

**立法會**  
***Legislative Council***

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LC Paper No. CB(2)2049/03-04

(These minutes have been seen by the  
Administration)

**Panel on Manpower**

**Minutes of meeting  
held on Thursday, 18 March 2004 at 2:30 pm  
in Conference Room A of the Legislative Council Building**

**Members present** : Hon LAU Chin-shek, JP (Chairman)  
Hon CHAN Kwok-keung, JP (Deputy Chairman)  
Hon Kenneth TING Woo-shou, JP  
Hon Cyd HO Sau-lan  
Hon LEE Cheuk-yan  
Dr Hon LUI Ming-wah, JP  
Hon CHAN Yuen-han, JP  
Hon LEUNG Yiu-chung  
Hon Ambrose LAU Hon-chuen, GBS, JP  
Hon Andrew CHENG Kar-foo  
Hon SZETO Wah  
Hon LI Fung-ying, JP  
Hon Michael MAK Kwok-fung  
Hon LEUNG Fu-wah, MH, JP

**Member attending** : Dr Hon LO Wing-lok

**Members absent** : Hon Tommy CHEUNG Yu-yan, JP  
Hon Frederick FUNG Kin-kee

**Public Officers :**    Item III  
**attending**

Mr Matthew CHEUNG Kin-chung, JP  
Permanent Secretary for Economic Development and Labour  
(Labour)

Mrs Jenny CHAN  
Assistant Commissioner for Labour (Employees' Rights and  
Benefits)

Mr Byron NG  
Senior Labour Officer  
Labour Department

Item IV

Mr Matthew CHEUNG Kin-chung, JP  
Permanent Secretary for Economic Development and Labour  
(Labour)

Dr LO Wai-kee  
Occupational Health Consultant

Item V

Mrs Fanny LAW  
Permanent Secretary for Education and Manpower

Mr Philip CHOK  
Deputy Secretary for Education and Manpower

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

**Staff in**                :    Ms Amy WONG  
**attendance**           :    Senior Assistant Secretary (2) 1

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**I. Confirmation of minutes of previous meeting**

(LC Paper Nos. CB(2)1664/03-04 and CB(2)1694/03-04)

The minutes of the special meeting held on 15 January 2004 and the meeting held on 12 February 2004 were confirmed.

**II. Date of next meeting and items for discussion**

(LC Paper Nos. CB(2)1663/03-04(01) and (02))

2. Members agreed that the meeting originally scheduled for 15 April 2004 be re-scheduled to 22 April 2004 from 10:45 am to 1:00 pm.

3. Members also agreed that the following items be discussed at the next meeting to be held on 22 April 2004 at 10:45 am -

- (a) Employment terms for persons engaged in projects or services contracted out by the Government;
- (b) Review of Hong Kong's occupational safety and health performance in 2003;
- (c) Labour Department's strategy on promoting good employer-employee relations; and
- (d) Issues relating to international day for safety and health at work.

4. Regarding the item referred to in paragraph 6(a) above, members agreed that members of the Panel on Welfare Services be invited to join the discussion.

[*Post-meeting note:* With the agreement of the Chairman, the item "Youth Sustainable Development and Engagement Fund" has been added to the agenda, and items referred to in paragraph 6(b) and (c) above would be deferred to the meeting in May 2004.]

**III. Revamping the labour inspection service to strengthen protection of employees' rights and benefits**

(LC Paper No. CB(2)1663/03-04(03))

5. Permanent Secretary for Economic Development and Labour (Labour) (PSL) briefed members on the revamp of the Labour Inspection Service (LIS) of the Labour Department (LD) in January 2004. He said that prior to the revamp, LIS operated 19 district offices (DOs) and five special enforcement teams (SETs) responsible for protecting local workers' rights and benefits. After the revamp, the number of SETs

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had been increased from five to 12 through internal deployment of staff from DOs, and the number of DOs were correspondingly reduced from 19 to 12. The co-location of the 12 pairs of DOs and SETs would bring about operational efficiency.

6. PSL said that 445 convictions for wage offences were secured in 2003, representing a significant increase of 220% over 139 convictions in 2002. The figure included 115 in the construction industry, representing a rise of 505% against 19 in the previous year. From January to February 2004, LD recorded 77 convicted summonses for wage offences, an increase of 28% over the same period in the previous year. The number of Mainland visitors arrested for taking up illegal employment rose from 3 031 in 2002 to 4 830 in 2003, an increase of 59%.

7. PSL further said that LD had been combating illegal employment at source. From January to February 2004, 14 employers had been detected compared with one in the same period in the previous year. Regarding sentencing, among the 48 employers convicted of employing illegal workers in the first two months of 2004, 33 were sentenced to imprisonment with a term ranging from 28 days to 15 months, whereas in the same period last year, the terms ranged from seven days to four months. He added that the trend of imposing heavier sentences should have a deterrent effect on employers.

8. Mr Andrew CHENG pointed out that non-payment and late payment of wages were common in the construction industry. Mr CHENG asked whether the Administration had any strategy to proactively detect wage offences in projects or services contracted out by government departments. He considered that a mechanism should be adopted so that the government departments concerned could ensure that workers engaged by these contractors would receive their wages. Regarding illegal employment, Mr CHENG said that with the increasing number of Mainland visitors entering under the Individual Visit Scheme, the problem might become serious. He asked whether LD, in conjunction with the Immigration Department and Police, had any strategy in tackling the problem. Mr CHENG expressed concern that even with the increase in manpower, LD might not be able to cope with the rising number of illegal workers from the Mainland.

9. The Chairman remarked that it would not be easy to detect the law-infringing employers unless the employees were willing to report.

10. PSL said that special campaigns to detect wage offences had been launched in construction sites and the catering industry. Later in the year, the campaigns would be extended to the import and export trade. Apart from routine inspection of workplaces by labour inspectors, occupational safety officers would also check employers' compliance with the wage provisions during their visits to construction sites. Joint operations would also be launched with other relevant departments to tackle the problem of illegal employment. PSL undertook to explore with works departments the feasibility of checking if there were arrears of wages before paying contract fees.

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However, he noted that the newly implemented contractors registration system would be able to help.

11. Mr LEE Cheuk-yan suggested that the Administration should step up publicity on the heavier sentences imposed on the employers convicted of hiring illegal workers.

12. Citing the recent case of an employer, who by virtue of his visiting status should not employ employees (i.e. "illegal employer"), who was prosecuted for failure to pay his workers, Mr LEE Cheuk-yan asked about the employment protection for the workers hired by "illegal employers" and whether these workers could seek remedy from the Protection of Wages on Insolvency Fund.

13. PSL said that the Administration would not provide a safety net for workers engaged under illegal employment contracts. Workers should check carefully the background of the employer before starting to work.

14. Mr LEE Cheuk-yan said that it would be impractical for workers to check the identity card or the business registration certificate of employers. As employing illegal workers for renovation works was not uncommon, he suggested that more control measures should be adopted against contractors in renovation trade.

15. PSL said that he was aware of illegal employment in renovation works and demolition of illegal structures. To tackle the problem, LD would strengthen inspections at sites of demolition projects provided by the Buildings Department.

16. Mr LEUNG Fu-wah asked about the manpower involved in the 156 919 workplace inspections conducted by LD in 2003. Mr LEUNG pointed out in the case of default in mandatory provident fund (MPF) contribution, the employer who was liable to pay the contribution was also liable to pay the Mandatory Provident Fund Schemes Authority. The Authority could, by court proceedings, recover as a debt due to it the contribution that was in arrears. He asked whether LD could adopt similar arrangements in cases of default payment of wages. He urged LD to strengthen publicity on employee protection against wage offences and the heavy sentences imposed.

17. PSL appealed to the mass media to help convey the message on heavy sentences imposed for wage offences, which might be as high as an imprisonment term for 12 months. However, PSL pointed out that the recovery of MPF contributions was provided in the MPF Schemes Ordinance. Such an arrangement for recovering outstanding wages from employers would be a significant policy change, as wages were mutual agreement between employers and employees, and were not provided in the Employment Ordinance (EO). To tackle wage offences and to prevent the situation from becoming too worse, LD would conduct special campaigns targeted at the "heavily hit" industry like catering. Employees should also report wage

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offences early. He added that the workplace inspections were conducted by LIS which comprised 178 staff members.

18. The Chairman asked about the reason for the decrease in the number of workplace inspections in 2003 compared with that in 2002.

19. Senior Labour Officer (Labour Department) responded that the decrease was due to the adoption of a more effective mode of enforcement. Unlike the routine inspections in 2002, the inspections conducted in 2003 were targeted and based on intelligence collected. Hence, though the number of inspections had decreased, the number of illegal workers and employers arrested was on the rise.

20. Mr LEUNG Yiu-chung said that although workplace inspections had increased, more publicity was also important in combating the problem of illegal employment. He considered that the Administration should demonstrate to the public its determination by making continuous public announcement of prosecutions made. Mr LEUNG also pointed out the inadequate publicity on the Occupational Safety and Health (Display Screen Equipment) Regulation. PSL responded that LD would consider how to strengthen its publicity efforts.

21. Mr Kenneth TING said that LD should publicise its success in arresting illegal workers and the heavy penalty imposed. He asked whether the Administration had a list of the contractors who were not eligible to tender for government projects and whether the list was made available to the private organisations.

22. PSL said that the contractors who were convicted under the Immigration Ordinance or EO thrice would lose their eligibility to tender for government projects or services for a period of six months. The list of contractors convicted of wage offences was available to the construction industry. He considered that such a practice was effective in deterring employers from breaching the law. To tackle the problem at source, the Administration was considering a demerit point system in monitoring its contractors .

23. Mr Michael MAK referred to paragraph 17 in the Administration's paper and asked whether there was any repeated offender arrested in illegal employment activities, and if it was affirmative, whether the existing penalty was too light to have a deterrent effect. To help identify illegal workers, he suggested requiring all employees to wear an employee identity card at work.

24. PSL said that there was no repeated offender found in illegal employment activities and the penalty imposed in the first two months of 2004 was much heavier. Among the 48 employers convicted of employing illegal workers in the first two months of 2004, 33 were sentenced to imprisonment with a term ranging from 28 days to 15 months. He considered it impractical to issue a separate employee card for workers. Although workers in the construction industry were issued with a "green

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card", forged cards were found. He believed that checking the identity card and employee record would be more effective in combating illegal employment.

25. Mr SZETO Wah asked about the percentage of arrested illegal workers from the Mainland who entered under the Individual Visit Scheme, and the provinces or cities from which they came. He also asked whether such information were provided to the relevant Mainland authorities and whether their assistance would be solicited to combat illegal employment.

26. PSL said that according to the information from the Police and Immigration Department, only 0.001% of Mainland visitors entering under the Individual Visit Scheme engaged in illegal employment. Most of the illegal workers entered Hong Kong with a business visit endorsement. PSL added that the Security Bureau (SB) had maintained contact with the Mainland authorities. SB and the Police had information about illegal workers from the Mainland.

27. Miss CHAN Yuen-han said that despite the efforts made by LD, the problem of illegal employment remained serious. She urged the Administration to consider undertaking undercover operations in workplaces to gather information and to consider giving out cash reward to informers.

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28. PSL agreed that there was room for improvement. He said that the newly set up hotline was LD's initiative to facilitate reporting of illegal employment. LD would strengthen its liaison with the trade unions to gather intelligence. Regarding the issue of cash reward for information on illegal employment, he said that the Secretary for Security had previously responded to LegCo on the subject.

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29. Miss CHAN Yuen-han pointed out that there were some black spots engaging in illegal employment activities. PSL agreed to follow up on the matter.

#### **IV. Occupational diseases : trends and prevention**

(LC Paper No. CB(2)1663/03-04(04))

30. PSL briefed members on the recent trends and prevention of occupational diseases as detailed in the Administration's paper. He added that out of the 6 092 workplace inspections, eight prosecutions were taken for insufficient occupational safety and health measures such as inadequate lighting.

31. Mr LEUNG Fu-wah pointed out that the 49 occupational diseases compensable were prescribed a long time ago. The decline in cases of these diseases might be due to the cessation of certain economic activities and not necessarily improvement in occupational safety and health. Referring to the breakdown of occupational disease cases from 1999 to 2003 in Annex II to the Administration's paper, Mr LEUNG said that the figures should include the working population in the

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relevant trades to reflect a more accurate picture of the situation. He considered that a comprehensive analysis taking into consideration the economic activities and the mode of operation should be prepared in order to ascertain whether the occupational safety and health level in Hong Kong had improved.

32. Occupational Health Consultant (OHC) responded that the scope of the 49 notifiable occupational diseases prescribed for compensation purpose covered both industrial and non-industrial sectors. For instance, tenosynovitis was also a common occupational disease among clerical and related personnel. In response to Mr LEUNG Fu-wah's further question, OHC said that varicose vein and heart diseases were considered job-related instead of occupational diseases because there were many causes that might lead to the contraction of the diseases. PSL added that back-ache problem had not been classified as occupational disease even in countries such as the United Kingdom, Singapore and Australia.

33. Mr LEUNG Fu-wah said that it was very difficult to prove that a worker's illness was caused by his job. With the economic downturn, workers might avoid reporting their illness fearing that it might affect their job. Mr LEUNG was also aware that some big corporations would try to avoid reporting cases of occupational injuries and have their own company doctors treating their workers, as record of work safety would affect their tendering for projects.

34. The Chairman expressed concern about the new occupational diseases arising from the new industries.

35. PSL said that LD would keep under review economic activities in Hong Kong and new diseases for inclusion into the list of compensable occupational diseases. He agreed to provide a more detailed analysis in future.

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36. Mr Michael MAK declared that he was the chairman of an occupational safety and health committee of the Hospital Authority (HA) hospital. Mr MAK said that 386 medical and health care personnel had contracted Severe Acute Respiratory Syndrome (SARS) during the outbreak last year. He asked whether the Administration was actively considering including SARS in the list of occupational diseases. He also asked whether the inspections on workplace infection control were conducted across all sectors or targeted only at the high-risk institutions.

37. PSL responded that LD was consulting the Hong Kong Medical Association and the insurance sector on the possible inclusion of SARS and avian influenza as occupational diseases. In the light of their feedback, the Administration would consult the Labour Advisory Board and the Panel. PSL said that although SARS was not included in the list at this juncture, employees contracting the disease in the course of and arising from their duties could claim compensation under section 36(1) of the Employees' Compensation Ordinance (Cap.282). Regarding inspection, PSL said that while special inspections had been conducted at the hospitals heavily



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affected by the SARS outbreak, the routine inspection for all sectors would also target at the high-risk institutions.

38. OHC added that over 2 000 inspections on workplace infection control had been conducted in hospitals, clinics, medical laboratories, nursing homes and places undergoing cleansing work in 2003. The inspection would include checking the adequacy of protective gear for staff, the preventive measures against infection, the training record and ventilation system of the institutions. Recommendations would be given to the respective workplaces for follow-up actions.

39. Mr Michael MAK asked how inspections of workplace were conducted and whether prior notice would be given before the inspection.

40. PSL responded that surprise inspections and inspections with prior notice given would be conducted. The multi-disciplinary inspection team, headed by a doctor, normally included an occupational safety officer and an occupational hygienist.

41. OHC said that an audit approach was adopted for the inspection of hospitals. The inspection team would check the documents on occupational safety and health measures taken, the training records, guidelines issued, the internal monitoring mechanism and accident figures. The team would inspect the high-risk places, and then debrief the hospitals about its recommendations. A letter would subsequently be issued to the hospital inspected, including the suggested improvement measures.

42. Miss CHAN Yuen-han asked about the time-table for including SARS and avian influenza in the list of occupational disease.

43. PSL said that the Administration hoped that the legislative process would be completed in three months' time.

44. Dr LO Wing-lok pointed out that even after the outbreak of SARS, HA had not established any occupational health clinic for its staff. Given the high-risk job nature and working environment of medical and health care personnel, Dr LO considered that occupational health services should be provided to them as soon as they started their job and have all the potential health hazards assessed. He urged the Economic Development and Labour Bureau to discuss with the Health, Welfare and Food Bureau the setting up of an occupational safety clinic for HA staff and staff of the Department of Health. PSL agreed to discuss with the bureau and departments concerned.

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**V. Establishment of a qualifications framework and its associated quality assurance mechanism**

(LC Paper No. CB(2)1663/03-04(05))

45. Mr LEE Cheuk-yan expressed concern that the introduction of a qualifications framework (QF) would be equivalent to setting up benchmark assessment in all trades. It might adversely affect the employment of senior workers with low educational attainment when they failed the assessment. Mr LEE pointed out that the environment of Hong Kong was not conducive to lifelong learning because workers had to work long hours. He considered that there should be a mechanism to encourage employers to release their employees to attend training during working hours or a control on maximum working hours.

46. Permanent Secretary for Education and Manpower (PSEM) pointed out that QF was only a reference. Individual industries and workers were free to decide whether or not to develop specific levels of competency within the overall framework. Furthermore, there would not be any central examination. A Recognition of Prior Learning (RPL) mechanism would be put in place to recognise the skills, knowledge and experience of existing workers that were acquired through previous training, work or life experience. Regarding training and long working hours, PSEM said that it would be difficult to set down uniform arrangements. Employers and employees would have to work out mutually acceptable arrangements taking into account individual industry characteristics and address employees' concerns with flexibility. EMB planned to establish seven ITACs in 2004. In addition, the Hong Kong Council for Academic Accreditation (HKCAA) would accredit existing training courses based on QF so as to provide a progressive ladder for young people, in particular, those who were not academically oriented.

47. Mr LEE Cheuk-yan said that those who had not received any formal training would have difficulties in entering the employment market. He suggested that the Vocational Training Council (VTC) should strengthen the training programmes for young people to help them enter the employment market.

48. PSEM said that VTC was but one of the many institutes that provided training for young people. Some courses under the Youth Pre-employment Training Programme and the school curriculum might be recognised under QF. According to the experience in Australia, a clear QF would facilitate workers in seeking employment.

49. Ms LI Fung-ying said that she was in principle supportive of the Administration's direction to enhance the quality of human capital in Hong Kong. However, Ms LI shared Mr LEE Cheuk-yan's concern about the current situation that workers were working long hours and could not spare time for training. She also pointed out that the generic level descriptors of QF were too academic-oriented. She

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asked how one's academic attainment and skills would work within QF, and how one level would interface with another.

50. PSEM said that the generic level descriptors were broad indicators of the common features of qualifications, in terms of knowledge and skills. The competencies for each level of QF were relative and intended to provide reference for individual industries to draw up more specific requirements of knowledge and skills for various positions in the industries concerned. The ITACs would assess the knowledge and skills required for each level in the hierarchy of qualifications.

51. Ms LI Fung-ying expressed concern that QF would have a negative impact on employment, as in reality employers would ask their workers about the level they had attained in QF. Since each industry would have its own skills and standards required in the outcomes of qualifications, Ms LI considered that there should be a clear yardstick for assessment.

52. PSEM said that, based on the generic level descriptors, HKCAA which had been involved in the consultation process, would be tasked to moderate the proposals of ITACs to ensure consistency across industries and assure the quality of qualifications within QF.

53. In response to Miss CHAN Yuen-han's query on the time-table for the establishment of ITACs, PSEM said that the first one, i.e. ITAC in the Watch and Clock sector, was scheduled to be formed in April 2004.

54. Deputy Secretary for Education and Manpower (DSEM) added that the ITAC in the printing and publishing sector would also be set up shortly, followed by the ITACs in the Chinese Catering and Hairdressing sectors in another two months' time. It was planned that seven ITACs would be established by the end of 2004.

55. While expressing support in principle for the establishment of QF, Miss CHAN Yuen-han was concerned that QF would have an adverse effect on the employment of senior workers with low education. She cited the registration for Chinese medicine practitioners as an example that additional requirement in qualification was imposed after the relevant legislation was passed. She was strongly of the view that the chairman of the respective ITAC should be a neutral person, rather than an employer from the sector concerned.

56. PSEM said that the support and recognition of employers were critical in ensuring the success of QF. PSEM pointed out that QF merely provided a framework for recognition of qualifications. The industries themselves would have to decide how to apply QF and recognize prior learning. She expected a more lenient approach initially. Regarding the chairmanship of ITACs, she suggested that the chairman be elected from among its members at the first meeting.

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57. Miss CHAN Yuen-han expressed support that the chairman of individual ITACs be elected. She suggested that more employees be represented in ITACs.

58. Citing the registration for Chinese medicine practitioners, Mr LEUNG Yiu-chung said that though a lenient approach was supposed to be adopted in assessing previous training or experience, there might be difficulties to find ex-employers to prove previous working experience. He considered that clear and comprehensive guidelines should be put in place to ensure that the introduction of QF would not cause any loss to the existing workers in terms of job security, wages and benefits. Although QF was not meant to be mandatory, those who had been assessed might be considered superior and those who had not been assessed would feel obliged to attain the qualifications. In addition, the views of employees and employers in ITACs should be balanced. In his view, professionals were not "neutral persons" because they usually took side with employers.

59. PSEM said that she could not understand how the implementation of QF would lead to a reduction in wages. She believed that after all, the labour market was but a matter of supply and demand.

60. Mr LEUNG Yiu-chung said that the employers might pay the workers who attained a higher level in QF a higher salary and those who attained a lower level less. Despite the output of the worker remained the same as before the implementation of QF, the worker's wages would shrink.

61. As HKCAA would no longer be a body to merely conduct academic accreditation, Ms LI Fung-ying considered that its composition should comprise representatives from the industry sectors concerned.

62. PSEM said that HKCAA had conducted a self-review and assessed its readiness for the expanded role under QF. The composition of HKCAA and its functions would change. The HKCAA Ordinance would need to be amended to cater for the expanded roles and responsibilities. She believed that HKCAA would invite representatives from different industry sectors to assess the qualifications under QF.

63. In response to Miss CHAN Yuen-han, PSEM said that grandfathering arrangement might not be fair to every worker, some of whom might be more skilled than others. Details of implementation of QF would be discussed by the respective industry sector. The Administration would take a modest and cautious approach in implementing QF.

64. The Chairman believed that the Administration would not implement QF without the support of members and the labour sector. He asked the Administration to take note of members' concerns.

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**VI. Any other business**

65. There being no other business, the meeting ended at 12:50 pm.

Council Business Division 2  
Legislative Council Secretariat  
21 April 2004