



# THE STATE OF LABOUR IN HONG KONG 2022

MARCH 2023



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# 1. INTRODUCTION

This report documents the recent developments of labour market situations, labour laws and policies, labour standards violation, and trade union activities and worker's collective actions in Hong Kong. The COVID pandemic and the National Security Law (NSL) continued to be the most important factors impacting the city's state of labour in 2022. Unemployment and underemployment rates jumped by 1.5 and 2.0 percentage points respectively amid the fifth wave of the outbreak in early 2022. Temporary unemployment assistance and wage subsidy schemes were introduced to relieve the financial hardship of workers and enterprises affected by the pandemic. In addition, the Employment Ordinance (EO) was amended to extend the eligibility of statutory sickness pay to employees under mandatory quarantine and to allow employers to sack unvaccinated employees under certain circumstances.

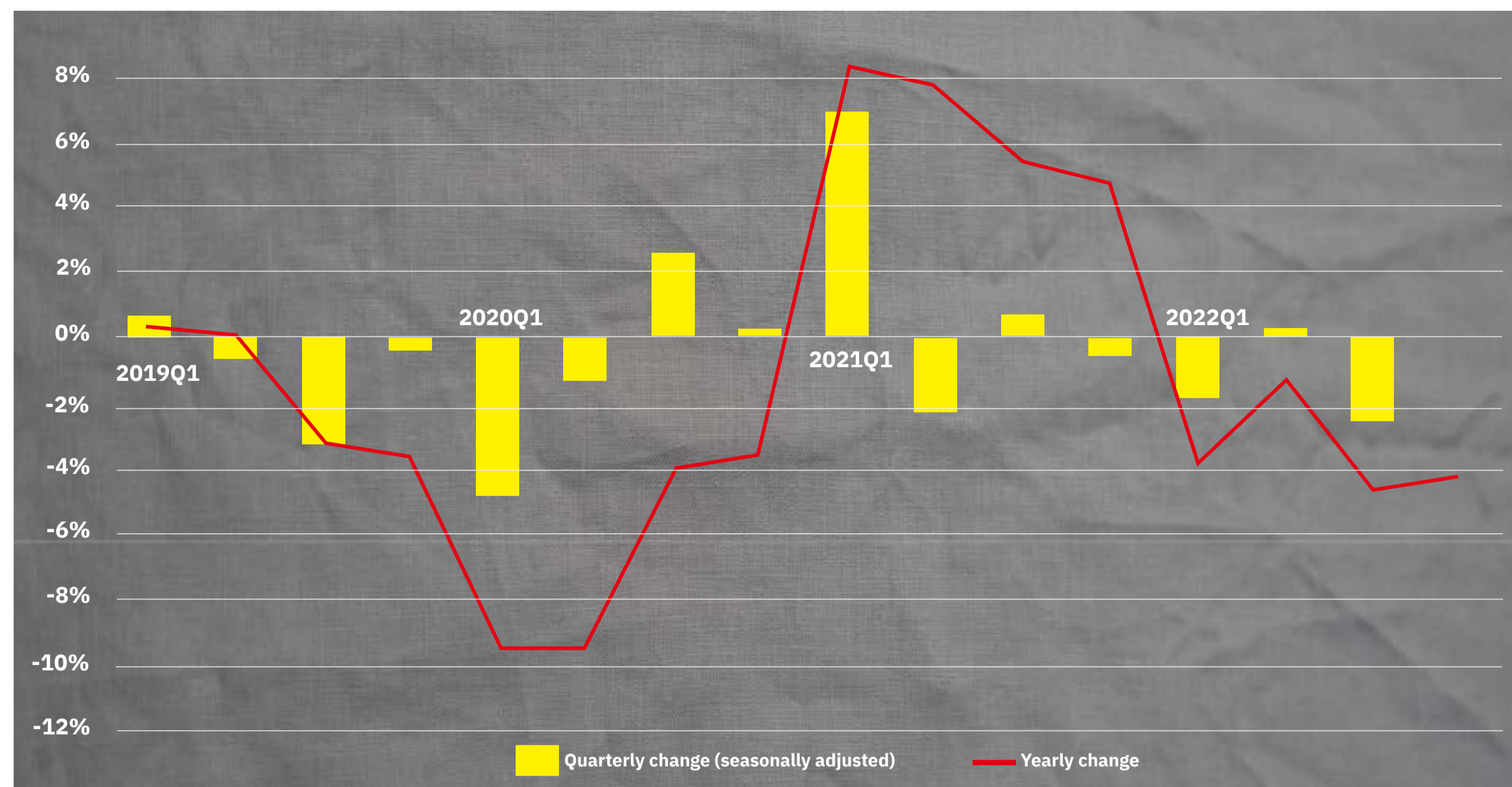
Since the promulgation of the NSL on 30 June 2020, the Hong Kong Government's crackdown on the city's trade unions has never stopped. At the end of 2022, six trade union leaders had been sentenced to jail, three were remanded in custody, two were released on police bail and one was discharged by the police. Hundreds of trade unions and labour organisations have been dissolved, suspended or withdrawn from the city. Several trade unions were warned by the authorities, alleging their activities of violating the laws. Amid the fast shrinking of civil society space, trade union activities were largely confined to those relating to narrow occupational interests.

## 2. OVERVIEW OF ECONOMIC AND LABOUR MARKET SITUATIONS

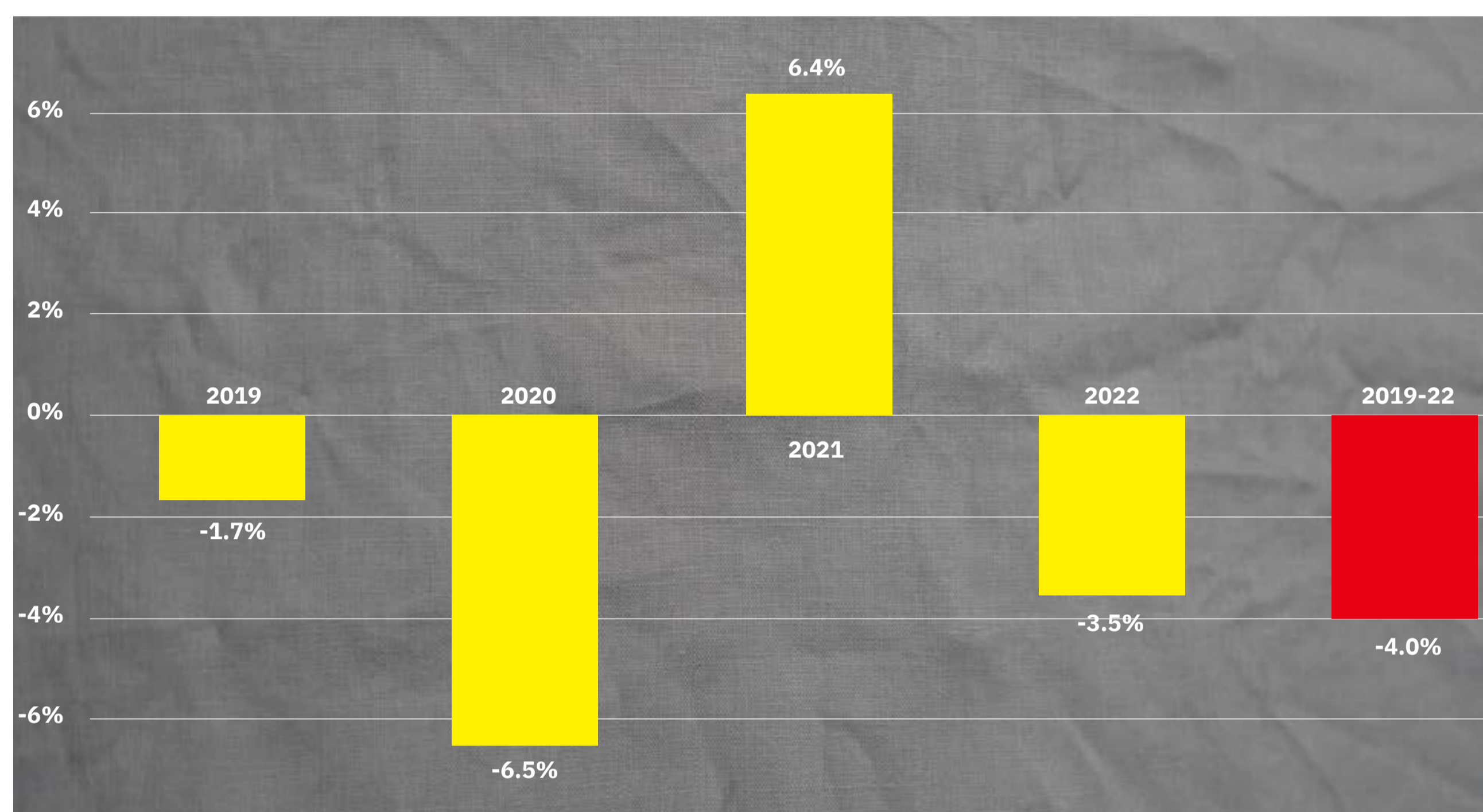
The highly transmissible Omicron variant was first discovered within Hong Kong's local community in late December 2021. The city's strict "zero-COVID" policy, which had previously kept the virus out for months, did little to curb Omicron's spread. More than one million infections were recorded in the first quarter of 2022, killing more than 7,700 people over the same period.<sup>1</sup> The economic recovery since the first quarter of 2021 was cut short by the rapid surge in COVID infections and the resultant containment measures. Real GDP for the first quarter of 2022 shrank by 3.9% from a year earlier. Despite the slowing down of the virus spread and the gradual relaxing of the "zero-COVID" policy, Hong Kong's economy unexpectedly contracted by 4.4% in the second half of 2022 (Figure 1), owing mainly to poor performance in external trade. For the whole of 2022, economic output declined by 3.5%, which is the third recession in four years (Figure 2).

<sup>1</sup> [www.info.gov.hk/gia/general/202204/01/P2022040100675.htm](http://www.info.gov.hk/gia/general/202204/01/P2022040100675.htm) [retrieved 2023.03.15]

**FIGURE 1: REAL GDP CHANGES (2019Q1 TO 2022Q4)**



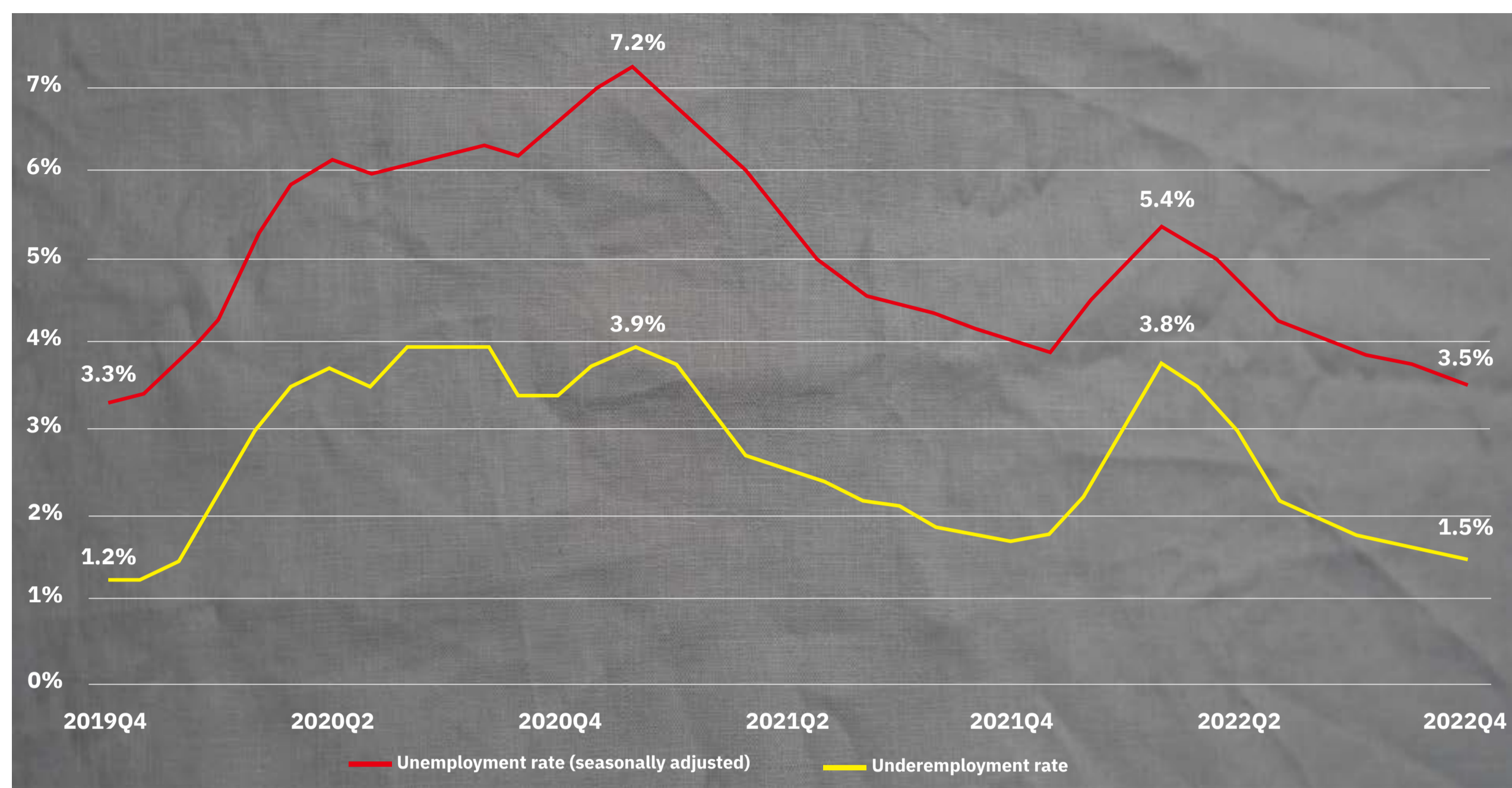
**FIGURE 2: REAL GDP YEAR-ON-YEAR CHANGES (2019 TO 2022)**



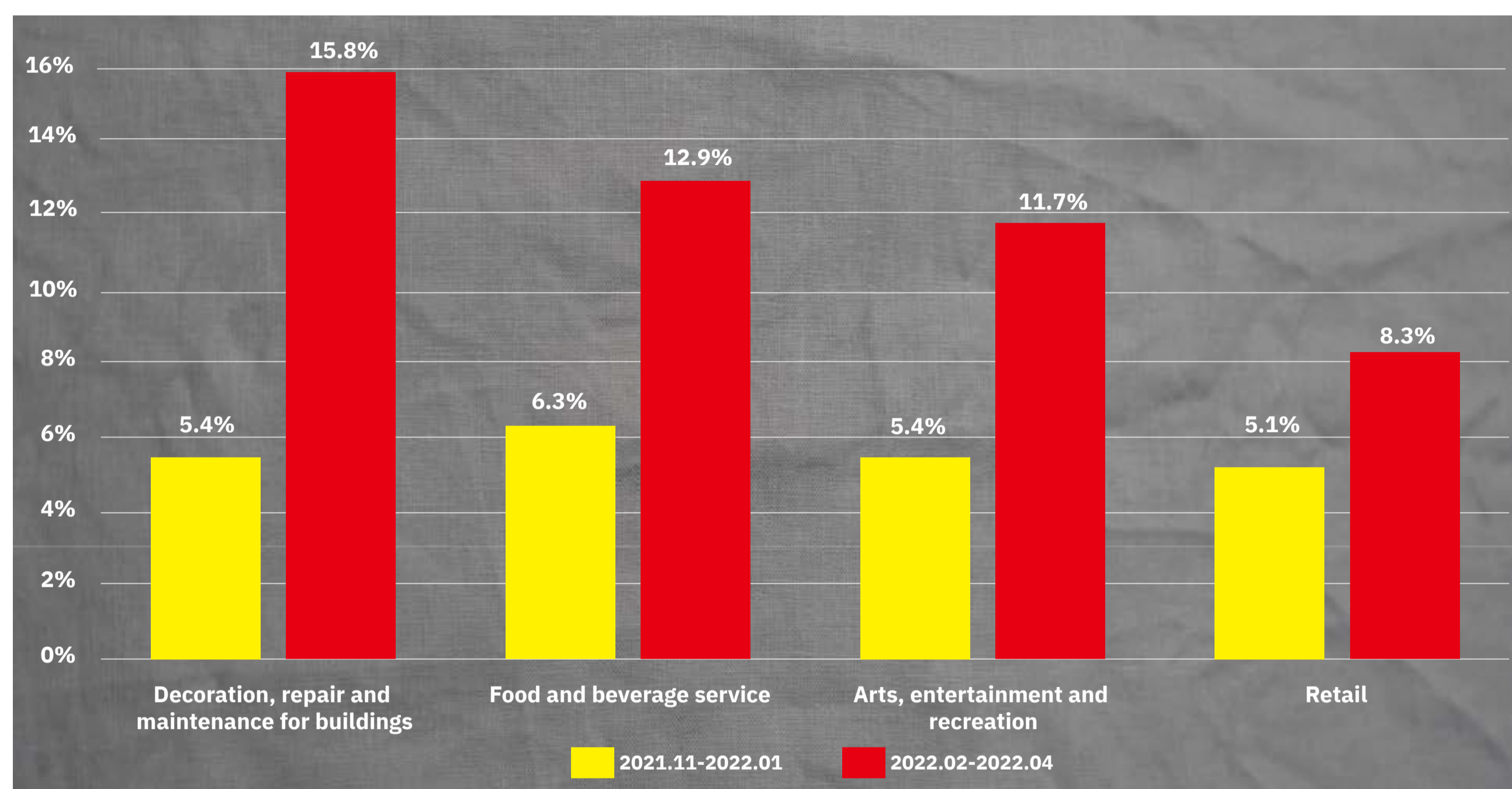
Source: National Income Section, Census and Statistics Department  
 (www.censtatd.gov.hk/en/web\_table.html?id=310-31001)

Employment adjustment typically follows economic contraction with some delay, but the impact of the COVID outbreak on the labour market is instantly felt because of the immediate disruption of business activities caused by the widespread infections and the resultant containment measures. Unemployment rate climbed by 1.5 percentage points in the first three months of the fifth wave of outbreak, while underemployment rate soared by 2.0 percentage point over the same period (Figure 3). “Decoration, repair and maintenance for buildings”, “food and beverage service”, “arts, entertainment and recreation” and “retail” were the hardest hit sectors. Unemployment rate in “decoration, repair and maintenance for buildings” sector jumped to 15.8% in February to April 2022, almost triple the level three months earlier, while underemployment rates in “food and beverage service” and “arts, entertainment and recreation” hit 11.7% and 12.8% respectively in the same three-month period (Figures 4 and 5).

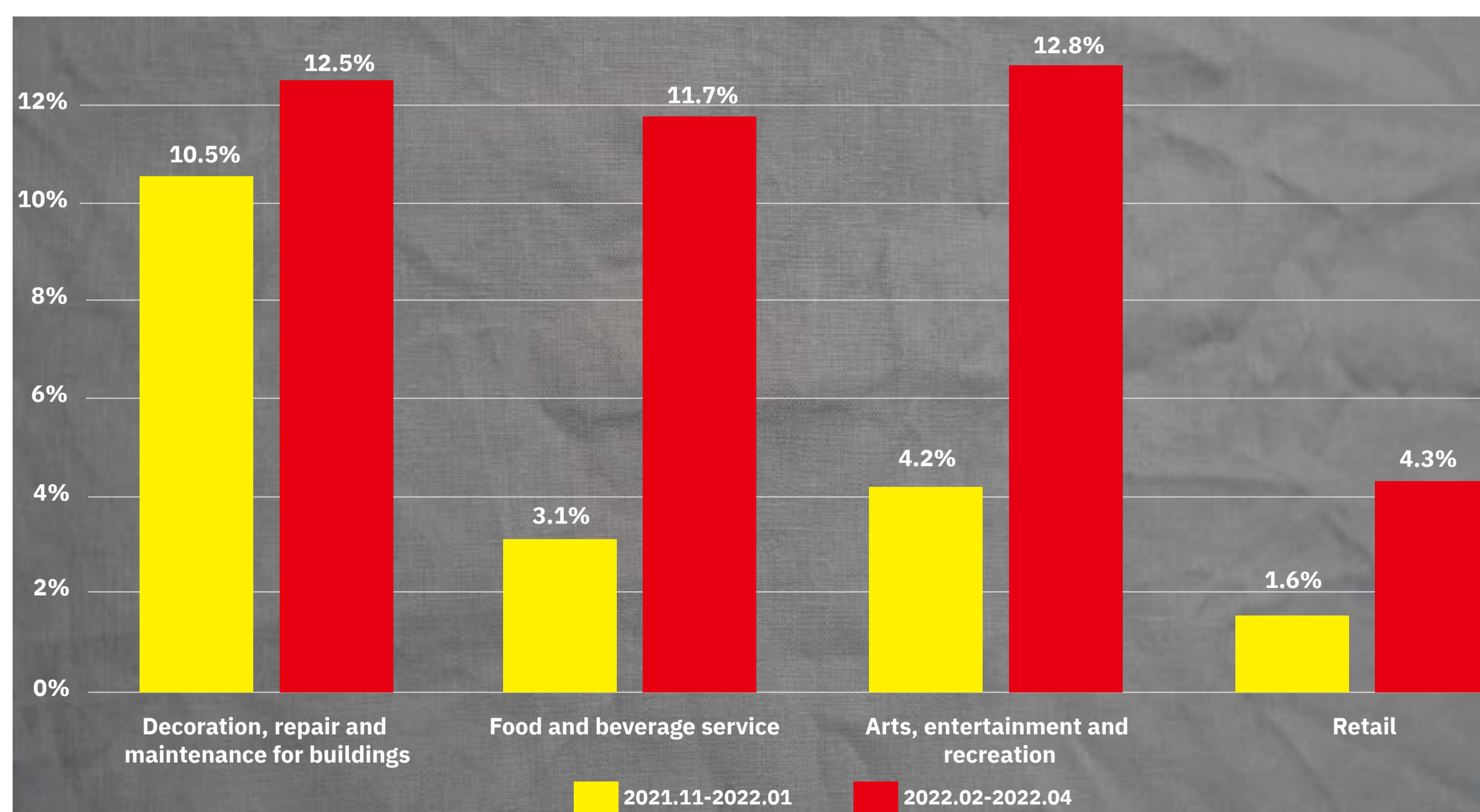
**FIGURE 3: UNEMPLOYMENT AND UNDEREMPLOYMENT RATES (2019Q4 TO 2022Q4)**



**FIGURE 4: UNEMPLOYMENT RATES IN HARDEST HIT SECTORS**



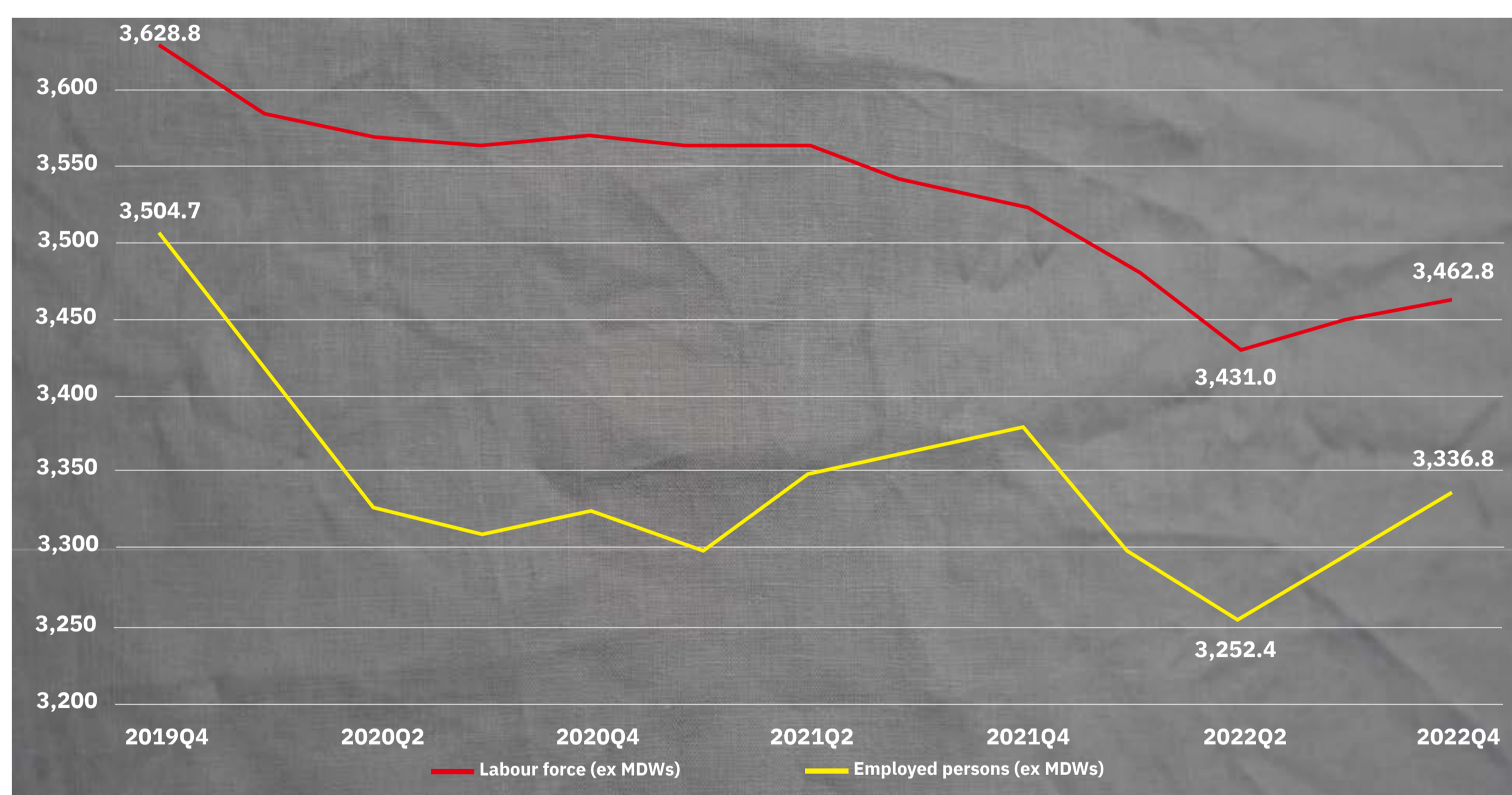
**FIGURE 5: UNDEREMPLOYMENT RATES IN HARDEST HIT SECTORS**



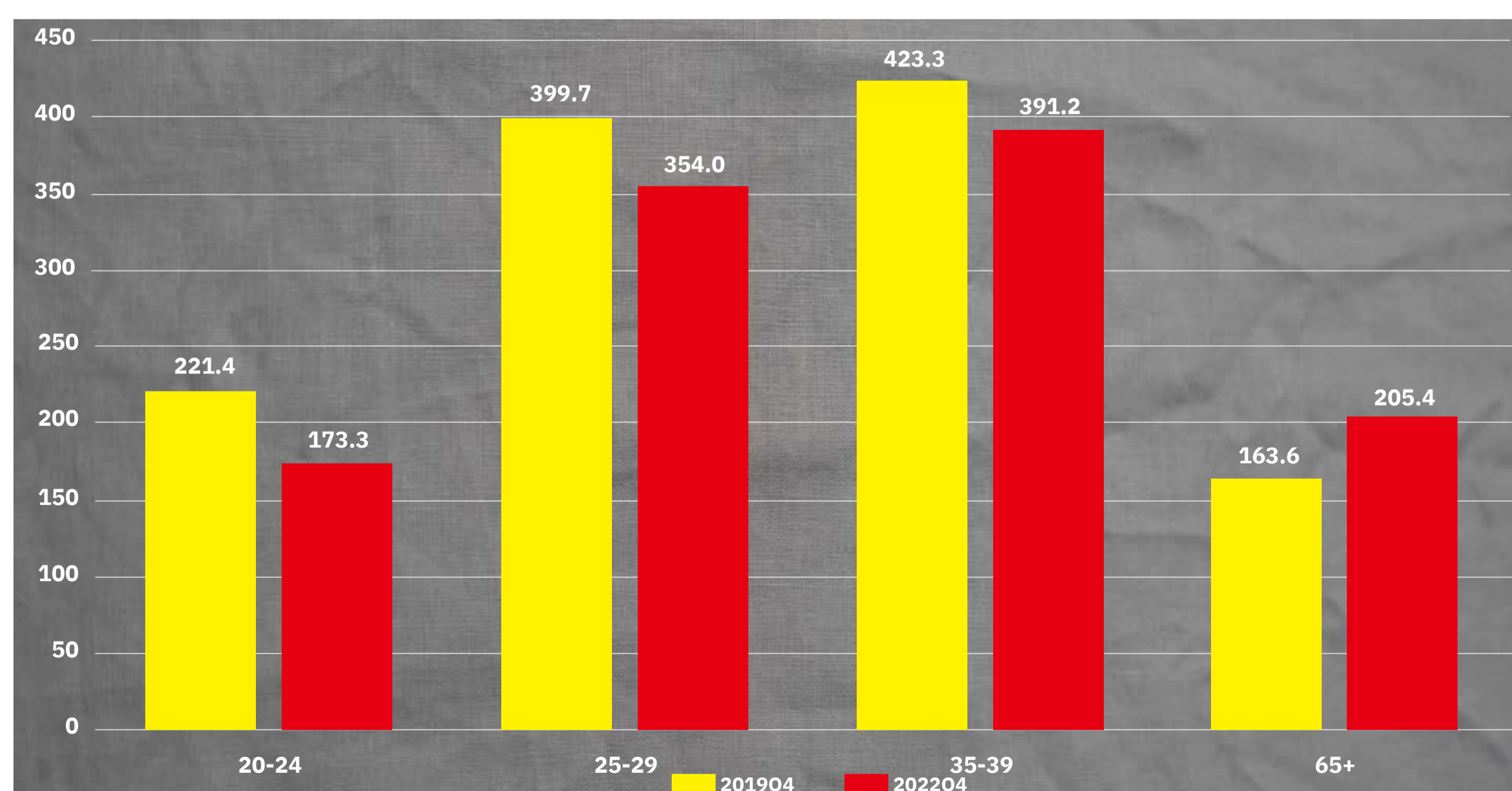
Source: General Household Survey Section, Census and Statistics Department  
 ([https://www.censtatd.gov.hk/en/web\\_table.html?id=210-06101](https://www.censtatd.gov.hk/en/web_table.html?id=210-06101)  
[https://www.censtatd.gov.hk/en/web\\_table.html?id=210-06405](https://www.censtatd.gov.hk/en/web_table.html?id=210-06405)  
[https://www.censtatd.gov.hk/en/web\\_table.html?id=210-06503](https://www.censtatd.gov.hk/en/web_table.html?id=210-06503))

Despite the economy declined by 4.4% in the second half of 2022, Hong Kong’s unemployment and underemployment rates have eased steadily since May and almost returned to the pre-pandemic level by end of the year. This is attributable to two factors. First, as COVID-related containment measures were gradually lifted starting mid-2022, the once disrupted business activities had quickly resumed and the job market recovered correspondingly. Second, the labour force (excluding migrant domestic workers, MDWs) in the last quarter of 2022 decreased by 166,000 persons (or 4.6%) from three years earlier, which almost compensated for the number of jobs lost (168,000, or 4.8%) over the same period (Figure 6). Should the labour force at end of 2022 maintain at a level comparable to that of 2019, the unemployment rate could rise by more than 4 percentage points, given the decline in employment level.

**FIGURE 6: LABOUR FORCE AND EMPLOYED PERSONS ('000) (2019Q4 TO 2022Q4)**



**FIGURE 7: LABOUR FORCE BY SELECTED AGE GROUPS ('000) (2019Q4 AND 2022Q4)**



Source: General Household Survey Section, Census and Statistics Department  
([www.censtatd.gov.hk/en/web\\_table.html?id=210-06201A](http://www.censtatd.gov.hk/en/web_table.html?id=210-06201A))

The contraction in labour force was not equally spread across different age groups. The younger cohorts saw a larger drop in the working population, while more older people (aged 65 or above) had participated in the labour market. Age groups 20-24, 25-29 and 35-39 witnessed the biggest decline in the labour force, in the three years to the last quarter of 2022, their drops were respectively 48,000 (21.7%), 46,000 (11.4%) and 32,000 (7.6%) (Figure 7). Labour force is determined by two factors: the population and the respective labour force participation rates. Based on own calculation from official statistics, it is found that the drops in labour force for aged 25-29 and 35-39 were mostly attributable to the respective drops in the population, while for aged 20-24, the decline in participation rate contributed to about 40% of the contraction (Table 1). Apart from the ageing demographic trend, one possible reason for the decline of population among the younger cohorts is an exodus that has accelerated since 2020 amid the fast-deteriorating socio-political environments and draconian “zero-COVID” measures.<sup>2</sup> Meanwhile, the decrease in participation rate for those aged 20-24 may be due to fresh graduates’ delay to join the job market amid challenging economic situations, while the rise in participation rate for those aged 65 or above could partly be an unintended result of the Government’s wage subsidies provided to the employers in respect of their elderly employees (more of this on page 8). However, as readily available statistics is insufficient, it is worth noting that the causal relationship between above narratives and the contraction of the working population cannot be deemed as irrefutably proven.

**TABLE 1: POPULATION AND LABOUR FORCE PARTICIPATION RATES (EX MDWS) BY SELECTED AGE GROUPS**

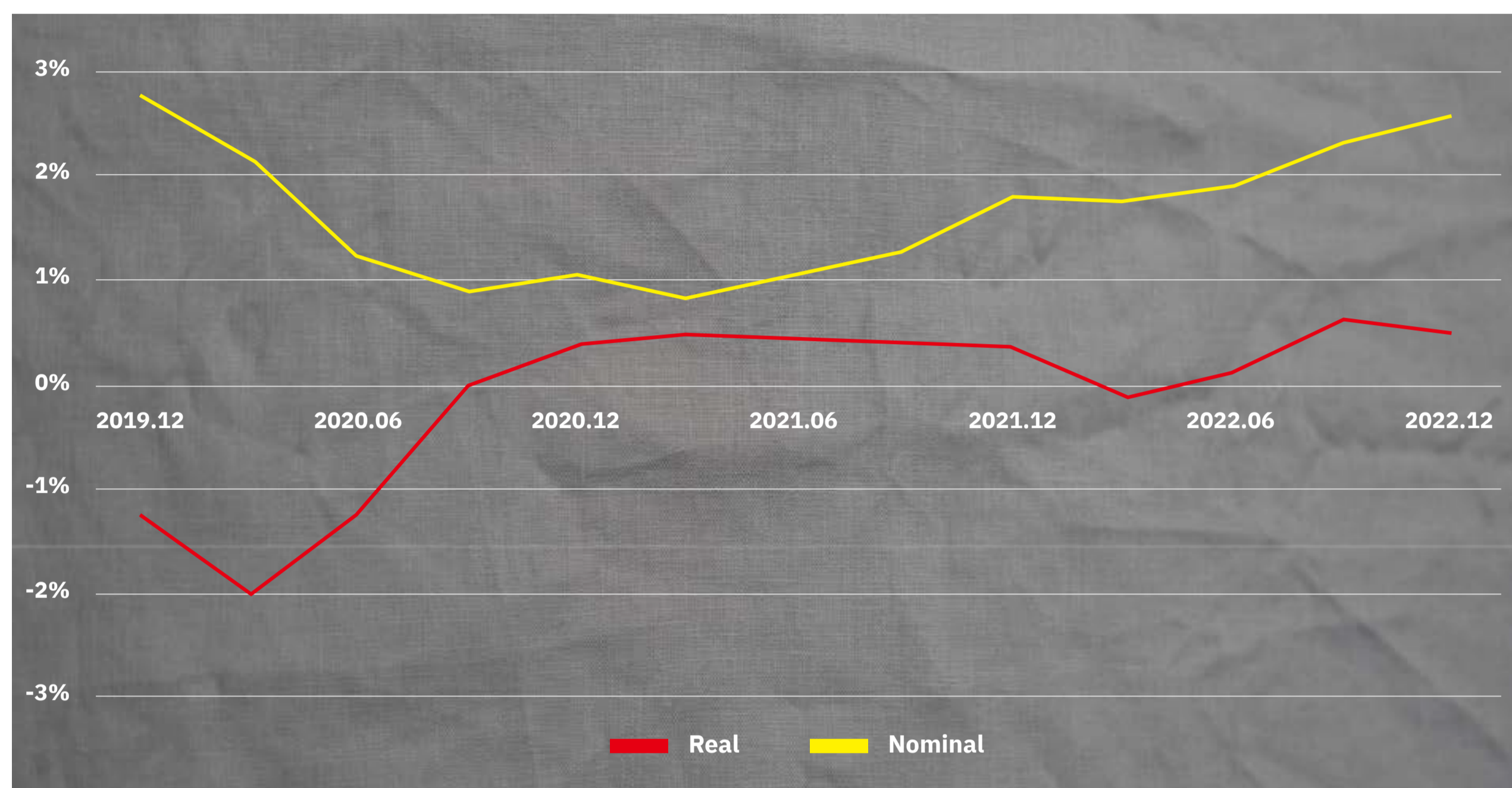
Age group	Population ('0000)		Labour force participation rate		Approximate contribution to change in labour force	
	2019Q4	2022Q4	2019Q4	2022Q4	Population	Participation rate
20-24	373	323	59.4%	53.7%	60%	40%
25-29	450	403	88.9%	87.9%	90%	10%
35-39	519	478	81.5%	81.9%	105%	-5%
65+	1,288	1,488	12.7%	13.8%	65%	35%

Source: General Household Survey Section, Census and Statistics Department  
([www.censtatd.gov.hk/en/web\\_table.html?id=210-06201A](http://www.censtatd.gov.hk/en/web_table.html?id=210-06201A))

<sup>2</sup> For example, CNN (2022) “Hong Kong suffers biggest ever population drop as exodus accelerates” (<https://www.cnn.com/2022/08/12/asia/hong-kong-population-record-fall-covid-intl-hnk>) & South China Morning Post (2022) “113,200 residents leave Hong Kong in 12 months, contributing to 1.6 per cent drop in population, census figures show” ([www.scmp.com/news/hong-kong/society/article/3188536/113200-residents-leave-hong-kong-12-months-contributing-16](http://www.scmp.com/news/hong-kong/society/article/3188536/113200-residents-leave-hong-kong-12-months-contributing-16)) [both retrieved 2023.03.15]

With the easing of unemployment and underemployment, the wage level started picking up in the second half of 2022. In September and December 2022, wage index rose by respectively 2.4% and 2.6% from a year earlier, or 0.7% and 0.5% after adjusted for inflation (Figure 8).<sup>3</sup> Compared to the pre-pandemic level, real wage at end of 2022 grew by 1.3% despite the economy shrank by 4% over the same period.

**FIGURE 8: WAGE INDEX YEAR-ON-YEAR CHANGE (2019Q4 TO 2022Q4)**



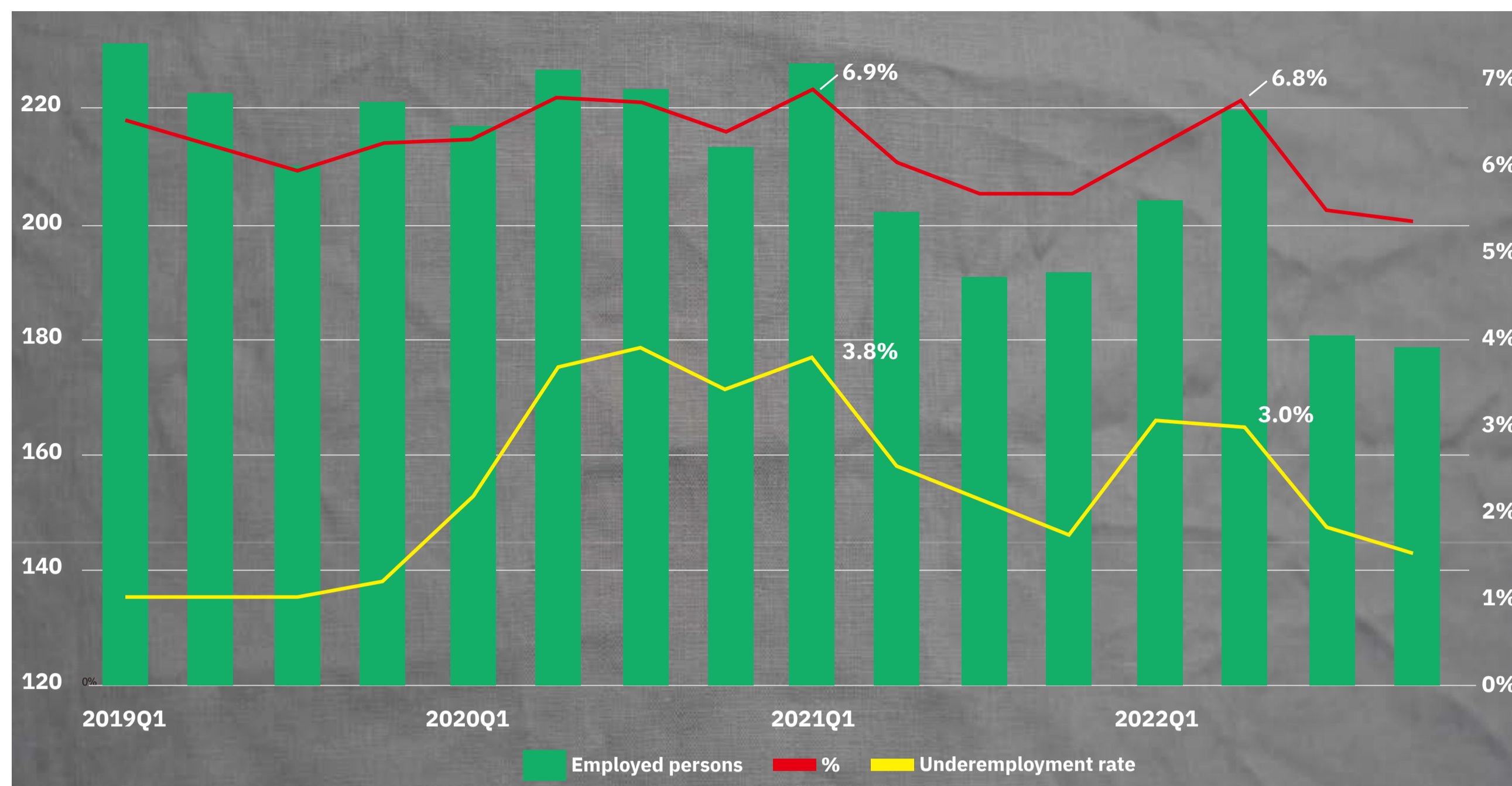
Source: General Household Survey Section, Census and Statistics Department  
([www.censtatd.gov.hk/en/web\\_table.html?id=220-19001](http://www.censtatd.gov.hk/en/web_table.html?id=220-19001))

While the nominal wages rose moderately in the first half of 2022, the actual earnings of some workers fell as they had worked less hours resulting from the widespread infections and related social distancing measures. The percentage of low-wage workers (with monthly earnings less than HK\$6,000) jumped to 6.8% in the second quarter of 2022, just 0.1 percentage point short of the previous high (Figure 9). The number of low-wage workers however dropped significantly in the second half of 2022 amid the improvement of the labour market situations.

<sup>3</sup> In this report, underlying consumer price index (A) is used as the deflator to calculate the real wage level. This is different from the Census and Statistics Department's calculation, in which the headline CPI (A) is used. Underlying CPI(A) is a better deflator to track the trend of real wage level as it eliminates the effects of all government's one-off relief measures; for example, according to the CS&D's calculation, real wage index in September 2022 dropped by 6% from a year earlier, the decline is however due to the one-off rent subsidy to public housing tenants in 2021, which has nothing to do with the underlying wage movement. If underlying CPI(A) is used as the deflator, real wage index in September 2022 rose by 0.7% from a year earlier.



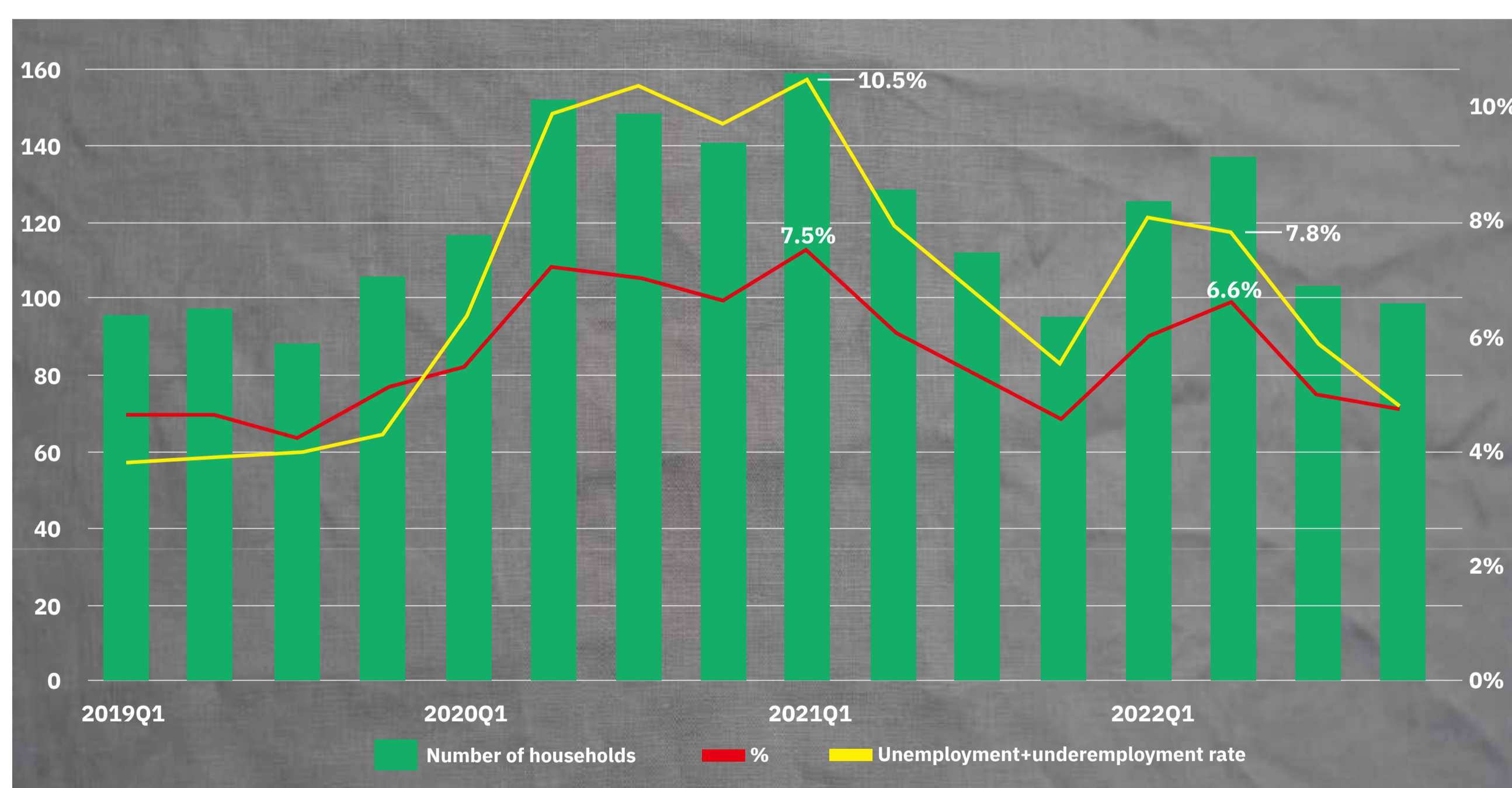
**FIGURE 9: LOW-WAGE WORKERS (2019Q1 TO 2022Q4)**



Source: General Household Survey Section, Census and Statistics Department  
 (www.censtatd.gov.hk/en/web\_table.html?id=210-06313A)

Surge in unemployment and reduction in working hours had also resulted in a decline in household incomes. The number of economically active low-income households (with monthly incomes less than HK\$10,000) in the second quarter of 2022 increased by more than 40% from six months earlier (Figure 10). By end of 2022, the number of low-income household almost dropped to the level prior to the fifth wave of outbreak as the labour market continued to improve in the second of the year. Looking forward, the improvements in unemployment and wage levels seen in the second half of 2022 may however not be sustainable if the economic rebound in 2023 is not as robust as the government forecast.

**FIGURE 10: LOW-INCOME HOUSEHOLDS (2019Q1 TO 2022Q4)**



Source: General Household Survey Section, Census and Statistics Department  
 (www.censtatd.gov.hk/en/web\_table.html?id=130-06607A)

## 3. CHANGES IN LABOUR LAWS AND POLICIES

The developments of Hong Kong's labour laws and policies in 2022 can be categorised into two broad themes: the somehow ad hoc responses to the COVID pandemic and the lack of progress (or regress) on other areas.

### 3.1 LABOUR LAWS AND POLICIES RELATING TO COVID

**Temporary Unemployment Relief Scheme:** Amid the fifth wave of the COVID outbreak, the Government introduced the Temporary Unemployment Relief Scheme in March 2022, providing a one-off subsidy of HK\$10,000 to low-to-middle persons who had lost their jobs due to the pandemic. The Scheme attracted some 470,000 applications in three months and up to 350,000 applicants had been granted subsidies, which far exceed the original estimate of 300,000 beneficiaries.<sup>4</sup> The overwhelming response to the Scheme demonstrates the substantial needs for a separate, recurrent unemployment assistance programme, the Government however remains non-committal.

**Employment Support Scheme:** The Government launched in April 2022 a second round of wage subsidies for employers to retain jobs for three months (from May to July). Under the 2022 Employment Support Scheme, employers would receive a “full subsidy” of HK\$8,000 for each employee earning HK\$8,000 or more a month, a “half subsidy” of HK\$4,000 for each employee earning between HK\$3,500 and HK\$7,999 and an “elderly subsidy” of HK\$4,000 for each employee aged 65 or above earning less than HK\$3,500, subject to a headcount cap of 1,000, or 100 in some “unaffected” sectors, such as supermarkets, banks, public utilities and property management, cleaning and security service.<sup>5</sup> About 170,000 employers received the wage subsidies, involving around 1.5 million employee headcount. The total subsidies amounted to HK\$43 billion.<sup>6</sup>

If implemented well, a wage subsidy scheme can benefit both the employees and the employers: it helps maintain workers' income, lessen businesses' financial burdens and smooth the resumption of production once the pandemic is eased. Hong Kong's 2022 Scheme however suffers from two major flaws. First, employers receiving wage subsidies are only required to retain at least the same headcount of paid workers, they are given a free hand to dismiss existing employees and replace them with someone at lower wages. Nor are employers prohibited from altering

<sup>4</sup> [www.info.gov.hk/gia/general/202207/31/P2022073100298.htm](http://www.info.gov.hk/gia/general/202207/31/P2022073100298.htm) [retrieved 2023.03.15]

<sup>5</sup> [www.ess.gov.hk/en](http://www.ess.gov.hk/en) [retrieved 2023.03.15]

<sup>6</sup> [www.legco.gov.hk/yr19-20/english/fc/fc/papers/fc20200221fc-129-1-e.pdf](http://www.legco.gov.hk/yr19-20/english/fc/fc/papers/fc20200221fc-129-1-e.pdf), p. 185 [retrieved 2023.03.15]

employee's contract with less favourable terms. Second, most employees in Hong Kong were required to work as normal during the subsidy period; they were paid for their hard labour, regardless of whether there was a wage subsidy scheme. The main beneficiaries of the 2022 Scheme were the employers, not the employees.

**Mandatory quarantine allowance:** The Government finally agreed in February 2022, more than two years since the first wave of COVID outbreak, to amend the EO to extend the eligibility of statutory sickness allowance to those employees placed under mandatory quarantine by the Director of Health.<sup>7</sup> Yet, when the amendment came into operation on 17 June, the pandemic had already passed its peak. Prior to the amendment coming into effect, hundreds of thousands of employees put under mandatory quarantine without contracting the virus had to offset their days of absence with their paid annual leaves or lost their incomes during the quarantine period. The amendment became irrelevant when the health authorities stopped issuing quarantine order starting January 2023.

**Dismissal of unvaccinated employees:** The EO was also amended in June 2022 to allow employers to dismiss unvaccinated employees under certain circumstances. If an employee is dismissed on ground of failure to comply with employer's "legitimate" COVID vaccination request, the dismissal will not be considered as unreasonable within the meaning of Part VIA of the EO and the dismissed employee is not entitled to statutory compensation. The amendment stipulates that a vaccination request is "legitimate" if, among others, the employer reasonably believe that if the employee contracts the virus, the persons with whom the employee may come into face-to-face contact will be exposed to the risk of infection.<sup>8</sup> The provisions undoubtedly interfere with employee's fundamental rights, whether this interference is justified under the necessity and proportionality test is however a matter to be decided by the court. There has been no relevant claim made to the court at the time of writing.

## 3.2 LABOUR LAWS AND POLICIES RELATING TO RIGHTS TO JUST AND FAVOURABLE WORKING CONDITIONS

**Statutory minimum wage:** Subject to the approval of the Legislative Council (LegCo), the statutory minimum wage (SMW) rate will rise to HK\$40 an hour starting 1 May 2023.<sup>9</sup> The Government decided in 2021 to freeze the SMW at its 2019 level (HK\$37.5), citing recession amid the COVID pandemic. Even with the increase

<sup>7</sup> [www.info.gov.hk/gia/general/202206/17/P2022061700202.htm](http://www.info.gov.hk/gia/general/202206/17/P2022061700202.htm) [retrieved 2023.03.15]

<sup>8</sup> [www.labour.gov.hk/common/public/pdf/wcp/EAO2022\\_FAQ\\_ENG.pdf](http://www.labour.gov.hk/common/public/pdf/wcp/EAO2022_FAQ_ENG.pdf), p. 5 [retrieved 2023.03.15]

<sup>9</sup> [www.info.gov.hk/gia/general/202301/10/P2023011000204.htm](http://www.info.gov.hk/gia/general/202301/10/P2023011000204.htm) [retrieved 2023.03.15]

of 6.7%, the SMW will certainly offer less purchasing power than it did in May 2019 (inflation between May 2019 and December 2022 is 7.0%). Separately, the Government announced that it would invite the Minimum Wage Commission to study how to enhance the adjustment mechanism of the SMW, including the review cycle.<sup>10</sup> The Commission is expected to submit a report by end of October 2023.

***Abolishing the offsetting arrangement of MPF:*** Under the existing Mandatory Provident Fund (MPF) scheme, employers are allowed to use the accrued benefits derived from their mandatory contributions to offset severance payment and long service payment. The offsetting arrangement seriously weakens employee's retirement protection and trade unions have fought for its abolishment since day one. An amendment to the MPF Ordinance was finally passed on 9 June 2022 to abolish the arrangement. The amendment however does not have retrospective effect and will not come into operation until 2025 the earliest.<sup>11</sup> Refusing to compensate for the employees' loss in provident fund, the Government instead pledged to commit more than HK\$33 billion public money to provide employers with subsidies for a 25-year period.

***Review of "4-18 requirement":*** Under the EO, "continuous contract employees" (hereafter "4-18 employees")<sup>12</sup> are entitled to such benefits as rest days, paid holidays and annual leave, maternity leave and pay, sickness allowance, severance and long service payments, etc., subject to the satisfaction of the qualifying periods stipulated therein. These provisions directly discriminate against part-time employees and indirectly discriminate against women as they made up the majority of non-"4-18 employees". As the statutory provisions now stand, it is also open to employers to adopt odd patterns of working hours to evade their statutory responsibilities. It was reported that proposed amendments to the "4-18 requirement" had been discussed in the Labour Advisory Board, and a revision to the "4-72 requirement" had been mooted.<sup>13</sup> However, the suggested amendment is still discriminatory. Nor can it prevent employers from evading their statutory obligation by way of, say, a series of fixed-term contracts and a short break between each contract. A proposed amendment is expected to be finalised by end of 2023.

***Lack of progress on regulating work time:*** Despite repeated calls by trade unions, the Government has persistently refused to legislate for working time, overtime pay and rest breaks. The Government instead established 11 working

<sup>10</sup> [www.policyaddress.gov.hk/2022/en/p97.html](http://www.policyaddress.gov.hk/2022/en/p97.html) [retrieved 2023.03.15]

<sup>11</sup> [www.info.gov.hk/gia/general/202206/17/P2022061700246.htm](http://www.info.gov.hk/gia/general/202206/17/P2022061700246.htm) [retrieved 2023.03.15]

<sup>12</sup> "Continuous contract employees" or "4-18 employees" are those who had been employed by the same employer for four weeks or more and had worked for 18 hours or more each week (the "4-18 requirement").

<sup>13</sup> <https://shorturl.at/CD479> (in Chinese) [retrieved 2023.03.15] (in Chinese) [retrieved 2023.03.15]

groups (comprising representatives from the government, employers and workers) in 2017 to draw up non-binding, sector-specific working hours guidelines with suggested “working hours arrangements, overtime compensation arrangements and good working hours management measures for reference and adoption by employers and their employees”.<sup>14</sup> The voluntary guidelines are obviously used as a tool to delay the legislation. In fact, there is little progress on the development of working hours guidelines and there is not a single word on regulating work time in the Government’s latest Policy Programmes.

## 4. LABOUR RIGHTS VIOLATIONS

### 4.1 ARREST AND PROSECUTION OF TRADE UNION LEADERS

Since the promulgation of the NSL, at least 11 trade union leaders have been arrested. As at end of 2022, six had been sentenced to jail, three were remanded in custody, two were released on police bail and one was discharged by the police.<sup>15</sup> A summary of the arrested trade unionists can be found at the Annex.

Former General Secretary of the Hong Kong Confederation of Trade Unions (HKCTU) **Lee Cheuk-yan** was sentenced to a total of 20 months in jail for organising unauthorised assemblies in 2019 and 2020.<sup>16</sup> He was also charged with inciting subversion of state power under the NSL. The charge carries a maximum penalty of 10 years imprisonment. Lee has been remanded in custody since finished serving his jail terms on 30 September 2022. The High Court declined his application for bail on 2 December, citing the risk he could continue to commit acts endangering national security.<sup>17</sup>

Former HKCTU Chair **Carol Ng** was arrested on 6 January 2021 on suspicion of conspiracy to subversion over her participation in an unofficial primary election organised by the democracy camp in July 2020, and has been detained since 28 February. The charge carries a maximum penalty of life imprisonment. The High Court declined her appeal for bail on 20 December 2021, citing her international influence as a result of her trade union work.<sup>18</sup> The trial would be overseen by a panel of three designated High Court judges handpicked by the Chief Executive and not a jury. Ng indicated her intention to plead guilty at a High Court case manage-

<sup>14</sup> [www.labour.gov.hk/eng/plan/whp.htm](http://www.labour.gov.hk/eng/plan/whp.htm) [retrieved 2023.03.15]

<sup>15</sup> One trade union leader had finished serving his jail terms and were remanded in custody over another charge under the NSL.

<sup>16</sup> <https://www.thestandard.com.hk/breaking-news/section/4/184432/Eight-Hong-Kong-activists-jailed-for-up-to-a-year-and-two-months-over-June-4-vigil> [retrieved 2023.03.15]

<sup>17</sup> [hongkongfp.com/2022/12/06/ex-hong-kong-tiananmen-vigil-leader-denied-bail-as-court-cites-strong-evidence-in-national-security-case](http://hongkongfp.com/2022/12/06/ex-hong-kong-tiananmen-vigil-leader-denied-bail-as-court-cites-strong-evidence-in-national-security-case) [retrieved 2023.03.15]

<sup>18</sup> Reported in [2022] HKCFI 1061

ment hearing in November 2022.<sup>19</sup>

**Winnie Yu**, former chair of the Hospital Authority Employees Alliance (HAEA), was arrested on 6 January 2021 on suspicion of conspiracy to subversion over her participation in the primaries. The High Court allowed her appeal for bail on 28 July, citing there was no evidence that she “ever had an international connection”.<sup>20</sup> She was arrested again on suspicion of violating bail conditions on 7 March 2022 and her bail was revoked the next day by a magistrate, seemingly because of posts she made to social media criticising the Government’s handling of the Omicron outbreak, which has left nearly 3,000 people dead (as of early March 2022) and hospitals overwhelmed.<sup>21</sup> Yu indicated her intention to plead not guilty at a High Court case management hearing in November 2022.<sup>22</sup>

**Five leaders of the General Union of Hong Kong Speech Therapists** (GU-HKST) were charged in July and August 2021 respectively on suspicion of publishing and circulating seditious materials.<sup>23</sup> The publications in question were three children’s picture books about sheep defending their village from invading wolves. They were convicted by the District Court on 2 September 2022 and were sentenced to 19 months each in prison.<sup>24</sup> They were released after finished serving their jail terms on 10 October 2022.

## **4.2 LAW ENFORCEMENT ACTIONS AGAINST TRADE UNIONS**

The Trade Union Ordinance (TUO) prohibits the use of union fund for any political purpose. It also grants the Registrar of Trade Unions (RTU) extensive powers to “supervise” the operations and activities of trade unions. The RTU has sent enquiry letters to at least 11 trade unions since September 2021, requesting information on their activities that are suspected of being inconsistent with the TUO, or their objects or rules. The Hong Kong Journalists Association (HKJA) confirmed they had received an enquiry from the RTU in January 2022. The authorities asked the HKJA to provide information on their activities, such as movie screening, book launches, social media posts during the 2019 Anti-Extradition Law Amendment Bill

<sup>19</sup> hongkongfp.com/2022/11/08/17-hong-kong-democrats-set-to-face-90-day-national-security-trial-in-early-2023-over-unofficial-primaries [retrieved 2023.03.15]

<sup>20</sup> www.scmp.com/news/hong-kong/law-and-crime/article/3148756/national-security-law-hong-kong-judge-rules-subversion [retrieved 2023.03.15]

<sup>21</sup> www.rfa.org/english/news/china/hongkong-unionist-03102022105118.html [retrieved 2023.03.15]

<sup>22</sup> Note 19

<sup>23</sup> www.scmp.com/news/hong-kong/law-and-crime/article/3146852/hong-kong-childrens-books-trio-charged-conspiracy [retrieved 2023.03.15]

<sup>24</sup> hongkongfp.com/2022/09/10/breaking-5-hong-kong-speech-therapists-jailed-for-19-months-each-for-sedition-over-childrens-books [retrieved 2023.03.15]

Movement and the annual report on press freedom.<sup>25</sup> Several trade unions, for example the Accounting Bro'Sis Labour Union, had received warning letters from the RTU alleging their activities of violating the TUO.<sup>26</sup>

Three former office-bearers of the HKCTU were taken to police stations on 31 March 2022 to be questioned.<sup>27</sup> They have allegedly failed to respond to a series of questions regarding the HKCTU's operations, past activities, financial sources and links to groups outside Hong Kong. They were charged and found guilty under Article 16(2) of the Societies Ordinance for failing to cooperate with the police's request for information, and were fined HK\$8,000 each.<sup>28</sup> The police also raided more than 10 locations across the city, seizing documents and electronic devices from the HKCTU's offices and warehouses.

Article 9 of the NSL requires the Government to strengthen the supervision and regulation over matters concerning national security relating to trade unions. The LegCo approved on 8 July 2022 the creation of a new directorate post in the Labour Department to lead the additional work.<sup>29</sup> The Government is planning to amend the TUO to bar those convicted of national security offences from being union officers for five years. The Government also amended on 16 September 2022 the application form for registration of trade union, attaching a declaration in which the applicant must confirm that the union "will not perform or engage in any acts or activities that may endanger national security or otherwise be contrary to the interests of national security".<sup>30</sup> The applicant must also declare that all the purposes and objects of the trade union are lawful and will not contravene the TUO, its subsidiary legislation and other relevant laws of Hong Kong.

### **4.3 DISSOLUTION OF TRADE UNIONS AND LABOUR ORGANISATIONS**

Amid the fast-deteriorating political environments and the chilling effect created by the NSL and other draconian laws, many trade unions decided to disband or stopped operations. A total of 175 trade unions cancelled their registration through dissolution or at their own request in 2021 and 2022, compared with

<sup>25</sup> [hongkongfp.com/2022/01/21/unions-registry-demands-answers-from-hong-kong-journalists-assoc-over-film-screenings-book-events-social-media-posts](https://hongkongfp.com/2022/01/21/unions-registry-demands-answers-from-hong-kong-journalists-assoc-over-film-screenings-book-events-social-media-posts) [retrieved 2023.03.15]

<sup>26</sup> [www.facebook.com/104292161072557/photos/a.132386721596434/534485408053228](https://www.facebook.com/104292161072557/photos/a.132386721596434/534485408053228) [retrieved 2023.03.15]

<sup>27</sup> [hongkongfp.com/2022/03/31/hong-kong-national-security-police-quiz-ex-leaders-of-disbanded-pro-democracy-union-reports](https://hongkongfp.com/2022/03/31/hong-kong-national-security-police-quiz-ex-leaders-of-disbanded-pro-democracy-union-reports) [retrieved 2023.03.15]

<sup>28</sup> <https://shorturl.at/puLQ5> (in Chinese) [retrieved 2023.03.15]

<sup>29</sup> [www.legco.gov.hk/en/legco-business/committees/financial-proposals-results.html?2022&20220708](https://www.legco.gov.hk/en/legco-business/committees/financial-proposals-results.html?2022&20220708) [retrieved 2023.03.15]

<sup>30</sup> [www.gld.gov.hk/egazette/pdf/20222637/egn202226375158.pdf](https://www.gld.gov.hk/egazette/pdf/20222637/egn202226375158.pdf) [retrieved 2023.03.15]

only seven between 2018 and 2020.<sup>31</sup> The HAEA passed a resolution at an extraordinary general meeting on 23 June 2022 to dissolve the union effective from end of June. In a Facebook post, the HAEA said it had faced “political oppression” and “white terror”, adding “we do not regret choosing to stand at the front of the storm, connecting everyone and doing an act of defiance in this ridiculous era”.<sup>32</sup> The HKCTU, which was registered under the Societies Ordinance and resolved to disband on 3 October 2021, was officially removed from the List of Societies in the third quarter of 2022.

Separately, some 2,200 applications for registration of trade unions submitted between November 2019 and March 2022 were not processed for various reasons, such as failure to submit the required documents or information and failure to respond to RTU’s enquiries. The RTU received about 4,400 applications over the same period.<sup>33</sup>

#### **4.4 TEACHERS AND SOCIAL WORKERS’ RIGHTS TO WORK COMPROMISED**

Prospective public school teachers must pass a Basic Law test before officially taking the job starting school year 2022-23. The Education Bureau explained that teachers should have a “correct understanding” of the Basic Law to help students develop “positive attitudes” towards “one country, two systems”.<sup>34</sup> This implies that serving and prospective teachers must toe the official political line or they will be denied job opportunities in the education sector.

The Government amended the Social Workers Registration Ordinance in May 2022, barring any person convicted of national security offence from “being or continuing to be registered social workers” for life, unless all the prevailing members of the Social Workers Registration Board resolve otherwise.<sup>35</sup> The Government is also considering requiring members of the Board to take an oath to uphold the Basic Law. The Board is empowered to set and review the qualification standards for the registration of social workers as well as conduct inquiries in case of disciplinary offence.

<sup>31</sup> [hongkongfp.com/2023/02/16/hong-kong-says-trade-union-rights-intact-as-un-body-questions-impact-of-security-law-on-shrinking-civil-society](https://hongkongfp.com/2023/02/16/hong-kong-says-trade-union-rights-intact-as-un-body-questions-impact-of-security-law-on-shrinking-civil-society) [retrieved 2023.03.15]

<sup>32</sup> [hongkongfp.com/2022/06/27/hong-kong-hospital-staff-union-votes-to-disband-citing-pressure-from-all-sides](https://hongkongfp.com/2022/06/27/hong-kong-hospital-staff-union-votes-to-disband-citing-pressure-from-all-sides) [retrieved 2023.03.15]

<sup>33</sup> [www.legco.gov.hk/yr2022/english/panels/mp/papers/mp20220419cb2-299-2-e.pdf](https://www.legco.gov.hk/yr2022/english/panels/mp/papers/mp20220419cb2-299-2-e.pdf) [retrieved 2023.03.15]

<sup>34</sup> [www.info.gov.hk/gia/general/202205/25/P2022052500380.htm](https://www.info.gov.hk/gia/general/202205/25/P2022052500380.htm) [retrieved 2023.03.15]

<sup>35</sup> [www.legco.gov.hk/yr2022/english/brief/lwbc45204186\\_20220518-e.pdf](https://www.legco.gov.hk/yr2022/english/brief/lwbc45204186_20220518-e.pdf) [retrieved 2023.03.15]



## 4.5 MIGRANT DOMESTIC WORKERS' RIGHTS DENIED

The Immigration Department (ImmD) turned down 1,760 visa applications from MDWs who had prematurely terminated their employment contract allegedly without a valid reason (commonly known as “job-hopping”) in 2022.<sup>36</sup> The ImmD explains that application to change employer within the two-year contract period will normally not be approved, apart from in “exceptional circumstances”, such as the death or financial reasons of the original employer, or where there is evidence that the MDW has been abused or exploited. For MDWs suspected of job-hopping, the ImmD will not only refuse their employment visa applications, but also keep their application records in assessing any future applications they may make.<sup>37</sup> Workers switching employers for better remunerations is a normal phenomenon in the operation of a market economy. The Government’s detrimental treatments of those MDWs exercising their right to choose their employers freely amount to a modern form of slavery.

## 5. TRADE UNION ACTIVITIES AND WORKER’S COLLECTIVE ACTIONS

The Government enacted the Prevention and Control of Disease (Prohibition on Group Gathering) Regulation (Cap. 599G) in March 2020, banning all gatherings of more than four people in public areas, both indoor and outdoor. Since then, the Police has not approved any public processions, citing COVID health concerns.<sup>38</sup> As a result, there was no Labour Day Rally for three years in a row since 2020.

Amid the fast shrinking of civil society space, trade union activities were largely confined to those relating to narrow occupational interests. For instance, the **Catering and Hotel Industries Employees General Union** distributed “New Year Wishes” to passers-by during the Lunar New Year of 2022, asking the Government to compensate for worker’s loss in MPF accrued benefits because of the offsetting arrangement. The **Construction Site Workers General Union** meanwhile continues to provide training courses on occupational safety and health, and issue Safety Training Certificate.<sup>39</sup>

<sup>36</sup> hongkongfp.com/2023/03/17/hong-kong-to-launch-public-consultation-on-further-regulating-migrant-domestic-worker-job-hopping [retrieved 2023.03.15]

<sup>37</sup> www.info.gov.hk/gia/general/202201/19/P2022011900499.htm [retrieved 2023.03.15]

<sup>38</sup> hongkongfp.com/2023/01/30/no-protest-rallies-approved-in-3-years-due-to-health-concerns-say-hong-kong-security-chief [retrieved 2023.03.15]

<sup>39</sup> https://shorturl.at/eFLWZ (in Chinese) [retrieved 2023.03.15]

Over the past year, the **Cleaning Service Industry Workers Union** (CSIWU) has continued to fight for cleaner's interests. The union set up a street booth on the Labour Day of 2022, demanding the Government for amending the Minimum Wage Ordinance to ensure the SMW is set at a level that can lift workers and their families out of poverty.<sup>40</sup> The CSIWU also organised a screening of "The Narrow Road", a movie telling the hard lives of cleaning workers during the pandemic. Artist-cum-activist **Luke Ching's** "ethnographic research" on the Mass Transit Railway's (MTR) outsourced cleaners had particularly caught people's attention. Ching, who is also a member of the CSIWU, signed up with one of MTR's cleaning service providers in November 2021 and was assigned to work at Tai Wai Station. After a month working as an "undercover", he shared his experiences on social media and held a press conference with two cleaning worker's unions, exposing the appalling working conditions of MTR's outsourced cleaners.<sup>41</sup> Ching and **Joe Wong**, chair of the CSIWU, held a silent protest at Tai Wai Station on the third day of Lunar New Year 2022, calling for the MTR Corporation, in which the Government holds 75% of shares, to improve the remunerations and working conditions of outsourced cleaners, who have been paid at the SMW rate for years.<sup>42</sup>

Separately, the Government announced in February to provide, under the sixth round of Anti-epidemic Fund, a monthly allowance of HK\$2,000 for a period of five months to each frontline cleaning and security worker engaged by government's service contractors or working in private properties. MTR's subcontracted workers were however initially excluded. The CSIWU, the **Cleaning Workers Union**, the **Hong Kong Buildings Management and Security Workers General Union** and Ching organized an online petition, and staged two protests at Government Headquarters in February and March, demanding the inclusion of MTR's subcontracted workers in the allowance scheme.<sup>43</sup> The Government finally agreed to extend the coverage of the subsidy to frontline cleaning and security workers in the transport sector.<sup>44</sup>

Without the support of the HKCTU and solidarity action of other civil society organisations, many independent trade unions find it extremely difficult to carry out their activities, the impact on sectoral unions is especially acute as they have no physical workplaces for organising. However, those trade unions with strong workplace presence also suffered setback. Cathay Pacific Airways unilaterally withdraw from the union recognition agreement in November 2020 and stop negotiating with the **Cathay Pacific Airways Flight Attendants Union** (FAU) over

<sup>40</sup> <https://shorturl.at/zAHMO> (in Chinese) [retrieved 2023.03.15]

<sup>41</sup> [tyr.jour.hkbu.edu.hk/2022/03/21/justice-for-silent-frontline-cleaners](http://tyr.jour.hkbu.edu.hk/2022/03/21/justice-for-silent-frontline-cleaners) [retrieved 2023.04.12]

<sup>42</sup> [hk.on.cc/hk/bkn/cnt/news/20220203/bkn-20220203125118016-0203\\_00822\\_001.html](http://hk.on.cc/hk/bkn/cnt/news/20220203/bkn-20220203125118016-0203_00822_001.html) [retrieved 2023.04.12]

<sup>43</sup> <https://shorturl.at/jmR35> & <https://shorturl.at/hosH8> (in Chinese) [retrieved 2023.04.12]

<sup>44</sup> [www.news.gov.hk/eng/2022/05/20220504/20220504\\_180517\\_078.html](http://www.news.gov.hk/eng/2022/05/20220504/20220504_180517_078.html) [retrieved 2023.04.12]

pay and conditions of employment.<sup>45</sup> The airline also refused to negotiate with the FAU over increasing the number of staffers for returning flights and introducing minimal rest time during overseas layovers,<sup>46</sup> despite the union's repeated calls for dialogue since 2021. The FAU called for an emergency general meeting on 6 December 2022, after the management failed to respond to its email regarding various rostering issues by end of November.<sup>47</sup> Having received unanimous backing from its members, the FAU decided to stage a "work-to-rule" industrial action starting 19 January 2023.

**Foodpanda riders** staged two strikes on 15 October and 3 November 2022 over a new map system, which they claim the online food delivery platform has rigged to impose further pay cuts. The new system came after their industrial actions in the previous year when they complained the old navigation system failed to measure the actual delivery distance of couriers, which was based on only the straight line distance on the map.<sup>48</sup> The strike on 15 October involved several hundred workers. They refused to accept orders for Pandamart, the online platform's grocery service, for two days. The strike on 3 November involved around 1,200 riders, seriously affected Foodpanda services in 14 service areas across the city.<sup>49</sup> The strikes were mobilised by the workers themselves through social media chat groups, which were formed prior to the rider's strike in November 2021. The **Riders' Rights Concern Group** of Hong Kong Christian Industrial Committee had also assisted the riders, for instance, by consolidating worker's discussion and opinion, and publishing short messages and infographics in both Chinese and English.<sup>50</sup> It is encouraging to see that workers have the will and capacity to organise themselves to fight for their rights. However, without wider societal support to amplify worker's voice, Foodpanda refused to back down and did not negotiate with the striking riders.

Spontaneous collective actions organised by other workers also occurred sporadically. In the past year, there were more than a dozen protests staged by construction site workers mainly over wage arrears. For instance, in August 2022, about 60 workers, holding banners with caption "No Salaries Despite Hard Work", blocked the road near Villa Lucca construction site in Tai Po and demanded the

<sup>45</sup> [www.scmp.com/news/hong-kong/transport/article/3111621/cathay-pacific-snubs-union-over-pay-talks-and-says-it-will](http://www.scmp.com/news/hong-kong/transport/article/3111621/cathay-pacific-snubs-union-over-pay-talks-and-says-it-will) [2023.03.15]

<sup>46</sup> [www.thestandard.com.hk/breaking-news/section/4/198685/Flight-attendants-union-issues-'work-to-rule'-ultimatum-to-Cathay-Pacific](http://www.thestandard.com.hk/breaking-news/section/4/198685/Flight-attendants-union-issues-'work-to-rule'-ultimatum-to-Cathay-Pacific) [2023.03.15]

<sup>47</sup> [www.cpa-fau.org.hk/fau-news-22-11-30-01](http://www.cpa-fau.org.hk/fau-news-22-11-30-01) [retrieved 2023.04.12]

<sup>48</sup> [www.thestandard.com.hk/breaking-news/section/4/195929/Foodpanda-deliverymen-launch-strike-over-unfairly-wage-cut](http://www.thestandard.com.hk/breaking-news/section/4/195929/Foodpanda-deliverymen-launch-strike-over-unfairly-wage-cut) [retrieved 2023.03.15]

<sup>49</sup> [www.scmp.com/news/hong-kong/society/article/3196101/hong-kong-foodpanda-couriers-go-strike-demand-better-and](http://www.scmp.com/news/hong-kong/society/article/3196101/hong-kong-foodpanda-couriers-go-strike-demand-better-and) & [www.scmp.com/news/hong-kong/hong-kong-economy/article/3198345/foodpanda-deliveries-some-areas-hong-kong-grind-halt-after-1200-couriers-go-strike-dispute-leader](http://www.scmp.com/news/hong-kong/hong-kong-economy/article/3198345/foodpanda-deliveries-some-areas-hong-kong-grind-halt-after-1200-couriers-go-strike-dispute-leader) [retrieved 2023.04.12]

<sup>50</sup> [theinitium.com/article/20230330-opinion-foodpanda-steel-fixers-strikes-analysis](http://theinitium.com/article/20230330-opinion-foodpanda-steel-fixers-strikes-analysis) [retrieved 2023.04.12]

payback of all the arrear wages amounting to HK\$19 million.<sup>51</sup> These collective actions typically involve several to dozens of workers and are usually settled when the principal contractors agree to pay back wages.

## **6. EPILOGUE**

In the past year, labour rights in Hong Kong were hit hard by both the COVID outbreak and the NSL. Since the promulgation of the NSL, trade unions and labour organisations have been crushed on a massive scale, and the civil society has been greatly weakened, making it more difficult than ever for people to effectively influence government policies. During this period, incidents such as freezing the SMW, conveying benefits to conglomerates through Anti-epidemic Fund and amending labour laws to weaken the protection of workers, undoubtedly further exacerbated the already alarming social inequities. More worryingly, the Government has extended the NSL's heavy hand to virtually every corner of society, including the workplaces, professional fields and trade union functioning. A new order of tightening the control of civil society is taking shape and independent trade union movement is facing increasingly severe challenges. Yet, despite all these difficulties, trade union organisers have never stopped exploring the way to break through the current predicament and workers have started organising themselves without the assistance of trade unions to defend their own rights. A new model of worker resistance, though still in its infancy stage, is emerging.

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<sup>51</sup> [hk.epochtimes.com/news/2022-08-08/33581011](https://www.hk.epochtimes.com/news/2022-08-08/33581011) [retrieved 2023.04.12]

## ANNEX: LIST OF ARRESTED TRADE UNION LEADERS SINCE THE PROMULGATION OF THE NATIONAL SECURITY LAW

Name	Trade union	Date of first arrest	Charges (reason of arrest if not charged)	Status (as at end of 2022)
Lee Cheuk-yan	General secretary, HKCTU	28 Feb 2021	Unauthorised assemblies (18 & 31 Aug and 1 Oct 2019 and 4 Jun 2020)	Sentenced to a total of 20 months imprisonment; finished serving on 30 Sep 2022
		(Summon)	Obstructing a police officer	Sentenced to three weeks imprisonment (one week concurrent); finished serving on 30 Sep 2022
		9 Sep 2021	Inciting subversion	Denied bail on 2 Dec 2022; pending trial (High Court, not scheduled)
Carol Ng	Chair, HKCTU	6 Jan 2021	Conspiracy to commit subversion	Denied bail on 4 Mar 2021; intended to pledge guilty in Nov 2022, pending sentencing (High Court, not scheduled)
Winnie Yu	Chair, HAEA	6 Jan 2021	Conspiracy to commit subversion	Denied bail on 4 Mar 2021; granted bail on 28 Jul 2021; bail revoked on 8 Mar 2022; intended to pledge not guilty in Nov 2022; pending trial (High Court, scheduled 6 Feb 2023)
Joseph Lee	Chair, AHKNS*	6 Jan 2021	(Conspiracy to commit subversion)	Released on police bail
Cyrus Lau	EcCo member, AHPNA*	6 Jan 2021		
Lai Man-ling	Chairperson, GUHKST	22 Jul 2021	Publishing and circulating seditious materials	Denied bail on 23 Jul 2021; sentenced to 19 months imprisonment on 10 Sep 2022; released on 10 Oct 2022
Melody Yeung	Deputy chairperson, GUHKST	22 Jul 2021		
Sidney Ng	Secretary, GUHKST	22 Jul 2021		
Samuel Chan	Treasurer, GUHKST	22 Jul 2021	Publishing and circulating seditious materials	Denied bail on 30 Aug 2021; sentenced to 19 months imprisonment on 10 Sep 2022; released on 10 Oct 2022
Marco Fong	ExCo member, GUHKST	22 Jul 2021		
Leo Tang	Vice-chair, HKCTU	6 Apr 2022	(Doing acts with seditious intention)	Discharged by police in Dec 2022

\* AHKNS: Association of Hong Kong Nursing Staff;  
AHPNA: Allied Health Professionals and Nurses Association

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