

立法會
Legislative Council

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LC Paper No. CB(2)321/04-05
(These minutes have been seen
by the Administration)

Panel on Manpower

Minutes of meeting
held on Thursday, 4 November 2004 at 2:30 pm
in Conference Room A of the Legislative Council Building

Members present : Hon LAU Chin-shek, JP (Chairman)
Hon KWONG Chi-kin (Deputy Chairman)
Hon Albert HO Chun-yan
Hon LEE Cheuk-yan
Hon CHAN Yuen-han, JP
Hon LEUNG Yiu-chung
Hon Jasper TSANG Yok-sing, GBS, JP
Hon Andrew CHENG Kar-foo
Hon Abraham SHEK Lai-him, JP
Hon LI Fung-ying, BBS, JP
Hon Tommy CHEUNG Yu-yan, JP
Hon Vincent FANG Kang, JP
Hon WONG Kwok-hing, MH
Hon LEUNG Kwok-hung
Hon Andrew LEUNG Kwan-yuen, SBS, JP

Member absent : Hon Frederick FUNG Kin-kee, JP

Public Officers attending : Item III

Mr Stephen IP
Secretary for Economic Development and Labour

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

Miss Carrie CHANG
Assistant Commissioner for Labour (Policy Support and
Strategic Planning) (Acting)
Labour Department

Ms Queenie TANG
Labour Officer (Special Duties)
Labour Department

Mr H Y CHEUNG
Principal Economist
Financial Secretary's Office

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

Staff in attendance : Miss Betty MA
Senior Council Secretary (2)1

Action

I. Confirmation of minutes of previous meeting
(LC Paper No. CB(2)94/04-05)

The minutes of meeting held on 12 October 2004 were confirmed.

II. Date of next meeting and items for discussion
(LC Paper Nos. CB(2)129/04-05(01) and (02))

2. Members agreed that the following items proposed by the Administration be discussed at the next meeting to be held on 18 November 2004 at 2:30 pm -

(a) proposal to add Severe Acute Respiratory Syndrome and avian influenza A as occupational diseases under the Employees' Compensation Ordinance ; and

(b) voluntary rehabilitation programme for employees injured at work.

3. The Chairman said that at the last meeting on 12 October 2004, it was agreed that the proposal for prescribing the maximum number of working hours

Action

would be discussed at the next meeting on 18 November 2004. Members agreed to include the item in the agenda for the next meeting.

III. Proposal for a minimum wage in Hong Kong
(LC Paper No. CB(2)129/04-05(03))

4. The Secretary for Economic Development and Labour (SEDL) said that following the motion debate on the proposal for a minimum wage in Hong Kong at the Legislative Council (LegCo) meeting on 13 October 2004, the Administration had set out its initial position on the issue and the way forward in its paper to the Panel.

5. SEDL stressed that as stated in his response at the motion debate, the Administration kept an open mind on the issue. He further said that as a first step, the Administration would put the issue to the Labour Advisory Board (LAB) for deliberation at its meeting to be held in December 2004.

6. The Permanent Secretary for Economic Development and Labour (Labour) (PSL) said that the Administration kept an open mind on the issue. PSL further said that given that there were divergent views over a statutory minimum wage, the Administration considered that the issue should be studied in depth. In this connection, the Administration would first assess the socio-economic implications of the proposal. To facilitate the study, the Labour Department (LD) had already started the necessary research in conjunction with the Government Economist and the Census and Statistics Department (C&SD), with a view to compiling the relevant wage rates by trades, occupation, age and so on. The Administration would also analyse, and draw on, the experience of overseas countries with minimum wage policies. PSL pointed out that the preliminary findings revealed that there were currently about 330 000 persons whose monthly employment earnings was below \$5,000. Of these, 155 000 worked less than 35 hours in a week and might not be regarded as full-time workers. Thus, the estimated number of workers included in the study was in the region of 175 000.

7. PSL added that LAB would hold a meeting probably in the first week of December 2004 to discuss the issue. In the light of the outcome of LAB's deliberation, the Administration would take the matter to the Economic and Employment Council chaired by the Financial Secretary for further discussion.

8. Mr WONG Kwok-hing said that the proposal of a minimum wage had been discussed at length during the motion debate on 13 October 2004. The motion was negated simply because it failed to obtain a majority vote of the two groups of Members (i.e. Members returned by functional constituencies and those returned by geographical constituencies through direct elections). As a

Action

matter of fact, more than half of the Members present had voted in favour of the motion. Mr WONG believed that Members had conveyed a clear message for taking forward the proposal. Mr WONG expressed dissatisfaction that the Administration held the view that there were still divergent views on the issue. Instead of providing members with the pros and cons of minimum wage, the Administration should have indicated in its paper to the Panel its position on the issue and provide concrete proposals as to which trades should have in place a minimum wage in the first place.

9. SEDL said that the Administration was sincere in dealing with the issue of minimum wage. SEDL stressed that the issue was complex and that it would be more appropriate to initiate the discussion on the issue by LAB which was a high-level tripartite consultation forum on labour matters. SEDL added that the research being carried out by the Administration was to identify the trades that needed the protection of a minimum wage most.

10. Mr WONG Kwok-hing pointed out that LAB should be invited to consider putting in place a minimum wage in the cleansing, security and catering industries.

11. SEDL said that to facilitate LAB's deliberation, the Administration was compiling the statistics on wage levels in various trades, including cleansing and security. He further said that as LAB would meet shortly, the deliberation on the issue would not be delayed even if it was for LAB to discuss its way forward.

12. Mr LEE Cheuk-yan said that the problem of low income was deteriorating in the recent years. There was an imminent need to introduce a minimum wage policy in Hong Kong to better safeguard the livelihood of the low income workers. He was inclined to introducing a statutory minimum wage across all the trades. Mr LEE further said that to show its sincerity and speed up the deliberation process on the issue of minimum wage, the Administration should state clearly its stance on the issue. If the Administration expressed support for the introduction of a statutory minimum wage in Hong Kong, the question for LAB was how it should be implemented. Otherwise, it would take years for LAB to drag on the discussion as to whether a minimum wage should be put in place. Mr LEE stressed that while he had no objection to putting the issue to LAB for deliberation, the Administration's attitude was very crucial on how the issue would be taken forward. Mr LEE strongly urged the Administration to explain its position on the issue.

13. SEDL said that the Administration would not have proposed to put the issue to LAB for deliberation if it had no intention of considering the desirability of introducing a minimum wage in Hong Kong. SEDL stressed that it was important that consensus must be secured amongst employers, employees and the Government before the proposal could be taken forward. LAB was the most

Action

suitable forum to initiate the discussion on the issue. SEDL added that the Administration had promulgated in May 2004 a new mandatory requirement on wage rates for Government service contracts (excluding construction services) that relied heavily on the deployment of non-skilled workers. This fully demonstrated the Administration's commitment to safeguarding the benefits of workers. The Administration believed that LAB was the best forum to further study the trades or sectors that needed wage protection most.

14. Ms LI Fung-ying asked whether the extension of the mandatory requirements on wage rates for Government service contracts to other trades and sectors would form the basis for LAB's deliberation on the issue of minimum wage. If so, Ms LI further asked about the timetable for LAB's discussion and when the Administration would report the deliberation of LAB to the Panel.

15. SEDL said that the Administration hoped that the mandatory requirements on wage rates for Government service contracts would set an example for the employers in individual trades and sectors to follow. It would, however, be more appropriate and practical for LAB to work out its own work plan. SEDL further said that to facilitate the employers to consider the financial implications for specific trades if a minimum wage was to be introduced, the Administration was collating the relevant statistics on the number of jobs and workers concerned.

16. Miss CHAN Yuen-han said that the statistics on wage rates by trades should be readily available as C&SD conducted periodic surveys. She could not see the need for conducting a fresh research to collect such statistics for LAB's deliberation. Miss CHAN pointed out that according to the statistics compiled by The Hong Kong Federation of Trade Unions, there were about 250 000 workers whose monthly wage levels were below \$3,000. If the Administration failed to address the problem right away, she warned that this group of people would resort to radical actions to voice out their grievances.

17. Miss CHAN further said that she learnt that PSL had listed out 18 reasons against the proposal of minimum wage at a meeting of the Central Policy Unit (CPU). She sought clarification whether the Administration had already decided not to pursue the issue of minimum wage.

18. PSL clarified that at the CPU meeting, the pros and cons of minimum wage were put forward for the consideration of the meeting. PSL said that the Administration would not have provided such information to the CPU meeting if it did not intend to further study the issue. He pointed out that based on past experience, the Administration would take no further action on a subject if it was negated at a motion debate in LegCo. However, the Administration had now decided to put the issue to LAB for deliberation, though the motion on the

Action

subject was negatived. This showed that the Administration really kept an open mind and was sincere in exploring the issue afresh.

19. SEDL assured members that the Administration had no established stance on the issue of minimum wage. The policy decision on the issue was within the purview of the Economic Development and Labour Bureau, and not CPU.

20. Mr Andrew CHENG said that the underlying reason for members to express grave concerns as to whether the Administration would take forward the proposal for a minimum wage in Hong Kong was due to a mistrust of the Administration. Mr CHENG pointed out that it was the usual tactic of the Administration to hold in abeyance the discussion of an issue by referring it to another forum for consideration.

21. Referring to paragraph 8 of the Administration's paper, Mr Andrew CHENG considered that the Administration should provide its answers to the questions instead of listing out the questions. Mr CHENG commented that the Administration was giving an evasive answer to the issue. Mr CHENG said that the respective stances of employers and employees had been made very clear on the issue of minimum wage, i.e. the former supported the proposal while the latter opposed it. As LAB was a tripartite forum, the Administration's position was very crucial in making a decision as to whether and how the issue would be taken forward. In the absence of the Administration's position on the issue, no consensus could be secured amongst the parties concerned in LAB. Mr CHENG urged the Administration to make clear its position and formulate a concrete timetable for the introduction of a statutory minimum wage.

22. SEDL disagreed with Mr Andrew CHENG that no consensus could be secured by the employer and employee members in LAB. For instance, the long service payment was a proposal fully supported by LAB. SEDL reiterated that it was more appropriate for LAB to work out its own plan and, if appropriate, to identify the trades that should first put in place a minimum wage after considering the relevant statistics on the trades and number of workers involved and the additional operational costs for the employers.

23. The Chairman said that most members were of the view that the Administration's positive position on the issue was very crucial in expediting the formulation of a minimum wage policy.

24. Mr Andrew LEUNG said that employers also kept an open mind on the issue of minimum wage and raised no objection to discussing the issue by LAB. As the motion debate on the proposal of a minimum wage was negatived, views on the issue were divergent. Mr LEUNG, therefore, could not accept imposing a pre-condition that a minimum wage would be put in place before the issue was deliberated by LAB. If that was the case, employers would withdraw from the

Action

discussion on the issue. He added that employers also expressed reservation about setting a minimum wage across the board at all the trades or sectors. Mr LEUNG pointed out that while employers attached great importance to the rights and benefits of employees and were willing to assist those in need of assistance, introducing a minimum wage was not the only way to safeguard the benefits of employees. There were other alternatives in doing so, such as education. He stressed that there must be a deliberating process before the details of the proposal for a minimum wage could be drawn up.

25. Mr Andrew LEUNG further said that a re-election of LAB members would be held in November 2004. To ensure the continuity of LAB's deliberation on the issue of minimum wage, he wondered whether it would be more appropriate for LAB to start its discussion after the newly elected members had taken up their office.

26. SEDL said that he was delighted to learn the positive response from the employers' side. He fully agreed that there must be a deliberating process involving employers, employees and the Government before deciding how to take forward the proposal.

27. PSL said that to put the issue of minimum wage to LAB in December 2004 was to initiate the deliberation as early as possible, rather than to leave it to the new term of LAB commencing 1 January 2005. This testified to the Administration's sincerity in exploring the issue. PSL further said that the election to be held on 13 November 2004 was to elect employee members in LAB, and not all the LAB members. Moreover, the newly elected LAB members would be invited to join the meeting in December 2004.

28. Noting from paragraph 9 of the paper that the Administration was to explore in depth the feasibility and desirability of introducing a statutory minimum wage in Hong Kong, Mr Jasper TSANG said that the Administration did not make any commitment on setting a minimum wage. Mr TSANG also noted that LD had just conducted a research jointly with C&SD and the Government Economist on the issue. Mr TSANG considered that the statistics on the labour market could be compiled easily. He queried whether the Administration had ever conducted any relevant studies on the issue of minimum wage. He also asked about the object, scope and timetable for completion of the existing research study.

29. PSL responded that the recent research aimed to collect the latest statistics on the labour market, such as a breakdown of wage levels by trades and occupations, and the gravity of the problem of low wage levels. The Administration would also take the opportunity to analyse the experience elsewhere. PSL said that the research was designed to provide LAB with the

Action

relevant and concrete information for deliberation, as the information in hand was compiled in 1999.

30. Principal Economist, Financial Secretary's Office added that the research in question was a renewed attempt to study comprehensively the issue of minimum wage. Apart from analysing the minimum wage system implemented elsewhere, the research would focus more on the implications of the proposal on Hong Kong's economy, as well as on both employers and employment in the local labour market. As a number of scenarios had to be formulated and analysed using different assumptions, the assessment could not be completed within a very short time frame.

Admin

31. Mr Jasper TSANG requested the Administration to provide members with details of the research scope. PSL said that he would provide the information to members only if it was not confidential.

32. Mr Albert HO said that consequent to the economic downturn in the past years, there was a pressing need to resolve the problem of low wage rates in some trades. Mr HO pointed out that the majority of Members supported the proposal of a minimum wage in Hong Kong during the motion debate. Mr HO considered it acceptable to put the issue to LAB for deliberation if the Administration would prepare a consultation paper listing out possible options for LAB's consideration. He expressed concern that in the absence of any options for discussion, no consensus would be reached among members of LAB. Mr HO wondered whether the support of LAB on the issue of minimum wage was a prerequisite for starting the legislative process for introducing a statutory minimum wage.

33. SEDL said that as he had explained earlier, it was the Administration's well-established policy to put any labour policy initiatives to LAB for deliberation. SEDL further said that the research underway was a pragmatic, positive and forward-looking approach to take forward the issue. The research findings would provide LAB with information on the specific trades and number of workers in question as well as the financial implications for employers when the issue of minimum wage was considered. The employers might not object to the proposal if the number of trades and workers concerned were not too large. SEDL stressed that as a minimum wage policy would have far-reaching implications, the issue should be carefully deliberated by all the parties concerned. SEDL added that putting the issue to LAB was a big step forward.

34. The Chairman said that judging from what SEDL had told members at the meeting, he agreed that the Administration was a step forward in examining the issue of minimum wage.

Action

35. Mr LEUNG Yiu-chung said that viewing from the labour movement history, the Administration was a step backward in dealing with the issue of minimum wage. Mr LEUNG pointed out that in the 1940s, the Government had already enacted a piece of legislation which stipulated that a committee should be formed to determine a minimum wage. However, the legislation had never come into operation. Noting that the Administration was updating the statistics on the labour market in the light of recent economic downturn, Mr LEUNG asked whether the discussion on a statutory minimum wage policy would come to a halt when the economy rebound; if not, he could not see the reasons for collecting the statistics.

36. SEDL said that the Administration did not regard the issue of minimum wage as an ad-hoc exercise. The mandatory requirements on wage rates for Government service contracts had demonstrated the Administration's long term commitment to safeguarding the rights and benefits of workers.

37. PSL explained the background for enacting the piece of legislation referred to by Mr LEUNG Yiu-chung. He said that its introduction was modelled on the legislation enacted in UK in 1940 to give effect to the Minimum Wage-Fixing Machinery Convention (ILC26). However, when UK renounced the said convention, which was also applicable to Hong Kong, in 1985, Hong Kong had not taken similar action for the relevant local legislation at that time. PSL further said that the spirit of the legislation was no longer applicable to present-day circumstances.

38. Mr LEUNG Yiu-chung disagreed with PSL and said that the intent of enacting the piece of legislation in 1940 was to provide adequate income protection for the workers. He believed that there was always a need for protecting workers. The only issue that needed further study was how and when the minimum wage level should be adjusted. He would support LAB to start deliberating the issue of minimum wage after the relevant statistics on labour market were available, if such statistics were to enable LAB setting the minimum wage level. The Administration should, under no circumstances, delay the introduction of a statutory minimum wage by putting the issue to LAB for consideration.

39. SEDL said that the introduction of a statutory minimum wage system and the setting of a minimum wage level were inter-related issues. He stressed that the relevant statistics on the labour market would facilitate LAB to work out who needed such protection most.

40. The Deputy Chairman considered that the Administration was rather sincere in taking forward the issue of minimum wage, and he found it acceptable that the Administration had no strong views on the issue at the moment. He however, was surprised to learn that the Administration would take the proposal

Action

forward only if LAB had given its “policy support” for the issue. The Deputy Chairman asked, in the event that employer members in LAB expressed strong opposition to the proposal, whether the Administration would still take forward the proposal.

41. SEDL reiterated that as LAB was a tripartite consultation forum on labour matters, it was appropriate for it to examine any labour policy initiatives.

42. The Deputy Chairman further asked whether consensus of LAB would mean an unanimous support of LAB members. SEDL said that the decision of LAB meant a majority support of members.

43. Mr LEE Cheuk-yan said that he was given an impression that based on the findings of the Administration’s research, the Administration was to work out which trades or sectors needed income protection most. He hoped that the Administration would honour its commitment.

44. Ms LI Fung-ying pointed out that LAB was a consultation forum, and not to make policy. Ms LI further pointed out that to her knowledge, the issue of minimum wage had been discussed at length by LAB. As the views expressed by employer and employee members were divergent during the previous discussions, divided views on the issue was expected if the issue was to put to LAB for deliberation again in December 2004. Ms LI said that the Administration should draw up specific timetable for LAB to consider the issue and the plan for how the issue should be taken forward if the views of LAB were divided.

45. SEDL said that it would be premature to say whether there would be a lengthy and divergent discussion by LAB on the issue, given that LAB would not deliberate the issue until December 2004.

46. Miss CHAN Yuen-han said that the problem of low income was so serious that some workers were receiving a monthly income lower than the monthly allowance under the Comprehensive Social Security Assistance. The Administration should address the poverty problem by introducing a minimum wage policy as early as possible. Miss CHAN pointed out that even the trade unions were capable of collecting and analysing the statistics on the labour market. She disagreed with the Administration that it had first to conduct research before the issue of minimum wage could be deliberated. Miss CHAN was of the view that the Administration should provide different options for LAB’s deliberation when it met in December 2004.

47. Mr Andrew CHENG said that while he did not oppose to putting the issue to LAB for deliberation, the Administration should state its position on the matter in order to provide a direction for discussion.

Action

48. Mr LEUNG Kwok-hung said that workers had strived for a minimum wage policy for many years. Mr LEUNG further said that the Administration should state clearly its position on the issue given that it was one of the participants in the tripartite forum of LAB. The Administration should have let the public know what course of actions would be taken if no consensus was secured amongst members of LAB, particularly whether and when it would take forward the proposal. Mr LEUNG commented that the Administration had not shown its sincerity in taking forward the proposal. If the Administration intended to do so, it could draw on overseas experience the mechanism for setting minimum wage. Alternatively, the minimum wage level could be pegged with the median income.

49. SEDL reiterated that the Administration was sincere in examining the feasibility of introducing a minimum wage policy in Hong Kong. He believed that as a first step, LAB would be able to identify the trades and workers that were most in need of such protection. He, however, pointed out that the preliminary deliberation on any labour policy initiatives was always the most difficult stage.

50. Mr WONG Kwok-hing proposed to move the following motion –

“促請政府就本港最沒議價能力的行業僱員制定最低工資的推行方案及時間表。”

51. In explaining his motion, Mr WONG said that the trades with the least bargaining power referred to security, cleansing and catering. Mr WONG further said that as the Administration had so far failed to commit the introduction of a minimum wage policy nor an implementation timetable, his proposed motion sought to urge the Administration to provide options for discussion and to set an implementation timetable.

52. Mr Andrew CHENG and Mr LEUNG Kwok-hung pointed out that while they supported the motion, there were no objective criteria for determining the trades with the least bargaining power. They suggested that the minimum wage level might be set at a percentage of the median income.

53. In the light of members' views, Mr WONG Kwok-hing revised the wording of his motion, and he moved the following motion –

“本會促請政府制定最低工資的推行方案及時間表。”

(Translation)

“That this Panel urges the Administration to formulate the implementation plans and timetable for a minimum wage.”

Action

54. Mr Tommy CHEUNG said that the issue of minimum wage was discussed at length during the motion debate in October 2004. Mr CHEUNG further said that he would not support the motion as it sought to impose a pre-condition before LAB initiated the discussion on the issue. He maintained the view that the issue of minimum wage should first be put to LAB for deliberation.

55. Mr LEE Cheuk-yan considered that the motion was to urge the Administration to state its position by providing an implementation plan for the deliberation of LAB.

56. The Chairman put Mr WONG Kwok-hing's motion to vote. Seven members voted in favour of the motion while two members voted against the motion. The Chairman declared that the motion was carried.

Admin

57. The Chairman requested the Administration to provide a response to the motion.

IV. Extension of the mandatory requirement for employment terms for non-skilled workers engaged in projects or services contracted out by the Government to public bodies

58. As there was insufficient time for discussion of this item, members agreed to defer this item to the next meeting scheduled for 18 November 2004.

V. Any other business

59. The Chairman said that five Members had just written in to the Chairmen of the Panel on Manpower and Panel on Social Welfare, proposing to set up a subcommittee to study the subject of combating poverty. The Chairman suggested that the proposal be discussed at the next meeting. Members agreed.

60. There being no other business, the meeting ended at 4:35 pm.