

LCQ1: Protection of Wages on Insolvency Fund

Following is a question by the Hon Poon Siu-ping and a written reply by the Secretary for Labour and Welfare, Dr Law Chi-kwong, in the Legislative Council today (April 22):

Question:

Some trade unions have relayed that in recent months, quite a number of workers who have been owed wages have applied for ex gratia payments from the Protection of Wages on Insolvency Fund (the Fund) but, after a protracted period of time, have not been issued such payments for meeting their imminent needs. In this connection, will the Government inform this Council:

- (1) Of the respective numbers of applications for ex gratia payments (i) received, (ii) processed and (iii) approved, by the Fund in each month since January 2019, and the respective numbers of employees involved in such applications;
- (2) Of (i) the average and (ii) the longest durations between the time when the Labour Department (LD) received a request for assistance from an employee in respect of wage defaults and the time when all information needed for processing the employee's application for an ex gratia payment by the Fund was available, in the past three years; if such figures are unavailable, of the reasons for that;
- (3) Of (i) the average and (ii) the longest duration between the time when LD received a request for assistance from an employee in respect of wage defaults and the time when the Fund disbursed an ex gratia payment to the employee concerned, in the past three years; if such figures are unavailable, of the reasons for that;
- (4) Given that the number of applications to the Fund for ex gratia payments is expected to increase sharply in the coming few months amid Hong Kong's worsening economic situation, whether LD will deploy additional manpower to process such applications, and whether the Government will consider revamping the procedures for applying for and disbursement of ex gratia payments with a view to expediting the disbursement to applicants of those ex gratia payments related to undisputed payments on default; if so, of the details; if not, the reasons for that; and
- (5) As the Protection of Wages on Insolvency Fund Board has indicated that in 2018-2019, it continued its review of the scope of protection of the Fund and the ceilings for ex gratia payments, of the progress and outcome of the review?

Reply:

President,

My reply to the Member's question is as follows:

(1) From January 2019 to March 2020, the number of applications received in each month by the Protection of Wages on Insolvency Fund (the Fund) is set out at Annex 1. During the same period, the number of applications processed and the number of applications with ex gratia payment approved are set out at Annex 2. Applications are reckoned on a per-employee basis. Hence, the number of applications is the same as the number of employees involved.

(2) and (3) Upon receipt of applications to the Fund from employees, the Labour Department (LD) will kick off the procedures of handling such applications immediately, which include liaising with employers, provisional liquidators/liquidators, trustees of Mandatory Provident Fund (MPF) schemes, the Legal Aid Department, and, where necessary, requesting the applicants to provide further information, etc., for the purpose of collecting the necessary information and documents for verifying the applications and making ex gratia payment. Ex gratia payment could only be granted to qualified applicants after LD has received all the relevant information and documents required for processing the applications. Yet whether the information and documents are adequate is often beyond the control of LD (for example, it takes a longer time for individual employers or liquidators to compile the employment records of employees, individual employees are unable to promptly furnish information to support their applications, etc.). As such, LD does not keep information on the durations between the time when LD receives a request for assistance from an employee in respect of wage defaults and the time when all information needed for processing the employee's application for an ex gratia payment by the Fund is available or the time when the Fund effects an ex gratia payment to the employee concerned. Instead, LD keeps information on the time required to effect payment upon receipt of all information and documents required for processing the applications. From 2017 to 2019, the average time and the longest time required to effect payment upon receipt of all information and documents required for processing the applications by LD are set out at Annex 3.

(4) The number of applications to the Fund has been closely related to economic changes. LD will continue to monitor applications to the Fund. If necessary, LD will arrange internal deployment and increase manpower to handle the possible rise in the number of applications. Besides, LD will review the procedures of verification of applications from time to time with a view to issuing ex gratia payment as soon as practicable.

(5) Based on the information and data gathered, the Protection of Wages on Insolvency Fund Board (the Board) has been conducting a review of the scope of coverage of all the payment items under the Fund. In the process, the Board has to examine with prudence all the relevant information, including the possible impact of the abolition of the arrangement for "offsetting" severance payment/long service payment with MPF contributions on the financial position of the Fund for the purpose of thoroughly considering the

matter. When the result of the review is available, the Government will consult the Labour Advisory Board and report to the Panel on Manpower of the Legislative Council.