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Panel on Manpower

Meeting on 24 March 2025

Background brief on protection for digital platform workers

Purpose

This paper provides background information on the protection for digital platform workers (“DPWs”) in Hong Kong, and summarizes the major views and concerns expressed by the Panel on Manpower on relevant issues.

Background

2. With the growing popularity of gig economy in recent years, more and more people have switched to working as gig workers/DPWs. Generally speaking, digital platform companies (“platform companies”) set up their own applications (including via the Internet and mobile applications) for receiving job orders, and make use of “algorithms” to match clients and DPWs for the provision of services. DPWs’ remuneration is usually determined and paid by platform companies. In Hong Kong, DPWs engaging in food and goods delivery services are relatively common.

3. According to the Administration, whether a DPW is an employee does not hinge solely on the label of the post or the contract concerned, but is subject to the actual circumstances of the provision of services. Even if a DPW is labelled as a self-employed person (“SEP”) according to the contract or agreement made between both parties, the platform company is still required to fulfil its obligations as an employer under relevant labour legislation when there exists in essence an employment relationship between the parties, otherwise it may be held criminally liable for violating the relevant benefit provisions of the Employment Ordinance (Cap. 57) (“EO”), the Employees’ Compensation Ordinance (Cap. 282) and other labour laws.

4. In the Administration’s view, taking into consideration the business model of digital platforms in the provision of services and the unique work arrangement

between DPWs and platform companies, mandating both parties to handle the rights and benefits of DPWs by way of an employment relationship may not be conducive to the development of the industry, and may hinder the job autonomy and flexibility currently enjoyed by DPWs or even adversely affect their income. Therefore, it is mainly through policy research, data collection and conciliation services, etc. that the Administration seeks to address the protection for DPWs.

5. In the past, the Administration had not collected relevant statistics on local DPWs. In September 2023, the Labour Department (“LD”) commissioned the Census and Statistics Department to conduct a Thematic Household Survey (“THS”) to collect objective data on the characteristics, working conditions, etc. of local DPWs, with the key findings expected to be available in early 2025. LD also conducted an online questionnaire survey and focus group interviews with DPWs in the third quarter of 2024 to gauge their views on how to improve the protection for their work.

6. Furthermore, LD has set up a Liaison Group to facilitate tripartite communication and collaboration among platform companies, labour groups and the Government in exploring practicable solutions to enhance the protection for DPWs.

Members’ views and concerns

7. The views and concerns expressed by Members on relevant issues are summarized below.

Protection of the rights and benefits of digital platform workers

8. Members were concerned that DPWs, often labelled as SEPs, were **not entitled to the protection afforded to employees under labour laws** (including protection in respect of work injury compensation and remuneration) during their work. In addition, as DPWs mainly relied on the applications created by platform companies for client matching and work allocation, and their remuneration was determined by platform companies, DPWs had no bargaining power. Members urged the Administration to expeditiously address the ambiguous relationship between DPWs and platform companies. There were suggestions that the Administration should consider **stipulating the respective rights and responsibilities of platform companies and DPWs by means of a “standard contract”** and improving DPWs’ remuneration packages. The Administration was also called on to **strengthen enforcement against false self-employment** and step up inspections of platform companies to combat illegal employment.

9. The Administration advised that there was no one single conclusive test to distinguish an “employee” from a “contractor or SEP”. In differentiating these

two identities, all relevant factors of the case should be taken into account, such as (a) whether a person had control over work procedures, working time and method, and/or was free to hire helpers to assist in the work, (b) ownership and provision of work equipment, tools and materials, and (c) whether a person had to bear financial risk over business. There was no hard and fast rule as to the weight of a particular factor, which would be subject to the facts and circumstances of each case. In case of dispute, the final decision would rest with the court. LD had been adopting a three-pronged approach to assist persons concerned to clarify their status with their service companies, including publicizing through various channels the differences between employees and SEPs as well as their rights and obligations; providing consultation and conciliation services for those in dispute over the existence of an employment relationship; and stepping up enforcement against false self-employment.

10. Quite a number of Members held the view that instead of dwelling on how to distinguish whether a DPW was an employee or an SEP, the Administration should consider taking a different approach by, with reference to the practices in the Mainland and Singapore, **giving DPWs an employment status different from that of employees/SEPs** and putting in place appropriate protection for them (e.g. protection in respect of work injuries and remuneration for work). Concern was raised as to whether the arrangement of stipulating a separate employment status for DPWs would affect those DPWs who had an actual employment relationship with platform companies in pursuing their entitlements.

11. The Administration responded that LD had kept in view the relevant policy initiatives for, and latest developments in, the protection for DPWs in different places. In the course of exploring and formulating a policy direction for protecting DPWs, LD must carefully examine the feasibility as well as the pros and cons of different options taking into account the actual circumstances in Hong Kong (including those reflected in the results of THS) as part of its comprehensive policy consideration. The Administration further advised that as many of the statutory rights and benefits of employees in Hong Kong were based on EO and the definition of “employee” under it, any major policy changes might have far-reaching implications and must be approached with caution.

Insurance coverage for digital platform workers

12. Members were concerned about the work safety of DPWs and their liability arising from work accidents since most, if not all, DPWs were currently not covered by employees’ compensation insurance (commonly known as “labour insurance”). There was a suggestion that the Administration should discuss with major insurance companies the introduction of “standard insurance plans” comparable to labour insurance in terms of the minimum amount of insurance cover, compensation amount, etc., and **encourage platform companies to take out such insurance plans for DPWs**. Some Members also suggested that the

Administration should, with reference to the practices in some overseas countries, **mandate platform companies to take out work-related insurance policies for DPWs.** There was also a view that as DPWs might take up multiple jobs at a time, it would be more appropriate for **the Government to spearhead taking out work-related insurance policies for DPWs.**

13. According to the Administration, LD would inspect workplaces of various industries, including platform companies, to check whether employers had complied with the requirements of relevant labour laws (including taking out labour insurance for employees). LD understood that some platform companies had taken out accident insurance for their DPWs. DPWs should approach LD for assistance if they were involved in disputes over false self-employment with platform companies in relation to compensation for work injury.

Relevant papers

14. A list of the relevant papers on the Legislative Council website is in the [Appendix](#).

Council Business Divisions
Legislative Council Secretariat
18 March 2025

Relevant papers on protection for digital platform workers

Committee	Date of meeting	Papers
Panel on Manpower	15 June 2021	Agenda Item IV: Employees' right, benefits and welfare of digital platform workers and casual workers Minutes
	19 December 2023	Agenda Item III: Protection for digital platform workers Minutes Follow-up paper

Council meeting	Papers
6 November 2024	Question 16 : Short-term parking arrangements for delivery couriers
27 November 2024	Member's motion : Protecting platform workers Progress report

Issue date	Research publications
31 August 2023	Information Note Protection of digital platform workers in Singapore and Spain
18 February 2025	Information Note Protection of digital platform workers in the United Kingdom and Taiwan