDHs') in Hong Kong who play a significant role in supporting family caregiving and unleashing female labour force, however, the employment agencies for placement of FDHs ('EAs') have all along been criticized as their quality varies and some of them have engaged in malpractices; the outbreak of COVID-19 has given rise to numerous problems, including the rising cost of employing FDHs, extremely long waiting time for FDHs to come to Hong Kong, insufficient quarantine facilities for FDHs as well as the worsening situation of job-hopping of FDHs, causing much distress to middle-class families; in this connection, this Council urges the Government to:

- (1) review the existing legal provisions and codes, including studying the enhancement of the Employment Ordinance, the Employment Agency Regulations and the Code of Practice for Employment Agencies, so as to upgrade the service quality of EAs, enhance the transparency of their operation and curb the operation of non-compliant EAs;
- (2) review the standard employment contract which has been in use for a long time, examine the outdated parts thereof, and consult the public on and make amendments to it, so as to balance the interests of employers and employees;
- (3) set up a unified support platform to assist employers and employees to understand their respective rights and obligations, including providing recruitment information, handling employment relationship, providing a list of licensed EAs and explaining practical information such as the relevant legislation;
- (4) establish a mechanism for regular exchanges with consulates and organizations of employers and employees in respect of the matters relating to the interests of FDHs, and take the initiative to strengthen communication, cooperation and publicity on matters such as the implementation of new policies by the relevant countries and the combat against unlawful behaviour; and
- (5) strengthen the functions of the Labour Department and the Labour Tribunal, thereby shortening the waiting time required for adjudication;

- (6) *ensure that EAs must comply with the relevant legislation such as the Employment Agency Regulations; follow the practices of the real estate and insurance industries by establishing a mandatory licensing regime to ensure that staff of EAs are familiar with the relevant legislation such as the Employment Ordinance, so as to protect the interests of both employers and FDHs;*
- (7) *establish a ‘skills assessment system’ for FDHs to ensure that the skills of FDHs reach a certain standard, so as to prevent EAs from over-exaggerating the skills of FDHs for the sake of profits; and*
- (8) *make public the various fees charged by EAs, and establish a mechanism for assessing EAs and calculate the contract completion rate of FDHs for public access to the relevant information, with a view to further rectifying the EA market and redirecting it to the right path.*

Note: Ir Hon LEE Chun-keung’s amendment is marked in *bold and italic type* or with deletion line.

3. Motion as amended by Hon NGAN Man-yu

That *the Government has permitted the importation of foreign domestic helpers (‘FDHs’) since the early seventies of the last century;* there are currently some 350 000 ~~foreign domestic helpers (‘FDHs’)~~ in Hong Kong who play a significant role in supporting family caregiving and unleashing female labour force, however, the employment agencies for placement of FDHs (‘EAs’) have all along been criticized as their quality varies and some of them have engaged in malpractices; the outbreak of COVID-19 has given rise to numerous problems, including the rising cost of employing FDHs, extremely long waiting time for FDHs to come to Hong Kong, insufficient quarantine facilities for FDHs as well as the worsening situation of job-hopping of FDHs, causing much distress to middle-class families; in this connection, this Council urges the Government to:

- (1) review the existing legal provisions and codes, including studying the enhancement of the Employment Ordinance, the Employment Agency Regulations and the Code of Practice for Employment Agencies, so as to upgrade the service quality of EAs, enhance the transparency of their operation and curb the operation of non-compliant EAs;
- (2) review the standard employment contract which has been in use for a long time, examine the outdated parts thereof, *clarify the content of the provisions in the contract to prevent unscrupulous EAs or FDHs from,*

in exploitation of the grey areas arising from ambiguous expressions in some provisions, extorting from or putting unreasonable demands on employers, and consult the public on and make amendments to it, so as to balance the interests of employers and employees;

- (3) specify the items of fees that EAs can charge and request them to clearly set out the fees for these items, so as to eradicate the charging of fees under all sorts of pretexts and abrupt increase of the fees by EAs;*
- (4) take measures to prevent unscrupulous EAs and FDHs from deliberately concealing health conditions of the latter from employers;*
- (5) step up inspection to prosecute and severely penalize non-compliant EAs, and on the basis of the existing regulatory regime for employment agencies, examine the establishment of a licensing and regulatory regime on EAs' services;*
- ~~(3)~~*(6) set up a unified support platform to assist employers and employees to understand their respective rights and obligations, including providing recruitment information, handling employment relationship, providing a list of licensed EAs and explaining practical information such as the relevant legislation;*
- ~~(4)~~*(7) establish a mechanism for regular exchanges with consulates and organizations of employers and employees in respect of the matters relating to the interests of FDHs, and take the initiative to strengthen communication, cooperation and publicity on matters such as the implementation of new policies by the relevant countries and the combat against unlawful behaviour; and*
- ~~(5)~~*(8) strengthen the functions of the Labour Department and the Labour Tribunal, thereby shortening the waiting time required for adjudication;*
- (9) introduce tax deductions for the expenses of employing FDHs in a bid to address the problem of rising cost of employing FDHs and alleviate the financial burden on families employing FDHs;*
- (10) require EAs to provide FDHs with publicity and education on anti-epidemic awareness and knowledge on the relevant laws and regulations; and*
- (11) increase the number of affordable quarantine hotels for FDHs and improve the process of booking quarantine hotels to resolve the chaotic*

situation of booking quarantine hotels by EAs, so that FDHs can take up their jobs in Hong Kong as scheduled.

Note: Hon NGAN Man-yu's amendment is marked in *bold and italic type* or with deletion line.

4. Motion as amended by Hon Paul TSE

That there are ~~currently~~ some 350 000 foreign domestic helpers ('FDHs') in Hong Kong who play a significant role in supporting family caregiving and unleashing female labour force, however, the employment agencies for placement of FDHs ('EAs') have all along been criticized as their quality varies and some of them have engaged in malpractices; the outbreak of COVID-19 has given rise to numerous problems, including the rising cost of employing FDHs, extremely long waiting time for FDHs to come to Hong Kong, insufficient quarantine facilities for FDHs as well as the worsening situation of job-hopping of FDHs, causing much distress to middle-class families; in this connection, this Council urges the Government to:

- (1) review the existing legal provisions and codes, including studying the enhancement of the Employment Ordinance, the Employment Agency Regulations and the Code of Practice for Employment Agencies, so as to upgrade the service quality of EAs, enhance the transparency of their operation and curb the operation of non-compliant EAs;
- (2) review the standard employment contract which has been in use for a long time, examine the outdated parts thereof, and consult the public on and make amendments to it, so as to balance the interests of employers and employees;
- (3) set up a unified support platform to assist employers and employees to understand their respective rights and obligations, including providing recruitment information, handling employment relationship, providing a list of licensed EAs and explaining practical information such as the relevant legislation;
- (4) establish a mechanism for regular exchanges with consulates and organizations of employers and employees in respect of the matters relating to the interests of FDHs, and take the initiative to strengthen communication, cooperation and publicity on matters such as the implementation of new policies by the relevant countries and the combat against unlawful behaviour; ~~and~~

- (5) strengthen the functions of the Labour Department and the Labour Tribunal, thereby shortening the waiting time required for adjudication;
and
- (6) *consider allowing the importation of Mainland domestic helpers in a bid to alleviate the financial burden of employing FDHs on middle-class families and tackle the job-hopping problem of FDHs.*

Note: Hon Paul TSE's amendment is marked in *bold and italic type* or with deletion line.