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Director of Bureau : Secretary for Labour and Welfare

Session No. : 17

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**Replies to supplementary questions raised by Finance Committee Members in
examining the Estimates of Expenditure 2012-13**

**Director of Bureau : Secretary for Labour and Welfare
Session No. : 17**

Reply Serial No.	Question Serial No.	Name of Member	Head	Programme
S-LWB(L)01	SV027	CHAN Kin-por	90	Employee Rights and Benefits
S-LWB(L)02	S071	IP Wai-ming	90	Employee Rights and Benefits
S-LWB(L)03	S070	PAN Pey-chyou	90	Employee Rights and Benefits

Examination of Estimates of Expenditure 2012-13
**CONTROLLING OFFICER'S REPLY TO
SUPPLEMENTARY QUESTION**

Reply Serial No.

S-LWB(L)01

Question Serial No.

SV027

Head : 90 – Labour Department

Subhead (No. & title) :

Programme : (4) Employees' Rights and Benefits

Controlling Officer : Commissioner for Labour

Director of Bureau : Secretary for Labour and Welfare

Question :

The Administration is requested to follow up on the reply LWB(L)091 by providing further breakdown of the prosecutions initiated by the Labour Department in relation to the "Finance, Insurance, Real Estate and Business Services" industry in 2011-12, with details including the offence involved, the number of convictions and penalties imposed, particularly with respect to the insurance sector.

Asked by : Hon. CHAN Kin-por

Reply :

The information sought is provided as follows:

Sector	2011	
	No. of Prosecutions	No. of Convictions
Finance	6	6
Insurance	0	0
Real Estate	63	51
Business Services	260	221
Total	329	278

The prosecutions were mainly related to wage offence, holiday offence and failure to take out employees' compensation insurance. In 2011, the corresponding numbers of these prosecutions were 192, 47 and 76, resulting in 156, 39 and 72 convictions respectively.

In the same year, the highest fines imposed in a case involving wage offence, holiday offence and failure to take out employees' compensation insurance were \$64,000, \$6,000 and \$4,000 respectively. Moreover, one employer convicted of wage offences was sentenced to three months' imprisonment.

In 2011, no prosecution was taken against employers in the insurance sector.

Signature

Name in block letters

Post Title

Date

CHEUK WING HING

Commissioner for Labour

20.3.2012

**CONTROLLING OFFICER'S REPLY TO
SUPPLEMENTARY QUESTION**

Head : 90 – Labour Department

Subhead (No. & title) :

Programme : (4) Employees' Rights and Benefits

Controlling Officer : Commissioner for Labour

Director of Bureau : Secretary for Labour and Welfare

Question :

According to the Administration's reply (LWB(L)055), the Labour Department (LD) issued 1 and 3 written warnings in 2010 and 2011 respectively regarding complaints involving imported workers under the Supplementary Labour Scheme (SLS). In this connection, could the Administration please inform this Committee of the following:

After issuing the written warnings, has LD carried out any follow-up action, such as conducting another surprise inspection shortly afterwards, to ensure the compliance with the law by the employers/employees? If yes, what are the details? If no, what are the reasons? If it is found that the situation being complained about has not been improved after written warnings were issued, how will LD deal with it?

Asked by : Hon. IP Wai-ming

Reply :

In 2010 and 2011, 4 written warnings were issued regarding complaints that involved imported workers under SLS. Before these written warnings were issued, the employers concerned had duly rectified the irregularities which were of a technical nature, for example, late payment of wages to imported workers by just one or two days.

Information on relevant follow-up actions is provided below:

- (a) For the warning issued in 2010, an inspection was subsequently conducted to the employer concerned and no irregularities were detected.
- (b) For the first warning issued in 2011, an inspection was not necessary as the employer no longer hired any imported workers subsequent to the warning.
- (c) The remaining two warnings of 2011 were recently issued. LD will shortly conduct follow-up inspections to the two employers.

Signature	_____
Name in block letters	CHEUK WING HING
Post Title	Commissioner for Labour
Date	20.3.2012

**CONTROLLING OFFICER'S REPLY TO
SUPPLEMENTARY QUESTION**

Head : 90 – Labour Department

Subhead (No. & title) :

Programme : (4) Employees' Rights and Benefits

Controlling Officer : Commissioner for Labour

Director of Bureau : Secretary for Labour and Welfare

Question :

According to the Administration's reply (LWB(L)105), there were about 41 000 employed persons aged 15 and over with disabilities (excluding persons with intellectual disability) in Hong Kong in 2007; and since the implementation of the statutory minimum wage (SMW) on 1 May 2011 and up to 31 January 2012, a total of 184 persons with disabilities had undergone productivity assessment under the Minimum Wage Ordinance (MWO), with over half being persons with intellectual disability. This shows that of the 41 000 employed persons with disabilities, only less than 92 had undergone productivity assessment and the figure is manifestly low. Has the Administration conducted any review in this regard, including looking into the reasons for the low figure? If yes, what are the details? If no, what are the reasons?

Asked by : Hon. PAN Pey-chyou

Reply :

The productivity assessment mechanism is provided for persons with disabilities under the SMW regime, taking account of the possible employment difficulties encountered by some persons with disabilities. To forestall abuse, the right to invoke the assessment is vested in persons with disabilities rather than their employers.

As gathered from relevant organisations, newly employed persons with disabilities were mostly remunerated at or above the SMW rate and therefore did not need to undergo productivity assessment. For serving employees with disabilities who opted for the transitional arrangement under the MWO before 1 May 2011, they may invoke the assessment at any time, having regard to individual circumstances and needs.

The productivity assessment mechanism for persons with disabilities under the SMW regime is the result of lengthy discussions between the Administration and stakeholders (including persons with disabilities, parent groups, rehabilitation organisations, employers of persons with disabilities, etc). The relatively small number of persons with disabilities who have chosen to undergo productivity assessments may reflect that the need for persons with disabilities to invoke the assessment because of employment difficulties is not prevalent at present. The Labour Department will review the productivity assessment mechanism in the light of operational experience within two years after the implementation of SMW.

Signature

Name in block letters

Post Title

Date

CHEUK WING HING

Commissioner for Labour

20.3.2012