

立法會
Legislative Council

LC Paper No. CB(2)1586/01-02
(These minutes have been seen
by the Administration)

Ref : CB2/PL/MP/1

LegCo Panel on Manpower

Minutes of meeting
held on Thursday, 21 March 2002 at 2:30 pm
in the Chamber of the Legislative Council Building

Members present : Hon LAU Chin-shek, JP (Chairman)
Hon Kenneth TING Woo-shou, JP
Hon James TIEN Pei-chun, GBS, JP
Hon LEE Cheuk-yan
Hon CHAN Yuen-han, JP
Hon LEUNG Yiu-chung
Hon YEUNG Yiu-chung, BBS
Hon Ambrose LAU Hon-chuen, GBS, JP
Hon SZETO Wah
Hon LI Fung-ying, JP
Hon Tommy CHEUNG Yu-yan, JP
Hon Albert CHAN Wai-yip
Hon LEUNG Fu-wah, MH, JP
Hon Frederick FUNG Kin-kee

Member attending : Dr Hon LO Wing-lok

Members absent : Hon CHAN Kwok-keung (Deputy Chairman)
Hon Cyd HO Sau-lan
Dr Hon LUI Ming-wah, JP
Hon Andrew CHENG Kar-foo
Hon Michael MAK Kwok-fung

Public Officers attending : Item III
Mrs Fanny LAW, JP
Secretary for Education and Manpower

Mr Philip K F CHOK, JP
Deputy Secretary for Education and Manpower

Mrs Rachel CARTLAND, JP
Principal Assistant Secretary for Education and Manpower

Mr James WILLIS
Controller
Student Financial Assistance Agency

Item IV

Mrs Fanny LAW, JP
Secretary for Education and Manpower

Mr Philip K F CHOK, JP
Deputy Secretary for Education and Manpower

Mr Frederick W H HO, JP
Commissioner for Census and Statistics

Mr Alvin LI
Assistant Commissioner for Census and Statistics (Social)

Item V

Mr Fred F C TING, JP
Deputy Commissioner for Labour (Occupational Safety and Health)

Mr CHOW Tung-shan, JP
Assistant Commissioner for Labour (Occupational Safety)

Mr TSE Ming-sing
Chief Occupational Safety Officer

Item VI

Mrs Pamela TAN, JP
Commissioner for Labour

Mrs Jennie CHOR, JP
Assistant Commissioner for Labour (Labour Relations)

Clerk in attendance : Mrs Sharon TONG
Chief Assistant Secretary (2) 1

Staff in attendance : Ms Dora WAI
Senior Assistant Secretary (2) 4

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I. Matters arising

(LC Paper No. CB(2)1358/01-02(01))

Members noted the list of follow-up actions.

2. The Chairman sought members' views on the arrangement for the preparation of background information papers by the Legislative Council (LegCo) Secretariat for items discussed by the Panel. At the suggestion of Ms LI Fung-ying, members agreed that background information paper should only be prepared when it was requested by members and endorsed by the Panel and on a need basis.

3. In view of members' concern expressed at the last Panel meeting about the new arrangement that only representatives from the Labour Department (LD) would attend meetings of committees studying legislation concerning occupational safety and health, Secretary for Education and Manpower (SEM) explained that such arrangement was introduced having regard to members' suggestion that the Government should review and streamline its work processes and procedures to enhance efficiency. She said that on review of the existing work practices of the Education and Manpower Bureau (EMB), it was considered that there had been duplication of efforts between the EMB and the LD in addressing committees studying matters concerning occupational safety and health. Hence, the new arrangement was introduced so that EMB staff responsible for these matters could be redeployed to take on the additional work arising from new initiatives. She assured members that representatives from the LD designated to attend meetings of the committees concerned would be the ones who were best placed to answer questions from these committees. Representatives from the EMB would also attend meetings of these committees should the committees concerned consider their attendance necessary.

4. SEM added that the EMB might have to examine the need to put forward proposals for additional staffing or deferment of certain work/initiatives if it was unable to identify manpower resources to absorb the additional new work after internal redeployment. Nonetheless, the Panel would be consulted should there be new proposals in this regard.

II. Date of next meeting and items for discussion

(LC Paper No. CB(2)1358/01-02(02))

5. Members agreed that the following items be discussed at the next meeting to be held on Thursday, 18 April 2002 at 2:30 pm -

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- (a) Youth Work Experience and Training Scheme; and
- (b) Results of the opinion survey on the public's views on age discrimination in recruitment.

III. Continuing Education Fund

(LC Paper No. CB(2)1358/01-02(03))

6. SEM briefed members on the details of the proposed implementation arrangements for the Continuing Education Fund (CEF) as set out in the Administration's paper.

7. Mr YEUNG Yiu-chung questioned why the information technology (IT) sector was not included under the CEF. SEM explained that as there were already a wide variety of IT training courses offered by a number of training institutions and government bodies in the market, a specific sector for IT was therefore not proposed for inclusion under the CEF. She further explained that courses for the four industry specific sectors to be reimbursable under the CEF would not be strictly confined to industry specific skills required by these sectors. Courses on generic skills, such as management skills, IT skills, communication skills and language skills, required by these sectors would also be reimbursable under the CEF.

8. Mr YEUNG Yiu-chung enquired whether those who possessed a university degree which was not recognised in Hong Kong would be eligible for subsidy under the CEF. SEM said that it might pose administrative difficulties to the Student Financial Assistance Agency (SFAA) in implementing the scheme if it had to assess whether the university qualifications of applicants were recognised in Hong Kong. She pointed out that owing to resource constraints, priority for subsidy under the CEF should be given to those who had not received university education as this group of people might be less adaptable in a knowledge-based economy. Whether applicants who possessed a non-recognised degree should be included under the CEF might be examined in more detail when the review of the scheme was conducted one year after its implementation.

9. Mr LEUNG Fu-wah asked how the Administration would prevent applicants from withholding information regarding their university qualifications when applying for subsidy under the CEF, and whether such act would be liable to penalty under the scheme.

10. SEM responded that it was practically difficult to ascertain whether or not an applicant possessed a university degree if he did not disclose such information to the SFAA. Nevertheless, she believed that the existing legislation already provided an effective deterrent to such act. She said that the maximum penalty for providing false information was seven years' imprisonment. The Chairman suggested that the Administration should examine whether a penalty provision should be introduced under the CEF to guard against abuse.

11. Mr LEE Cheuk-yan opined that the scope of the CEF was too narrow and queried why it was restricted to a few sectors only. In his view, the Government should help workers of all industries in need to upgrade their skills by providing them with training subsidy. He suggested that the CEF should be combined with the Skills Upgrading Scheme in order to simplify the implementation of and avoid possible overlaps between the two schemes.

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12. SEM said that the primary objective of the CEF was to promote continuing education, thereby preparing Hong Kong for the transition to a knowledge-based economy. In order to ensure that the \$5 billion earmarked for the CEF would be used in a meaningful manner to bring about benefits to the community at large and to enhance Hong Kong's overall competitiveness, appropriate parameters governing the operation of the CEF were needed. She pointed out that there were ample training opportunities in Hong Kong and the Government had been providing heavy subsidy in this area. There were also ample opportunities for degree holders to pursue continuing education, with financial assistance from the Government should they meet the eligibility criteria. The provision of \$400 million for the Skills Upgrading Scheme was targeted to help industries in need to provide tailor-made training to in-service workers to acquire better skills needed by the respective industries. Any industry which identified a need to provide such training to its in-service workers might submit its proposal to the Administration for inclusion under the scheme.

13. SEM pointed out that the number of workers involved in the logistics industry could be very large as industries like transport, storage and communications, etc might all come under the logistics industry. She further pointed out that the financial services sector might also require workers with generic skills in areas of customer service, accounting and asset management, etc. Therefore, those who wished to attend courses to improve themselves in these areas would be covered under the CEF. They might not necessarily be in-service workers of the respective industries. In view of the foregoing, SEM did not consider that the scope of the CEF was narrow.

14. Mr LEE Cheuk-yan asked whether the Administration would consider using the attendance rate of an applicant in a course, instead of a pass in the end-of-course assessment, as a criterion for reimbursement under the CEF in order to alleviate the applicant's pressure brought about by an examination. Mr LEUNG Yiu-chung echoed Mr LEE's view.

15. SEM said that it was believed that the requirement of passing an end-of-course assessment would be able to increase the sense of commitment of an applicant towards a course. Similarly, each applicant would be required to shoulder 20% of the course fee to demonstrate his commitment towards the course. Mr Kenneth TING expressed agreement with the proposed requirement.

16. Mr LEUNG Yiu-chung opined that the CEF should be open to all people and should not be subject to sector restrictions. These restrictions might on the one hand increase the burden of the SFAA in processing applications and might lead to disputes over the eligibility for reimbursement on the other. He also expressed concern as to whether the four industry specific sectors would be able to absorb all the people who had attended the relevant training courses under the CEF.

17. Miss CHAN Yuen-han expressed support for the proposal to set up the CEF. However, she considered it undesirable to confine the scheme to a few sectors, especially given that the selection of the four industry specific sectors was not market-driven, instead these sectors were chosen by the Government. She said that under the present proposal, some industries which might also be conducive to the economic development of Hong Kong, e.g. floral arrangements business, would not be able to benefit from the CEF.

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18. SEM pointed out that the CEF was not intended to cater for the training needs of all people. As resources were not unlimited, it was necessary to adopt a focused approach and identify an appropriate scope for the CEF in order to achieve effective use of the \$5 billion. The sectors proposed under the CEF were based on the advice from prominent academics, business figures and employers. After extensive consultation with stakeholders, there was a general view that the present proposal had struck a fine balance between the promotion of the four industries with great potentials for growth and the training of manpower to possess the basic generic skills required in a knowledge-based economy. She added that the Vocational Training Council could be asked to examine the possibility of organising courses on floral arrangements if it was considered that the development of floral arrangements skills would be able to bring about benefits to the economy of Hong Kong.

19. Ms LI Fung-ying enquired about the idea of including the generic skills sector on "problem solving, team building and change management" under the CEF. SEM responded that as there was a general belief that the thinking and character of a person would directly affect his ability in work, it was therefore proposed to include training in these areas under the CEF in the hope of improving the general ability of the workforce. In this connection, the Outward Bound School had been asked to help design courses which would be able to improve one's interpersonal skills, team building skills and problem solving skills, etc. Ms LI further enquired whether courses on social science and psychology would be included under the CEF. SEM answered in the negative.

20. Mr Ambrose LAU asked whether there were any criteria to assess the effectiveness of the CEF, in particular whether the objective of enhancing Hong Kong's overall competitiveness could be achieved.

21. SEM said that the Hong Kong Council for Academic Accreditation would be responsible for ensuring that the reimbursable courses would meet the needs of the respective sectors identified under the CEF and the needs of Hong Kong as a whole. Trainees' feedback on whether they could benefit from the courses subsidised under the CEF would also be collected in the form of questionnaire. She further said that the four industry specific sectors under the CEF were expected to be the growth sectors, the building up of sufficient qualified manpower for these sectors would certainly help enhance Hong Kong's overall competitiveness. She welcomed members' views on the features to be included in the mechanism for assessing the effectiveness of the CEF.

22. Mr Kenneth TING suggested that the Administration should consider comparing the status of Hong Kong in terms of the four industry specific sectors with that in other parts of the world as a means to assess the effectiveness of the CEF. He then enquired about the details of the generic skills sector on "design" under the CEF.

23. SEM responded that the scope of design was very broad, which included a series of processes varying from product design, selection of materials for a product as well as marketing and promotional activities for launching a product, etc. The design skills could be widely applied in many industries. She added that the Administration would continue to explore whether digital design should also be included in the design sector under the CEF.

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24. The Chairman concluded that members were in support of the Administration's proposal in principle. He added that the Administration would seek the approval of the LegCo Finance Committee for the creation of a non-recurrent commitment of \$5 billion for the CEF on 12 April 2002.

IV. Briefing by Census and Statistics Department on Summary of 2001 Census relating to labour and manpower issues
(LC Paper No. CB(2)1358/01-02(04))

25. Commissioner for Census and Statistics (C for C&S) gave a Power Point presentation on the summary results of the 2001 Population Census relating to labour and manpower matters. A copy of the contents of the presentation was tabled at the meeting.

(Post-meeting note : The contents of the Power Point presentation tabled at the meeting were circulated to absent members vide LC Paper No. CB(2)1426/01-02 on 22 March 2002.)

26. SEM said that based on the analysis and key trends revealed in the 2001 Population Census, the Administration would continue to step up its efforts in upgrading the overall educational attainment of Hong Kong people and providing effective training and retraining to the workforce in a bid to maintain the competitive edge in a knowledge-based economy.

27. Mr LEE Cheuk-yan pointed out that according to the analysis of the 2001 Population Census results, the differences in salary and occupation between male and female workers were still significant. He said that the Equal Opportunities Commission might be able to render assistance in improving the present situation to the effect that workers of any sex should be given equal pay for work of equal value. He further pointed out that as the number of foreign domestic helpers working in Hong Kong was large and there was a minimum allowable wage for this particular group of workers, he requested the Administration to compile another set of analysis with foreign domestic helpers excluded such that the analysis could more accurately reflect the condition of local workers. He considered that the Census and Statistics Department should follow suit when compiling the General Household Survey Reports.

28. C for C&S explained that as the number of foreign domestic helpers in Hong Kong was not small and they were actually part of the Hong Kong population, it was necessary to include them in the results presented in the Main Report in order to provide the full picture. It was, however, possible to make use of the data of the 2001 Population Census to compile a different set of results with foreign domestic helpers excluded. He undertook to provide the information requested by Mr LEE Cheuk-yan for members' reference.

(Post-meeting note : Further statistical information on labour force with foreign domestic helpers excluded provided by the Census and Statistics Department was circulated to members vide LC Paper No. CB(2)1532/01-02 on 9 April 2002.)

29. Ms LI Fung-ying pointed out an argument that the unemployment rate was more directly related to the labour force growth rate than the number of jobs available. She asked whether

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the Administration agreed with this argument and, if so, whether any mid-term assessment on the size of the labour force would be conducted with a view to identifying the implications on the overall employment situation in Hong Kong.

30. C for C&S said that this topic was still being studied by labour experts, with no uniform view at this stage. He added that the labour force of Hong Kong was still on a rising trend and its overall population was still young when compared with other parts of the world. These factors should be taken into account when assessing the overall employment situation.

31. Given the increase in educational opportunities for both males and females, Ms LI Fung-ying questioned why male workers still accounted for a large proportion of high-pay or professional occupations. C for C&S explained that as compulsory education only started in late 1970's, a lot of female workers aged 40 and above had not had the opportunity to receive higher education. Therefore, it was relatively more difficult for this group of workers to occupy senior posts.

32. Ms LI Fung-ying noted that the labour force participation rate for people aged between 15 and 24 had dropped from 17.5% in 1991 to 12.9% in 2001. She asked about the reasons for such decrease.

33. C for C&S said that the decline in the labour force participation rates for both male and female youths aged between 15 and 24 was attributable to their deferred entry into the labour force as a result of increased educational opportunities in the past 10 years. Among the people belonging to this age group, some were in full-time schooling, some were doing full-time jobs and some were taking part-time courses without employment. He further said that the number of over 100 000 unemployed young persons aged between 15 and 19 as suggested in a survey might not reflect the true picture as the relevant data had been collected through interviews at three MTR stations only. Information from other sources revealed that the problem of unemployment faced by people aged between 15 and 19 was not that serious. Such information showed that the number of unemployed persons who were within the above age group stood at around 19 000.

34. Miss CHAN Yuen-han pointed out that the labour force had recently increased by some 8 000 people. Among these people, around 6 000 were locals while the remaining 2 000 were mainlanders living in Hong Kong. She believed that a large proportion of the 6 000 people were married women who had become jobless after the shrinking of the manufacturing industries. This group of people had not been actively looking for jobs in the past but were required to work to supplement the family income during the economic downturn. In theory, they should have been considered as under the category of hidden unemployment in the past. She said that the unemployment rate should be much higher if those who were in the category of hidden unemployment were to be included in calculating the unemployment rate. As additional workers from hidden unemployment would further aggravate the problem of excessive supply of workers, she asked how the Administration would tackle the issue of hidden unemployment and enquired about the number of people who were suffering from hidden unemployment.

35. C for C&S said that the survey on those who were economically inactive but were willing to take up jobs if being offered suitable employment was conducted once every two

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years. In the last survey, the number of people in this category amounted to some 220 000. Updated information would be available after the completion of the latest survey, which was being conducted during the first quarter of 2002. He explained that those who were in this category would be classified as persons not engaged in economic activities rather than unemployed since they would be willing to take up jobs only if being offered suitable employment. Unemployed persons included those who had been actively looking for jobs, those who had demonstrated intention to look for jobs and those who had ceased to look for jobs because they had been discouraged by the difficulties they had encountered in seeking employment.

36. As to how the Administration would tackle the issue of hidden unemployment, SEM said that, as suggested by the Financial Secretary in his 2002-03 budget speech, the Government would promote the development of the local community economy as it could help promote domestic consumption and create employment opportunities. People would be encouraged to explore opportunities to carry out economic activities in the local community in the form of self-employed persons or family businesses. In addition, the Administration had been actively promoting job opportunities for local domestic helpers.

V. Provision of rest break for employees
(LC Paper No. CB(2)1358/01-02(05))

37. Deputy Commissioner for Labour (Occupational Safety and Health) (DC for L (OSH)) briefed members on the review on rest breaks conducted by the LD, the recommendations of the Labour Advisory Board (LAB) and the way forward as agreed by the LAB, as detailed in the Administration's paper.

38. Mr LEE Cheuk-yan pointed out that the International Covenant on Economic, Social and Cultural Rights (ICESCR) as applied to Hong Kong clearly prescribed that employees should be provided with reasonable rest time. He expressed dissatisfaction that the Administration had failed to comply with the ICESCR in this regard and it was not prepared to enact legislation on rest breaks despite the fact that there were at present 124 800 employees who did not have specified rest breaks. While he appreciated that employees in certain occupations, such as doctors and firemen, might not be able to have specified rest breaks on some occasions by reason of operational needs, he saw no reason why employees working as salespersons, security guards, models, etc could not be provided with specified rest breaks. Given that employers were reluctant to provide rest breaks to employees on a statutory basis in order to maintain flexibility of their workforce, he expressed doubt as to whether the Guide on the Provision of Rest Breaks (the Guide) to be compiled by the Committee on Occupational Safety and Health (the COSH) of the LAB would be effective.

39. DC for L (OSH) said that one of the Administration's prime objectives at the present time of economic downturn was to improve the business environment, thereby creating more job opportunities. The Administration would promote the compliance with the relevant provisions in the ICESCR through encouragement and promotion. He pointed out that according to the survey on rest breaks, the great majority of the 124 800 employees were not deprived of rests during the work period. What they did not have were specified periods of rest

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breaks.

40. DC for L (OSH) further said that the COSH, which comprised employer and employee representatives as well as safety and health professionals, had discussed the issue on a number of occasions. As no consensus could be reached as to whether legislation should be enacted on rest breaks, the issue had been referred to the LAB for further deliberations. Subsequently, the LAB considered the issue at its meeting on 27 February 2002. As there had also been divergent views among COSH members on the issue, views of each member had been recorded for LAB members' consideration. After deliberations, the LAB recommended that the Guide should be compiled by the COSH for the reference of employers and employees and that regular reviews on the issue of rest breaks should be conducted. He added that the proposal to compile the Guide, instead of introducing legislation, had been made after extensive consultation with stakeholders.

41. Miss CHAN Yuen-han opined that from the perspective of occupational safety and health, provision of sufficient rest breaks for employees could help prevent occupational diseases. In her view, the Administration should give its own stance on the issue as employer and employee representatives had contrasting views. She also expressed doubt about the effectiveness of the Guide.

42. DC for L (OSH) responded that SEM had clearly stated the Administration's stance over the issue during the motion debate on "Rest Time for Employees" at the LegCo meeting on 30 January 2002. He said that employees who had not been provided with reasonable rest breaks would lodge complaints with the LD. However, only one such complaint had been received so far. He assured members that the LD would attach great importance to each and every such complaint. Miss CHAN Yuen-han considered that employees would not report to the LD even though they had not been provided with rest breaks for fear of losing their jobs.

43. Mr James TIEN said that most employers would agree that employees were one of their most important assets and that the health of their employees would directly affect the operation of their companies. Therefore, provision of rest breaks to employees was important. According to the Administration's paper, only 9 300 employees, which accounted for 7.5% of those who did not have specified rest breaks, had not been provided with specified rest breaks by reason of heavy workload or insufficient manpower resources. He considered that this situation should be positively addressed. In his view, each employee should be provided with an aggregate of one hour's rest/meal break for every eight hours' work in a day. He believed that employers would follow the proposed arrangement if it was clearly stipulated in the Guide. DC for L (OSH) said that Mr TIEN's view would be referred to the COSH for consideration when compiling the Guide.

44. Mr Kenneth TING shared the view of Mr James TIEN that employees were one of the most important assets of employers. He hoped that employees and employers could work together in compiling a mutually agreeable Guide. He considered that the introduction of legislation on rest breaks might lead to social polarisation.

45. Ms LI Fung-ying said that whilst she agreed that the business environment should be improved, such improvement should not be made at the expense of employees' rights and

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benefits. She expressed doubt as to whether the 94.7% of employees had really been able to have specified rest breaks. She gathered that some drivers might not be able to take rest breaks if they had been caught in traffic jam. As there was no statutory protection in this regard, it was common that drivers had to forgo their rest breaks on these occasions. She suggested that in order to more accurately assess the situation, more information, such as factors that would affect an employee's entitlement to specified rest breaks, should be collected when conducting similar surveys in the future.

46. Dr LO Wing-lok enquired about the timetable for compiling the Guide and whether there would be different sets of guidelines for different industries or there would only be one set of general guidelines for all industries. He suggested that a representative from the medical and health care services sector should be invited to join the LAB if there was no such representative in its present composition. He expressed concern about the issue of maximum continuous working hours.

47. DC for L (OSH) said that the Guide would be drawn up by the COSH in consultation with employers and employees of various industries and trades through various channels such as tripartite committees, employer associations and employee unions. The Guide was expected to be ready in this year. It would be for the COSH to decide whether general guidelines should be drawn up for all industries or different guidelines for individual industries. In the latter case, more time would be required for compiling the guides.

VI. Proposal to address the financial problem of the Protection of Wages on Insolvency Fund

(LC Paper No. CB(2)1358/01-02(06))

48. Commissioner for Labour (C for L) briefed members on the details of the proposal to increase the Business Registration Certificate (BRC) levy from \$250 to \$600 per annum to address the financial problem of the Protection of Wages on Insolvency Fund (PWIF) as set out in the Administration's paper. She supplemented that the measure announced by the Financial Secretary in his 2002-03 budget speech to waive the business registration fee for one year would not apply to the BRC levy as the levy was not government fee which would be payable into the government revenue. Therefore, the BRC levy would continue to be collected and paid to the PWIF for making claims payment to employees of insolvency cases.

49. Mr James TIEN said that he would accept the proposed increase for one year only. He considered that a review of the new levy rate should be conducted one year after its implementation. If the situation warranted, the new levy rate could continue, otherwise the BRC levy rate should be reduced. He enquired whether the effective period of the new levy rate could be expressly stated in the Order for the amendment of the levy rate.

50. C for L explained that an order would be published in the Gazette to amend the existing BRC levy rate as set out in Schedule 2 of the Business Registration Ordinance. The new levy rate would be brought into effect following the negative vetting procedure of the LegCo. The effective period of the new levy rate would not be provided in the Order. She pointed out that the proposed increase of the BRC levy rate had been endorsed by the LAB with the condition that a review of the new levy rate be conducted one year later. Upon review, the levy rate

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might be adjusted downwards if the financial position of the PWIF so permitted.

51. Mr James TIEN further enquired whether the BRC levy rate would be reduced once the reserve of the PWIF had reached a level of \$200 million, as such level was considered to be healthy according to paragraphs 11 and 12 of the Administration's paper.

52. C for L responded that the reserve of the PWIF would be considered as healthy if it, after having excluded all expenditure to be incurred, reached a level of \$200 million. However, she pointed out that apart from the amount of reserve, the number of applications and the amount of claims payment to be made would also be taken into account when assessing the financial position of the PWIF.

53. Mr Kenneth TING opined that the PWIF should not operate on large reserve. If its reserve had reached a reasonable level, the BRC levy rate should be adjusted downwards in order to help alleviate the burden of employers. He suggested that to deter abuse of the PWIF, the LD should step up enforcement efforts against employers who evaded their responsibilities to pay outstanding wages to their employees. The Chairman suggested that the LD should also step up enforcement efforts against employers who continued to hire new employees despite their inability to pay wages to them.

54. C for L responded that the LD had already stepped up enforcement efforts vigorously in this regard. There were 77 convicted summonses in 2001 for failing to pay outstanding wages and other statutory entitlements to their employees.

55. Mr James TIEN pointed out that it was quite common that the senior management staff, e.g. directors and general managers, of a company were also owners of that company and were drawing salary. As company directors had already been subject to certain monitoring, he asked whether the Administration would consider introducing measures to prevent senior management staff who were also owners of their companies from applying for ex-gratia payment from the PWIF twice or more within a certain period of time.

56. C for L said that a mechanism was in place to monitor the possible abuse of the PWIF by refusing applications from company directors. As the data of each insolvency case received by the PWIF Board would be stored in computer, it would be easy to detect if a company director had been involved in a number of insolvency cases. If it was confirmed that the company director had been so involved, the case in question would be referred to the Official Receiver's Office for follow-up to see if whether he/she should be disqualified from holding a director's post. However, under the present mechanism it was difficult to deal with the situation if an applicant was an employee and not holding a director's post. She welcomed members' suggestions on how the situation could be addressed.

57. Mr James TIEN pointed out that many companies in Hong Kong were family businesses and that on many occasions immediate family members of the directors were also employees of these companies. He proposed that these employees should be restricted from applying for ex-gratia payment from the PWIF twice or more within a certain period of time.

58. C for L said that there might be human rights issues involved. She would consult the Department of Justice on Mr James TIEN's proposal and explore further on this. Assistant

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Commissioner for Labour (Labour Relations) supplemented that all applications for ex-gratia payment from the PWIF were subject to vigorous vetting by the PWIF Board. The number of applications received each year was around 2 000, which was in fact very small when compared with the number of companies in Hong Kong.

59. The Chairman asked the Administration to explore ways to exercise tighter control over the operation of the PWIF.

VII. Any other business

60. There being no other business, the meeting ended at 4:45 pm.

Council Business Division 2
Legislative Council Secretariat
16 April 2002