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Report of the Panel on Manpower for submission to the Legislative Council

Purpose

This report gives an account of the work of the Panel on Manpower (“the Panel”) during the 2023 session of the Legislative Council (“LegCo”). It will be tabled at the Council meeting of 13 December 2023 in accordance with Rule 77(14) of the Rules of Procedure.

The Panel

2. The Panel was formed by a resolution passed by LegCo on 8 July 1998, as amended on 20 December 2000, 9 October 2002, 11 July 2007, 2 July 2008 and 26 October 2022, for the purpose of monitoring and examining Government policies and issues of public concern relating to labour, manpower planning, vocational training and education, and qualifications framework. The terms of reference of the Panel are in **Appendix 1**.

3. The Panel comprises 15 members, with Hon LUK Chung-hung and Hon LAM Chun-sing elected as Chairman and Deputy Chairman respectively. The membership list of the Panel is in **Appendix 2**.

Major work

Safeguarding employees’ rights and benefits

Supporting measures for the abolition of the offsetting arrangement

4. The legislation to abolish the use of accrued benefits derived from employers’ mandatory contributions under the Mandatory Provident Fund (“MPF”) System to offset severance payments (“SP”)/long service payments (“LSP”) (“the offsetting arrangement”) was passed by LegCo on 9 June 2022. The Government announced that the abolition of the offsetting arrangement

would take effect on 1 May 2025. To help employers adapt to the policy change, the Government once indicated that it would introduce two supporting measures, namely the Designated Savings Account (“DSA”) Scheme¹ and the 25-year Government Subsidy Scheme (“GSS”). The Administration subsequently advised that given the various concerns raised in the community about the DSA Scheme, the Government considered that the DSA Scheme should be re-examined and commissioned an actuarial consultant to assess its cost-effectiveness.

5. At the meeting held in July 2023, members were briefed on the outcome of the re-examination. Some members expressed concern about the Government’s decision not to pursue the DSA Scheme. These members opined that without mandatory savings, there might be more cases of employers (especially those of micro, small and medium-sized enterprises (“MSMEs”)) being unable to pay SP/LSP due to a lack of reserves, and the function of the Protection of Wages on Insolvency Fund (“PWIF”) to provide a safety net for employees would be all the more important. While the ex gratia payment ceiling for SP had been raised to the first \$100,000 plus 50% of any excess entitlement in 2022, the full coverage ratio for SP was still only about 78%. This meant that the compensation received by some employees from PWIF would be less than the amount of SP to which they were entitled. Some members strongly suggested that consideration should be given to further raising the ex gratia payment ceiling for SP, so as to provide better protection for employees. At the meeting, the Panel passed a motion urging the Administration to increase the full coverage ratio of ex gratia payments for SP to about 90%.

6. The Administration responded that the refined GSS should be able to help employers (especially those of MSMEs) cope with additional expenses after the abolition of the offsetting arrangement. Besides, with the substantial increase in the ex gratia payment ceiling for SP under PWIF, the protection for employees had been further strengthened. As the local economic and fiscal environment had been facing changes such as interest rate hikes in recent years, coupled with the fact that the economy was recovering from the pandemic, it was not advisable to mandate contributions from enterprises. Also, the consultant’s findings had revealed that the DSA Scheme, with its high administrative expenses, would not be cost-effective, nor would it be sustainable in the long term with a contribution rate of 1%. Having weighed all the factors, the Government had decided not to pursue the DSA Scheme. The accumulated surplus of about \$7 billion of PWIF at present was sufficient to cope with the possible increase in applications. In view of members’ suggestion and taking into account the sound financial position of PWIF at present, the Administration indicated that it was willing to explore whether there was room for a further adjustment to the ex gratia payment ceiling

¹ The DSA Scheme sought to mandate every employer to set up a DSA and to make contributions equivalent to 1% of his/her employees’ monthly relevant income until the DSA balance reached 15% of the annual relevant income of all employees. The DSA balance could only be used for paying SP/LSP.

for SP, so as to ensure that employees who were owed SP by their insolvent employers could be reasonably protected. The Administration would report to the Panel on the outcome of the review in due course.

Proposal for developing an information technology system to implement the Government Subsidy Scheme

7. The Panel was consulted on a proposal for the Labour Department (“LD”) to develop an information technology system to implement GSS (“GSS System”). Members expressed concerns about various issues, including how to ensure that the GSS System could be delivered for use on schedule, and the reasons for engaging an outsourced agent to assist in the implementation of GSS.

8. The Administration advised that the GSS System was an information system supporting the disbursement of subsidies, and its main functions were similar to those of the existing Reimbursement Easy Portal (“REP”), a one-stop online platform for implementing the Reimbursement of Maternity Leave Pay Scheme. With its experience of developing REP, the Administration was confident that the development and testing of the GSS System could be completed before the implementation of the abolition of the offsetting arrangement on 1 May 2025, and applications could be received from the day of implementing the abolition. The Administration further advised that engaging an outsourced agent to assist in the implementation of GSS could not only ensure that GSS could be implemented in tandem with the abolition of the offsetting arrangement, but also help enhance the effective use of resources. LD would monitor the performance of the outsourced agent and the implementation of GSS. The funding proposal for the GSS System was approved by the Finance Committee (“FC”) on 23 June 2023.

Application and vetting procedures of the Protection of Wages on Insolvency Fund

9. The Administration briefed the Panel on the implementation of enhanced measures for processing applications to PWIF. Members generally welcomed the measures introduced by the Protection of Wages on Insolvency Fund Board (“PWIF Board”) to expedite the processing of applications. In respect of the PWIF Board’s engagement of two private law firms to assist applicants in filing winding-up or bankruptcy petitions against their employers so as to save the applicants from applying for legal aid at the Legal Aid Department and undergoing the means test, as well as the PWIF Board’s employment of a lawyer and legal auxiliary staff to handle applications that met the condition specified in the Protection of Wages on Insolvency Ordinance (Cap. 380) for which the Commissioner for Labour might exercise discretion to make ex gratia payments, members raised certain queries, including why the PWIF Board did not directly employ lawyers to assist applicants in filing winding-up or bankruptcy petitions

against their employers, and how LD monitored the efficiency and quality of the handling of cases by the two law firms.

10. According to the Administration, the PWIF Board, having considered different options, found it more flexible and desirable to adopt a hybrid approach for the provision of legal service. The engaged law firms could, in the light of the service demand, flexibly deploy their staff to assist applicants in filing winding-up or bankruptcy petitions against their employers. LD had set a target time frame for completion of each key step to be taken by the law firms to assist applicants in filing winding-up or bankruptcy petitions against their employers. The lawyer directly employed by the PWIF Board would monitor the performance of the engaged law firms. The Administration advised that, by and large, the enhanced measures had been operating smoothly since their introduction, and the time required for the application and vetting procedures could be shortened by up to 12 weeks. LD would continue to closely monitor the progress of cases and release ex gratia payments to eligible applicants as soon as practicable.

Minimum and maximum relevant income levels for Mandatory Provident Fund contributions

11. Under the Mandatory Provident Fund Schemes Ordinance (Cap. 485) (“MPFSO”), the Mandatory Provident Fund Schemes Authority (“MPFA”) must conduct a review of the minimum level of relevant income (“Min RI Level”) and the maximum level of relevant income (“Max RI Level”) for MPF not less than once in every four years, and it must take into account two statutory adjustment factors (viz. “statutory benchmarks”) when conducting the review.² In this session, the Panel was briefed by the Administration on the result of the review for the 2018-2022 cycle on the Min and Max RI Levels for MPF contributions.

12. Some members expressed grave concern about the Government’s concurrence with MPFA’s recommendation that no adjustment be made to the current Min and Max RI Levels³ as a result of the 2018-2022 cycle review. These members pointed out that with the current Min and Max RI Levels remaining unchanged for nearly 10 years, there was a pressing need to close the widening gap between the two levels and the statutory benchmarks, or else MPF’s function of helping the working population to save for retirement protection

² Section 10A(2) of MPFSO stipulates that without limiting the factors which MPFA may consider, it must take into account the following two statutory adjustment factors when conducting the review:

- (a) in respect of the Min RI Level, 50% of the monthly median employment earnings prevailing at the time of the review as compiled from the General Household Survey (“GHS”) conducted by the Census and Statistics Department (“C&SD”); and
- (b) in respect of the Max RI Level, monthly employment earnings at 90th percentile of the monthly employment earnings distribution prevailing at the time of the review as compiled from GHS conducted by C&SD.

³ The current Min and Max RI Levels were \$7,100 and \$30,000 respectively.

would be undermined. There was a suggestion that consideration should be given to implementing adjustments to the Min and Max RI Levels separately, and raising the Min RI Level to the statutory benchmark level first, as this could enable low-income earners to have a higher level of disposable income without affecting the staff costs of enterprises.

13. MPFA responded that in the course of reviewing the Min and Max RI Levels, apart from considering the two statutory benchmarks, it had examined a range of relevant factors, notably the unprecedented circumstances experienced by Hong Kong between 2018 and 2022 which had not only dealt a heavy blow to people's livelihood but also seriously affected the operation of enterprises. Taking into account these special circumstances, MPFA considered it not appropriate to make adjustment proposals for the RI Levels upon completion of the 2018-2022 cycle review. Nevertheless, MPFA attached great importance to closing the gap between the actual Min and Max RI Levels and the statutory benchmarks, and undertook to commence a review for the next cycle of 2022-2026 of the Min and Max RI Levels as soon as the epidemic was brought under control and the economy stabilized. MPFA had already kick-started the relevant preparatory work. The Administration stressed that the MPF System was one of the important pillars of a multi-pillar retirement protection system, with various pillars complementing one another. Moreover, the Government had been striving to strengthen the social security pillar (i.e. the zero pillar) to provide a safety net for the retirement protection of the needy.

Enhancing the protection of non-skilled workers employed by contractors of government outsourced service contracts

14. In the 2022 Policy Address, the Chief Executive ("CE") announced that the Government would further review the arrangement relating to the employment of non-skilled workers under government outsourced service contracts,⁴ including remuneration of the workers and the relevant monitoring mechanism. In this session, the Panel held a joint meeting with the Panel on Financial Affairs to receive an update from the Administration on the findings of the review and the new measures that the Government intended to put in place under the procurement regime, including enhancements to the gratuity entitlement of non-skilled workers and the staff supervising them. Members generally supported the new measures to be introduced by the Administration to enhance the protection of the labour rights and benefits of the non-skilled workers concerned, and noted that the wage levels of such workers had been raised in recent years. However, some members were of the view that the Administration should consider setting a "living wage"

⁴ In 2017, a review was conducted by the Labour and Welfare Bureau jointly with relevant bureaux/departments for the purpose of enhancing the labour protection of non-skilled workers employed by contractors of government outsourced service contracts. As a result of the review, improvement measures for the procurement of non-skilled worker contracts were introduced by the Government with effect from 1 April 2019.

based on basic living needs as the wage floor for non-skilled workers employed under government outsourced service contracts to enhance the protection of their remuneration; while some other members expressed concern about the knock-on effect on pay hierarchies arising from wage increases for non-skilled employees engaged under government outsourced service contracts, which would have an impact on the costs of enterprises. Some members took the view that if there was a long-term service need for the outsourced work, the Administration should consider engaging its own employees to perform the work.

15. The Administration advised that following the Government's introduction of a package of improvement measures on 1 April 2019 to enhance the protection of the labour rights and benefits of non-skilled workers employed under government outsourced service contracts, the median committed hourly wage of non-skilled workers had increased from \$36.7 before the implementation of the improvement measures to \$55 in the current review,⁵ representing a rise of 49.9%. After discounting the increases in the Consumer Price Index (A) and the Statutory Minimum Wage ("SMW"), the cumulative net increase in the median committed hourly wage since 1 April 2019 was some 35.7%. In the Administration's view, the current marking scheme for tender evaluation had struck a good balance between the policy objectives of ensuring "value for money" and protecting government outsourced non-skilled workers, with the effect of attaining a progressive increase in the wages of non-skilled workers. Government outsourced service contracts could help the Government maintain flexibility in service delivery, make better use of the technical expertise and experience in the market and promote employment opportunities in the private market, which would be conducive to the operation of the whole economy and enhancing efficiency.

Employment protection for digital platform workers

16. Given that more and more people had switched to working as digital platform workers/gig workers, the question of how to protect the employment rights and benefits of these workers had been an issue of concern to the Panel in recent years. Members considered that the Census and Statistics Department ("C&SD") should conduct a survey on the earnings and working hours of digital platform workers so that the Administration could grasp their working conditions, and study how to protect the employment rights and benefits of digital platform workers. The Administration advised that LD would commission C&SD to conduct a Thematic Household Survey to try to collect data on the working conditions of local digital platform workers (including the number of such

⁵ The current review covered the government service contracts awarded by the four major procuring departments (namely the Food and Environmental Hygiene Department, the Leisure and Cultural Services Department, the Government Property Agency and the Housing Department) over a two-year period between 1 October 2020 and 30 September 2022.

practitioners, and their remunerations and characteristics) to help explore and map out the way forward for relevant policies. C&SD planned to commence the survey at the end of 2023. The Panel would discuss the protection for digital platform workers with the Administration at the meeting in December 2023.

Enhancing the review mechanism of the Statutory Minimum Wage rate

17. In the 2022 Policy Address, CE announced that the Minimum Wage Commission (“MWC”) would be invited to study how to enhance the review mechanism of the SMW rate and then make proposals to CE. When receiving the Administration’s briefing on the progress of MWC’s study, many members expressed concern about the existing review mechanism of the SMW rate. They suggested that when determining the SMW rate, the Administration should adopt a predetermined formula linked to appropriate indicators (e.g. Consumer Price Indices or the median monthly wage of employees) (i.e. a formula-based approach) as the basis for adjustment and bring in the concept of “living wage”, with a view to enabling grass-roots employees to share the fruits of economic development. In addition, the review cycle of the SMW rate should be shortened from once in every two years at present to “once every year”, so as to solve the problem of a time gap between the collection and analysis of data and the implementation of the adjusted SMW rate. Some other members, however, held the view that the existing review mechanism of the SMW rate could already achieve the policy objective of forestalling excessively low wages without unduly jeopardizing Hong Kong’s economic growth and competitiveness; and considered it undesirable to adopt a formula-based approach as it would not be able to reflect the non-quantifiable factors (such as projections on the economic outlook) which should be taken into account when reviewing the SMW rate. These members were also concerned about whether the benefits brought by an annual review cycle would be commensurate with the additional workload involved.

18. In response, the Administration pointed out that the purpose of establishing the SMW regime was to provide a wage floor which forestalled excessively low wages without unduly jeopardizing Hong Kong’s labour market flexibility, economic growth and competitiveness, while minimizing the loss of low-paid jobs. Since the implementation of SMW in May 2011, there had been different views and concerns in the community about the review mechanism. In view of this, CE had invited MWC to study how to enhance the review mechanism, including the review cycle, how to improve efficiency, and balancing a host of factors such as the minimum wage level and sustained economic development. MWC had to complete its study and submit a report to CE by the end of October 2023. The Government would carefully consider MWC’s recommendations so as to chart the way forward. At this stage, the Government had no predetermined stance on how to enhance the review mechanism of the SMW rate.

Measures for enhancing the local talent pool and manpower supply

Updating the Talent List

19. In this session, the Panel followed up with the Administration on various measures to trawl for talents and alleviate manpower shortages. CE announced in the 2022 Policy Address that the Government would update the Talent List to reflect the shortage situation in various professions. Upon completion of a review, the Government promulgated on 16 May 2023 the updated Talent List, which had been substantially expanded to cover 51 professions under nine industry segments. Some members welcomed the Administration's prompt updating of the Talent List to reflect the latest situation of manpower shortages in various sectors and industries. However, some other members were concerned that the extension of talent admission measures to various sectors and industries would affect the employment opportunities of local people and hinder the upward mobility of young people on the career ladder. There was also concern as to whether the Administration had fully consulted stakeholders when updating the Talent List, and how to prevent abuse of the talent admission measures.

20. The Administration responded that before the Talent List was updated, various bureaux had conducted extensive consultations on the supply of and demand for talents in their respective policy areas with industry organizations and stakeholders, and had analysed the information and suggestions gathered, so as to advise on which professions in their policy areas should be included in the updated Talent List. Meanwhile, the Labour and Welfare Bureau ("LWB") had also consulted major business chambers to gather suggestions for updating the Talent List. In considering whether a selected profession or occupation should be included in the updated Talent List, the Government had upheld the general principles established when the first Talent List was drawn up in 2018.⁶ The Administration stressed that it had been the Government's established policy that priority in employment should be given to Hong Kong people. In processing each application, the Immigration Department ("ImmD") would critically examine whether the applicant met the specific eligibility criteria under the admission scheme concerned and the normal immigration requirements. The Government would closely monitor the implementation of the expanded Talent List.

⁶ The general principles established when the first Talent List was drawn up in 2018 included that: (a) selected professions should cover only high quality talents that would support the development of Hong Kong's high value-added and diversified economy; (b) talents of the selected professions were not readily available in the local employment market; and (c) talents of the selected professions could not be nurtured by local training in good time.

Increasing imported labour

21. To address acute manpower shortages across various sectors, the Government introduced sector-specific labour importation schemes for the construction and transport sectors under the Employees Retraining Ordinance (Cap. 423), and enhanced the coverage and operation of the Supplementary Labour Scheme (“SLS”), including suspending the general exclusion of 26 job categories as well as unskilled/low-skilled posts from SLS for two years. Some members expressed strong reservations about the Administration allowing more imported labour. These members opined that an increase in imported labour might pose competition to local workers, and that the current pay levels of some non-skilled/low-skilled jobs were too low to attract new blood to the trades, resulting in a shortage of manpower for the jobs concerned. Therefore, the Administration should motivate employers to further improve remuneration packages to attract and retain local workers. Some other members held the view that the ageing population and an increase in the net outflow of residents had resulted in a structural labour force shrinkage in Hong Kong. Even though employers had improved the remuneration packages of local workers through various means, the manpower shortage situation remained severe. It was indeed necessary to increase imported labour.

22. The Administration stressed that the Government was always committed to assisting local workers in securing employment and enhancing training for them. However, local recruitment results still fell behind the growth of manpower demand in certain sectors, notably the construction and transport sectors. Hence, on the premise of safeguarding the employment priority for local workers, the Government implemented sector-specific labour importation schemes as well as the Enhanced Supplementary Labour Scheme to allow increasing imported labour on an appropriate and regulated basis, so as to address acute manpower shortages across various sectors. The wage levels of such imported labour must be no less than the median monthly wages of relevant posts in Hong Kong.

23. Members opined that the Administration, while allowing an increase in imported labour, should enhance the protection of their employment rights and benefits. As there had been reports from time to time on cases of exploitation of imported workers, such as cases of imported care workers being subjected to wage rebates or required to work overtime without compensation, members enquired what targeted inspection strategy LD would put in place. In addition, some members suggested that the Administration should strengthen the support for imported workers who reported being exploited, such as providing them with temporary accommodation if necessary, so as to encourage the victims to report their cases.

24. The Administration advised that LD attached great importance to protecting the employment rights and benefits of imported workers. Imported workers enjoyed the same protection as local workers under Hong Kong’s labour

laws, including the protection on payment of wages and restrictions on deduction of wages under the Employment Ordinance (Cap. 57). Employers were required to enter into a Standard Employment Contract (“SEC”) with their workers imported under the labour importation schemes. SEC stipulated that employers must pay wages by means of bank autopay, and arrange for imported workers to, within eight weeks of their arrival in Hong Kong, attend briefings on employment rights organized by the relevant bureaux/departments (“B/Ds”) to facilitate their understanding of their employment rights and benefits, as well as the channels for seeking assistance and making complaints. Regarding its inspection strategy, LD would liaise with the relevant B/Ds for conducting targeted inspections.

2023 Manpower Projection

25. When receiving the Administration’s briefing on the Manpower Projection commencing in July 2023, members enquired how the Administration would make use of the projection results to facilitate the formulation of population policy and the updating of the Talent List. The Administration responded that the 2023 Manpower Projection would adopt a refined methodology to enable more granular analysis and more comprehensive work, and provide evidence-based information to shed light on the requirements for manpower of different qualifications and skill levels in the key economic sectors and growth areas, so that the Government and relevant organizations could formulate appropriate strategies (e.g. those on education and training) to alleviate manpower shortages and enhance the local talent pool to meet the future development needs of Hong Kong.

Employees retraining

26. Members welcomed CE’s announcement in the 2023 Policy Address that the Employees Retraining Board (“ERB”) would implement a series of measures to strengthen training and support for local workers, and would comprehensively review its service scope, training strategies and operation mode. Members took the view that with technological advancement and Hong Kong’s “eight centres” positioning as established in the National 14th Five-Year Plan, training and continuing education were in demand by the workforce, regardless of their different experience and academic qualifications; hence, there was a pressing need for ERB to re-examine its positioning in training and explore expanding its service targets to cover local employees with university qualifications or above. Members were largely supportive of the proposal for ERB to increase the maximum monthly retraining allowance from \$5,800 to \$8,000. However, there was also a view that the Administration/ERB should explore the possibility of further increasing the maximum amount of allowance to strengthen the financial support for trainees enrolled in retraining courses, with a view to encouraging more members of the public to receive training, enhancing their employability and facilitating their participation in the workforce.

Employment support services

Greater Bay Area Youth Employment Scheme

27. In this session, the Panel continued its discussion with the Administration on the various employment programmes implemented by LD. Members generally supported the Administration's regularization of the Greater Bay Area Youth Employment Scheme ("GBAYES") ("the Regularized Scheme") to enable more Hong Kong young people to gain work experience in the Greater Bay Area ("GBA") and broaden their horizons.⁷ However, members were strongly of the view that the Administration should relax the academic requirement for job seekers under GBAYES to cover graduates of associate degree and higher diploma programmes, among others, so as to enable young people with different academic qualifications to seize the opportunities arising from the development of the Mainland. Members also put forward a number of suggestions for enhancing the attractiveness and flexibility of the Regularized Scheme, including (a) setting suitable minimum monthly salary levels based on different educational attainments of the employed young people; (b) relaxing the restriction on the years of graduation to allow young people with certain work experience (e.g. within five to six years after graduation) to participate in the Scheme; (c) adopting the "money-follows-the-user" principle by providing an allowance directly to eligible young people employed to work on the Mainland; and (d) removing the requirement that participating enterprises must have business operations in Hong Kong.

28. According to the Administration, enterprises were required under GBAYES to employ job seekers at a monthly salary of not less than HK\$18,000, and there was a disparity in wage levels between the Mainland and Hong Kong. Enterprises generally considered it more appropriate for the recruits to possess university qualifications on the premise of engaging young employees from Hong Kong to work on the Mainland at the aforesaid rate of pay. In formulating the various arrangements under GBAYES, the Government must safeguard the employment rights and benefits of the employed young people. For this reason, participating enterprises were required under the Scheme to have businesses in both Hong Kong and the Mainland cities of GBA and to employ Hong Kong young people in accordance with Hong Kong laws, so as to ensure that they were still protected by Hong Kong's labour legislation even when working outside Hong Kong. The Government would duly consider members' suggestions and continue to listen to stakeholders' views on the contents of the Regularized Scheme, with a view to introducing appropriate enhancement measures next year.

⁷ The Administration launched the pilot GBAYES ("the Pilot Scheme") in January 2021. In view of the favourable feedback from the enterprises and graduates participating in the Pilot Scheme, CE announced in the 2022 Policy Address the regularization of GBAYES.

Employment Programme for the Elderly and Middle-aged

29. Members were supportive of the Employment Programme for the Elderly and Middle-aged (“EPEM”) implemented by the Administration to encourage employers to engage the elderly and middle-aged and provide them with on-the-job training (“OJT”). Members noted that not many of the employees under EPEM had applied for a retention allowance (with a total of 963 applications from September 2020 to March 2023), indicating a lukewarm response. The Administration was urged to step up publicity and consider staging thematic job fairs regarding EPEM to provide more convenient employment and recruitment services for employers as well as elderly and middle-aged job seekers. Members were also concerned about the mechanism put in place to prevent employers from dismissing participating employees right after drawing down the OJT allowance.

30. The Administration responded that an enhancement to EPEM was introduced on 1 September 2020 to increase the amount of the OJT allowance for each eligible job seeker engaged. After the enhancement, there had been a discernible increase in the number of participating employers. LD would continue to step up its promotional efforts through different channels to encourage employers to join EPEM. To prevent the OJT allowance from being abused, LD had formulated detailed guidelines on the implementation of EPEM, and it would follow up the employment situation of those engaged under EPEM, and find out from those who had left their jobs the reasons for their departure.

Occupational safety and health

Occupational safety in the construction industry

31. When the Administration briefed the Panel on the latest situation of occupational safety in Hong Kong, members were particularly concerned that the construction industry had persistently recorded the highest number of industrial fatalities among all industries (17 cases in 2022). They enquired about the specific measures put in place by the Administration to enhance the occupational safety level of the construction industry, so as to achieve the key performance indicator (“KPI”) set by CE in the 2022 Policy Address.⁸ Members were of the view that the Administration should actively promote in the construction sector (a) the introduction of the concept of Construction Design and Management (“CDM”) in construction works, so that duty holders could incorporate occupational safety and health (“OSH”) considerations into construction works during the planning and design stages, and eliminate or reduce at source OSH risks that might arise during construction, repairs and maintenance; and (b) the wider application of the Smart Site Safety System (“SSSS”) in public works

⁸ The KPI set by CE in the 2022 Policy Address for enhancing occupational safety in the construction industry was to reduce the five-year average industrial accident rate per 1 000 construction workers by at least 10% from 29.8 in 2021 to 26.8 in 2026.

projects and private works projects of different scales. There were suggestions that the Administration should incorporate into the tender terms for public works projects the requirements that contractors must adopt smart safety solutions and apply the concept of CDM; and give more weighting to these items in tender evaluation.

32. The Administration advised that LD had all along adopted a three-pronged strategy to improve Hong Kong's OSH performance. Apart from increasing the maximum penalties under the OSH legislation, LD had also ramped up routine inspections and enforcement, and would continue to enhance the safety awareness of the construction sector through publicity and promotion as well as education and training. It was the Government's work direction to promote the application of innovative technologies to enhance the OSH performance of the construction industry. LD, the Development Bureau and the Housing Bureau, among others, had been encouraging the wider adoption of innovative construction methods and technologies (e.g. CDM and Modular Integrated Construction) in the construction industry. The Construction Industry Council ("CIC") had commissioned a consultancy to study how the concept of CDM could be implemented effectively in Hong Kong. The consultancy study was expected to be completed by the end of 2023, and LD would actively cooperate with CIC in the relevant work. Regarding the promotion of the application of SSSS, the Government not only required contractors to adopt SSSS in public works projects with a contract sum of over \$30 million, but also subsidized the application of SSSS in private works projects through the Construction Innovation and Technology Fund.

33. Members were of the view that for construction sites with poor safety performance, LD should increase the frequency of inspections. To enhance the effectiveness of safety inspections, members suggested that the Administration should consider implementing a demerit points system for contractors under which demerit points would be issued to contractors for non-compliance with OSH requirements identified during safety inspections. The Administration should take into account the demerit points accumulated by a contractor within a certain period of time in the past when evaluating the tenders for public works submitted by the contractor; if the demerit points accumulated exceeded the specified limit, consideration should be given to suspending the contractor's eligibility for tendering. The Administration advised that LD currently did not have in place a demerit points system for contractors' non-compliance with OSH requirements. However, it was given to understand that CIC had commissioned a consultancy to study the viability of introducing demerit points systems for registered contractors and registered construction workers, and planned to launch such systems on a pilot basis after the completion of the study.

Implementation of the Factories and Industrial Undertakings (Safety Management) Regulation

34. The Factories and Industrial Undertakings (Safety Management) Regulation (Cap. 59AF) made provisions regarding a safety management system for implementation in designated industrial undertakings. Members were concerned that it had been more than two decades since the commencement of Cap. 59AF, but 4 out of the 14 elements of the safety management system prescribed in its Schedule 4 had yet to commence operation.⁹ Members urged LD to implement those four elements as soon as possible. The Administration responded that LD had repeatedly conducted surveys on the readiness of the industry, with a view to bringing the remaining four elements into force at an opportune time. After considering the results of the latest review and other related factors, LD planned to kick-start the work to implement the remaining four elements as soon as possible.

Occupational health of employees working in very hot weather

35. Given that the weather in Hong Kong had become increasingly hot in recent years as a result of climate change, the protection of the occupational health of employees working in very hot weather had all along been an issue of concern to the Panel. In February 2023, the Administration briefed the Panel on the framework and main requirements of the proposed Guidance Notes on Prevention of Heat Stroke at Work (“GN”). Members generally welcomed that the Administration had set criteria and made recommendations in respect of heat stress risk assessments conducted by employers for employees and preventive measures to reduce heat stress, and were pleased to note that the Administration had, in the GN officially published in May 2023, taken on board members’ suggestion of using different colours to indicate the three levels of the Heat Stress at Work Warning to facilitate easy understanding by employers and employees. Some members, however, were concerned that as the ambient temperatures in different districts varied, the issuance of the Heat Stress at Work Warning based solely on the Hong Kong Heat Index at King’s Park (“HKHI at King’s Park”) could not accurately reflect the heat stress levels in different districts across the territory. There was also concern about the comment of many employers and employees that GN failed to cater for the modes of operation of different industries and was difficult to implement. The Administration was urged to expeditiously conduct a comprehensive review of the content of GN.

⁹ The four elements that had yet to be implemented were: (a) evaluation of job related hazards or potential hazards and development of safety procedures; (b) promotion, development and maintenance of safety and health awareness in a workplace; (c) a programme for accident control and elimination of hazards before exposing workers to any adverse work environment; and (d) a programme to protect workers from occupational health hazards.

36. According to the Administration, the formula for calculating HKHI at King's Park, which had comprehensively taken into account meteorological data (such as ambient temperature, humidity, airflow and thermal solar radiation level) as well as the overall hospital admission data of Hong Kong, could adequately reflect the health risks posed by different levels of heat stress to the general public in Hong Kong. The Administration appreciated the varying nature and requirements of work in various industries and job positions, and LD would continue to maintain communication with different sectors to assist them in formulating heat stroke prevention measures suitable for the sectors concerned according to the recommendations in GN. In addition, LD and the Hong Kong Observatory would explore ways to further optimize the Heat Stress at Work Warning system. The Administration undertook to review the implementation of GN after the summer of 2023.

37. As GN was not implemented through legislation, members were concerned about the extent to which employers would comply with its requirements, such as to arrange suitable work and rest schedules for employees. The Administration responded that although GN was not legally binding, the general duty provisions under section 6 of the Occupational Safety and Health Ordinance (Cap. 509) and section 6A of the Factories and Industrial Undertakings Ordinance (Cap. 59) did require employers/proprietors to, so far as reasonably practicable, ensure the safety and health at work of their employees. That included conducting risk assessments and taking appropriate preventive measures to protect employees from heat stroke at work.

Regulation of employment agencies

38. At the Panel meeting on 21 March 2023, the Administration sought the views of members on its preliminary proposals to revise the Code of Practice for Employment Agencies ("CoP"). Members generally supported its proposed revisions to strengthen the regulation of employment agencies ("EAs"). Many members shared the view that the situation of non-compliance by EAs providing foreign domestic helper ("FDH") placement services was quite serious, and some of these EAs were even suspected of encouraging or inducing FDHs to job-hop. There was concern as to whether the proposed revisions (including the stipulation that EAs should not provide monetary incentives to FDHs in employment to induce them to terminate their contracts prematurely) would have a sufficient deterrent effect on those unscrupulous EAs. Some members suggested that the Administration should consider imposing criminal liability on EAs which had breached CoP, so as to enhance the effectiveness of regulation.

39. The Administration advised that to effectively combat job-hopping of FDHs, efforts should first be made to reduce the incentive. In this connection, the Administration proposed to revise the sample service agreement in CoP to require EAs to discuss with employers the refund or FDH replacement arrangements in case of premature termination of contracts initiated by FDHs,

thereby reducing the incentive for EAs to induce FDHs to job-hop. If an EA had breached CoP, LD would decide whether to issue a written or verbal warning, or even consider revoking its licence, depending on the seriousness of the case. Besides, ImmD would reject the visa application of an FDH suspected of job-hopping, and keep the relevant record as one of the factors to be considered when vetting any other visa application from that FDH for working in Hong Kong in the future.

40. Members were also concerned that, from time to time, there had been cases of employers/former employers of FDHs being harassed by money lenders or financial intermediaries because of their FDHs' failure to repay loans. Some members suggested that the Administration should consider setting a cap on the amount of loans to be granted by a financial institution to an FDH, so as to prevent FDHs from over-borrowing; or consider making it mandatory for FDHs to declare the amount of their debts, so that prospective employers could know the situation. The Administration advised that to prevent EAs from colluding with financial institutions to arrange FDHs to take out loans, it proposed to revise CoP to require EAs applying for a licence to provide information on, inter alia, whether they were associated with any financial institutions. Meanwhile, LD would promote more widely among FDHs the message of prudent financial management. Given that FDHs enjoyed the same protection and rights as local employees under the labour legislation, the Administration had no plan to restrict FDHs' borrowing from local financial institutions or to require FDHs to declare their liabilities.

Other issues

41. The Panel received a briefing on the 2023 Policy Address, and discussed the proposal to create four supernumerary/non-civil service directorate posts in LWB for a period of three or five years to oversee, coordinate and implement the manpower-related policy and talent attraction work. The proposal was endorsed by the Establishment Subcommittee and approved by FC on 22 March and 28 April 2023 respectively.

Meetings held

42. During the period between January and November 2023, the Panel held a total of 11 meetings (including two joint meetings, one with the Panel on Welfare Services and the other with the Panel on Financial Affairs). The Panel has scheduled another meeting for 19 December 2023 to discuss (a) Hong Kong's occupational safety performance in the first half of 2023 and relevant occupational safety and health enhancement initiatives; and (b) protection for digital platform workers.

Legislative Council

Panel on Manpower

Terms of Reference

1. To monitor and examine Government policies and issues of public concern relating to labour, manpower planning, vocational training and education, and qualifications framework.
2. To provide a forum for the exchange and dissemination of views on the above policy matters.
3. To receive briefings and to formulate views on any major legislative or financial proposals in respect of the above policy areas prior to their formal introduction to the Council or Finance Committee.
4. To monitor and examine, to the extent it considers necessary, the above policy matters referred to it by a member of the Panel or by the House Committee.
5. To make reports to the Council or to the House Committee as required by the Rules of Procedure.

Panel on Manpower

Membership list for the 2023 session

Chairman	Hon LUK Chung-hung, JP
Deputy Chairman	Hon LAM Chun-sing
Members	Hon Tommy CHEUNG Yu-yan, GBM, GBS, JP Hon KWOK Wai-keung, JP Hon SHIU Ka-fai, JP Hon CHU Kwok-keung Hon CHAU Siu-chung Hon Dennis LEUNG Tsz-wing, MH Hon Kenneth LEUNG Yuk-wai, JP Hon Sunny TAN Hon Lillian KWOK Ling-lai Hon Kingsley WONG Kwok, BBS, JP Hon LAI Tung-kwok, GBS, IDSM, JP Dr Hon NGAN Man-yu Prof Hon CHAN Wing-kwong (Total : 15 members)
Clerk	Miss Josephine SO (up to 30 June 2023) Miss Connie AU (since 3 July 2023)
Legal adviser	Mr Alvin CHUI