

**立法會**  
**Legislative Council**

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LC Paper No. CB(2)2417/04-05  
(These minutes have been seen by the  
Administration)

**Panel on Manpower**

**Minutes of meeting**  
**held on Thursday, 19 May 2005 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 Frederick FUNG Kin-kee, JP  
Hon Vincent FANG Kang, JP  
Hon WONG Kwok-hing, MH  
Hon Andrew LEUNG Kwan-yuen, SBS, JP  
Hon LEUNG Kwok-hung

**Members attending** : Hon Bernard CHAN, JP  
Dr Hon KWOK Ka-ki  
Hon Albert Jinghan CHENG

**Public Officers attending** : Item IV  
  
Mr Matthew CHEUNG Kin-chung, JP  
Permanent Secretary for Economic Development and Labour  
(Labour)  
  
Mr Fred TING, JP  
Deputy Commissioner for Labour (Occupational Safety and  
Health)

Dr LO Wai-kee, JP  
Occupational Health Consultant (1)  
Labour Department

Item V

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

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

Mr Charles HUI Pak-kwan  
Senior Labour Officer (Compensation)  
Labour Department

Mr Richard YUEN  
Commissioner of Insurance  
Office of the Commissioner of Insurance

Mr CHAN Kin-por  
Representative  
The Hong Kong Federation of Insurers

Mr CHENG Kwok-ping  
Representative  
The Hong Kong Federation of Insurers

Mr Peter TAM  
Representative  
The Hong Kong Federation of Insurers

Mr Ricky SO  
Representative  
The Hong Kong Confederation of Insurance  
Brokers

Mr Jimmy HUNG  
Representative  
The Hong Kong Confederation of Insurance Brokers

Mr Adrian KING  
Representative  
The Hong Kong Confederation of Insurance Brokers

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

**Staff in attendance** : Mr Raymond LAM  
Senior Council Secretary (2) 5

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**I. Proposal to undertake an overseas duty visit**  
(LC Paper No. CB(2)1553/04-05(01))

Members noted that Miss CHAN Yuen-han had suggested at the meeting on 26 April 2005 that consideration should be given for the Panel to undertake an overseas duty visit to better understand overseas experience in resolving the problem of unemployment. The Chairman had, in discussion with some Panel members after the meeting, suggested that a visit to the Republic of Ireland be conducted by the Panel.

2. Members agreed that the duty visit to the Republic of Ireland to study the country's experience in tackling unemployment and providing training and retraining for its workforce would be conducted from 24 to 29 September 2005. Members also agreed to open the duty visit to non-Panel Members.

3. Miss CHAN Yuen-han said that besides providing the Administration with a copy of the report of the Panel's overseas visit, a representative from the Administration should be invited to join the delegation so that the Administration would be able to share members' overseas experience. Mr WONG Kwok-hing added that the Administration's representative should be an official responsible for labour-related policy. The Chairman said that he would discuss the suggestion with the Administration.

4. Mr LEE Cheuk-yan informed members that the Subcommittee to Study the Subject of Combating Poverty was considering undertaking an overseas duty visit to the Republic of Ireland and other places in September 2005 to better understand the policies and strategies adopted by other countries to reduce or eradicate poverty. Members agreed that coordination should be made, if possible, between the visit periods of the Panel and the Subcommittee.

5. Mr Vincent FANG informed members that the Panel on Health Services had planned to undertake a duty visit to Ireland and other countries to understand their

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experience in the prohibition of smoking and the impact of smoking ban on the industries concerned.

**II. Way forward for review of the Labour Tribunal and related issues**  
(LC Paper Nos. CB(2)725/04-05(01) and CB(2)1619/04-05(01))

6. The Chairman said that the report of the Working Party on the Review of the Labour Tribunal (LT) and related issues had been discussed at a number of joint meetings of the Panel on Administration of Justice and Legal Services (AJLS) and the Panel on Manpower. At its meeting on 31 March 2005, the Panel on AJLS agreed that the review of LT and related issues should be referred to the Panel on Manpower for follow-up.

7. Members agreed that the Administration should be requested to report on the progress on the enforcement of LT awards, including the difficulties encountered in enforcement and the average time needed.

8. Members also agreed that the review of LT and related issues would be followed up in the next legislative session.

**III. Date of next meeting and items for discussion**  
(LC Paper Nos. CB(2)1553/04-05(02) and (03))

9. Members agreed that the following items would be discussed at the next meeting to be held on 16 June 2005 at 2:30 pm -

- (a) Draft report of the Panel on Manpower for submission to the Legislative Council;
- (b) Enforcement of certificate of origin and its implications on local employment; and
- (c) Hong Kong's Occupational Safety Performance in 2004.

10. Members also agreed that if there was no urgent item, the regular meeting in July 2005 would not be held.

**IV. A review of the occupational diseases in 2004**  
(LC Paper No. CB(2)1330/04-05(04))

11. At the invitation of the Chairman, Permanent Secretary for Economic Development and Labour (Labour) (PSL) briefed members on the situation regarding

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occupational diseases confirmed in 2004 and the preventive measures undertaken by the Occupational Health Service of LD.

12. Noting that there were 42 cases where medical and healthcare personnel contracted job-related tuberculosis in 2004, Ms LI Fung-ying asked whether the Administration had launched any particular publicity and education programmes for employees of the relevant sectors.

13. PSL replied in the affirmative. He said that briefings regarding ventilation and the use of personal protective equipment had, for example, been conducted for medical and healthcare personnel after the outbreak of the Severe Acute Respiratory Syndrome (SARS).

14. Occupational Health Consultant (1), Labour Department (OHC(1)/LD) said that 1 702 inspections on workplace infection control had been conducted in hospitals, clinics, nursing homes and medical laboratories in 2004. A number of improvement notices and warnings regarding ventilation systems, personal protective equipment, staff training and infection control measures had been issued.

15. Ms LI Fung-ying asked about the attitude of the Hospital Authority (HA) towards occupational safety and health. PSL responded that HA was very concerned about occupational safety and health and attached great importance to it.

16. Referring to Annex II to the Administration's paper, Mr WONG Kwok-hing expressed concern about the increase in the number of cases of tenosynovitis of hand or forearm. He considered that the Administration should step up publicity and education in the area.

17. Mr WONG Kwok-hing expressed concern that HA and the Department of Health had ceased issuing subsistence allowance to workers from 1 April 2005 for the reason that less than 50% of their duties were obnoxious. He considered this very unreasonable, as the workers had to perform obnoxious duties most of the time. The Chairman asked the Administration to convey Mr WONG's views to the Civil Service Bureau and inform the Panel of the progress, if any, on the matter.

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18. Mr WONG Kwok-hing expressed concern that a case where a former employee of the Housing Department suffered from strain disorders arising from the use of unsuitable computer desk at work and had not been classified as a case of job-related tenosynovitis. Mr LEUNG Kwok-hung added that the employee was certainly suffering from job-related tenosynovitis. He considered that tenosynovitis should not be defined narrowly because of the concern that expanding the scope might result in a sharp increase in the number of claims.

19. PSL responded that he had personally met and discussed with the employee concerned. LD was following up the case.

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20. Mr LEE Cheuk-yan said that if tenosynovitis of hand and forearm was included in the list of compensable occupational diseases, tenosynovitis of shoulder should also be included in the list. He considered that back-ache problems as well as repetitive strain disorders should also be included in the list.

21. PSL responded that there was no objective sign for back-ache, which might be unrelated to jobs. The inclusion of such problems in the list of compensable occupational diseases might lead to disputes. He said that the criteria for determining whether a disease should be included in the list of compensable occupational diseases included –

- (a) whether the disease would impose significant recognised risk to workers of Hong Kong in a certain occupation; and
- (b) whether the link between the disease and the occupation can be reasonably presumed or established in individual cases.

22. OHC(1)/LD said that there was a significant relationship between jobs and tenosynovitis of hand or forearm. However, the relationship between jobs and tenosynovitis of the upper part of the upper limb was not so significant.

23. Mr LEE Cheuk-yan asked about the major problems identified with patients of the Occupational Health Clinic of LD.

24. OHC(1)/LD responded that about 83% of the patients of the Occupational Health Clinic were found to suffer from work-related disorders.

25. Mr LEE Cheuk-yan asked why strain disorders was not included in the list of compensable occupational diseases.

26. OHC(1)/LD responded that as strain disorders could not be clearly defined and could be unrelated to jobs, including it in the list of compensable occupational diseases would lead to disputes. He said that although work-related strain disorders were not compensable, it could be tackled through prevention and medical treatment. The Chairman considered that the Administration should examine ways to assist employees who suffered from work-related strain disorders.

27. Miss CHAN Yuen-han said that certain occupations had been included in the list of specified noisy occupations when the Occupational Deafness (Compensation) (Amendment) Ordinance 2003 came into operation. However, some occupations in mahjong parlours had not been included in the list. She asked about the criteria for determining whether an occupation should be included in the list of specified noisy occupations.

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28. OHC(1)/LD responded that an occupation was designated as a noisy occupation, if the mean daily personal noise exposure over a continuous period of eight hours was 90 dB(A) or above.

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29. Miss CHAN Yuen-han said that as nearly all the cases of occupational tuberculosis were found with persons employed in hospitals of HA, LD should examine the preventive measures adopted by HA. PSL agreed to follow up the matter with HA.

30. Mr Andrew LEUNG said that although there had been a decrease in the number of cases relating to occupational diseases, the Administration should launch new publicity and education programmes on occupational health, especially among small and medium enterprises, to further improve the situation. He asked whether the Administration would, in view of the small number of cases of silicosis and occupational deafness, consider merging the Pneumoconiosis Compensation Fund Board and the Occupational Deafness Compensation Board to save costs.

31. PSL responded that to achieve economy of scale, some clerical staff were already shared amongst some boards. He shared the view that the two Boards should examine how further savings could be achieved.

32. Mr Albert HO asked whether eyesight problems arising from the prolonged use of computers would be included in the list of occupational diseases.

33. OHC(1)/LD responded that studies conducted so far in different countries indicated that prolonged use of computers would not result in any deterioration of eyesight or permanent disability, although it might lead to lacrimation and fatigue of the eyes.

34. Mr Albert HO queried why there were only four occupational diseases for medical and healthcare personnel. He asked whether cleansing workers of hospitals were regarded as medical and healthcare personnel.

35. OHC(1)/LD responded that there were more than four occupational diseases which could be contracted by persons involved in medical or healthcare work. He said that whether an infection was job-related was not determined on the basis of whether the persons concerned were medical or healthcare personnel. Tuberculosis, for example, was a prescribed occupational disease for those who had close and frequent contact with a source of the infection by reason of employment.

36. Mr LEUNG Yiu-chung expressed concern that if job-related tenosynovitis was defined too narrowly, the number of such cases would be small. He asked whether the Administration would conduct studies on tenosynovitis and consider widening the scope of the occupational disease.

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37. OHC(1)/LD responded that many overseas studies indicated that the relationship between jobs and tenosynovitis of the upper part of the upper limbs was not significant.

38. The Chairman said that deformities of fingers were found with many employees of the foot massage sector. He asked whether the problem was job-related.

39. OHC(1)/LD said that tenosynovitis of hand or forearm was already a compensable occupational disease for foot massage workers as a result of repetitive movements. However, osteo arthritis of fingers, which was a degeneration phenomenon related to aging, might not arise from foot massage work.

40. PSL said that the Administration reviewed the list of compensable occupational diseases from time to time. As a result of such reviews, SARS and avian influenza A had recently been added to the list of compensable occupational diseases. He assured members that the Administration would continue with such reviews. However, he stressed that any addition to the list had to be fully justified. There had to be conclusive evidence that the disease would pose significant recognized risk to workers in a certain occupation. The list must not, and should not, be expanded simply because of public perception.

41. Mr LEUNG Yiu-chung considered that tenosynovitis and back pains arose from long working hours. He asked whether the Administration would conduct analyses of occupational diseases and update the list of compensable occupational diseases. He was of the view that the scope of tenosynovitis should be widened, if many employees were found to suffer from tenosynovitis of the upper part of upper limbs.

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42. PSL agreed to consider analysing the occupational diseases dealt with by the Occupational Health Clinic of LD. He said that additions to the list of compensable occupational disease would not be ruled out, if justified.

43. Referring to paragraph 18 of the Administration's paper, Mr Andrew CHENG asked about the average waiting time for clinical consultations provided by the Occupational Health Clinic. He considered that there should be an occupational health clinic in each administrative district to deal with work-related illness and injuries. The Administration should also do more in the prevention of occupational diseases and injuries.

44. PSL responded that the current average waiting time for clinical consultations at the Occupational Health Clinic was about four weeks. He said that consideration would be given to expanding the service of the Occupational Health Clinic, subject to the availability of resources. Mr Andrew CHENG considered that the four-week waiting time should be shortened, such as through cooperation between the public and private sectors.

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**V. Improving the employees' compensation insurance system in Hong Kong**  
(LC Paper Nos. CB(2)1553/04-05(04), CB(2)1547/04-05(01),  
CB(2)1606/04-05(01) and CB(2)1619/04-05(02))

45. At the invitation of the Chairman, PSL briefed members on the proposed measures to improve the employees' compensation insurance (ECI) system in Hong Kong. He stressed that it was the employers' responsibility to take out ECI, which was not a form of social welfare. He said that a three-pronged approach, which was summarised as follows, would be adopted for improving ECI in Hong Kong -

- (a) steps would be taken by the Hong Kong Federation of Insurers (HKFI) to improve the existing ECI system;
- (b) a residual scheme would be launched by HKFI in the first half of 2006 to provide ECI cover for those who could not purchase ECI from the market. An employer who was refused cover by at least three employees' compensation insurers or one broker could apply to join the scheme; and
- (c) the Administration would continue to study the feasibility of a central ECI scheme in Hong Kong.

46. Commissioner of Insurance (CI) informed members that ECI business accounted for about one-quarter of the general insurance business in Hong Kong. About 70 insurance companies were currently engaged in ECI business and the number of employees involved in such a business was more than 10 000. Thus, any change to the existing ECI market would have wide implications on the employment of these employees. He said that since early 2004, there had been substantial decreases, some of which exceeded 40%, in ECI premium. Although employees in Hong Kong had unrestricted access to claims for damages under the common law, the premium paid by Hong Kong employers only amounted to 1% of the total payroll, which was much lower than the percentage in many other places where employees had restricted right to claim common law damages.

47. Mr CHAN Kin-por briefed members on the proposed residual scheme and the improvement measures undertaken by HKFI to improve the existing ECI system, as detailed in the Administration's paper.

48. Mr WONG Kwok-hing said that the Hong Kong Federation of Trade Unions had been calling for the establishment of a central ECI scheme since 1990s. He pointed out that the private sector's interest in ECI business had continuously declined with the number of insurance companies engaged in ECI business decreasing from about 108 in 2000 to the present level of about 70. The private sector might not be able to cope with new risks, such as those arising from the outbreak of the Severe Acute Respiratory Syndrome (SARS). In view of these, he considered that the Administration should,

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besides implementing the proposed residual scheme, launch a central ECI scheme in the longer term.

49. CI responded that among about 130 insurance companies engaged in general insurance business in Hong Kong, 70 were engaged in ECI. This was a sufficiently large number in comparison with many other places, many of which had about 20 to 30 insurance companies.

50. Mr CHAN Kin-por said that the number of insurance companies actually engaged in ECI business had remained relatively stable at a level of about 70. He added that as the insurance sector had been able to provide such cover for the risks relating to SARS, he was confident that the insurance sector could do the same for any new risks that might arise in the future.

51. Mr LEE Cheuk-yan said that the Hong Kong Confederation of Trade Unions supported a central ECI scheme, which would benefit all parties concerned. He considered that a central ECI scheme would enable the Administration to achieve savings in manpower involved in the handling of employees' compensation. Employers would benefit from a lower premium achieved from savings in commission and management expenses. Employees, including self-employed persons and casual workers, would also benefit from better protection offered by a central ECI scheme. He pointed out that although the premium paid by the employers of other places amounted to a higher percentage of the total payroll, the premium of such places was used to meet, apart from claims, the expenses for promoting occupational safety and health, rehabilitation of injured workers and administration of the relevant ECI scheme.

52. Mr LEE Cheuk-yan asked why an employer was eligible for applying to join the residual scheme only when he was refused by at least three employees' compensation insurers. He asked whether an employer could apply to join the scheme, if the renewed insurance premium was too expensive.

53. Mr CHAN Kin-por said that while the proposed residual scheme was aimed primarily at addressing the problem of non-availability of ECI cover, insurance premium rates under the scheme would be worked out by actuaries and would be made transparent to the public. Due to competition, the premium for ECI had continuously decreased since last year and had decreased by about 25% in 2004 alone.

54. Mr Frederick FUNG said that the Hong Kong Association for Democracy and People's Livelihood supported the establishment of a central ECI scheme. He asked whether the proposed residual scheme would provide coverage for self-employed persons and part-time domestic helpers.

55. Mr CHAN Kin-por responded that the proposed residual scheme would provide the insurance coverage required under the Employees' Compensation Ordinance (Cap. 282) and thus would cover part-time domestic helpers but not self-employed persons.

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Nevertheless, the insurance sector was willing to discuss with the relevant sectors and labour unions how insurance coverage could be provided for self-employed persons.

56. Mr Albert HO asked whether the Administration had considered playing a leading role in a residual scheme which was participated by the insurance sector.

57. CI responded that whenever new risks arose, some time was needed for the insurance sector to develop solutions to tackle such new risks. It could be noted that the insurance sector had managed to tackle new risks arising from SARS in recent years.

58. Miss CHAN Yuen-han said that the proposed residual scheme could not substitute a central ECI scheme, as the private sector was business-oriented. She asked how the Administration would address the problem of non-availability of ECI cover, if the proposed residual scheme could not address the problem.

59. PSL reiterated that a three-pronged approach would be adopted in addressing the problem. Besides improvements to the existing ECI system and launching of a residual scheme, the Administration would continue studying the feasibility of a central ECI scheme in Hong Kong.

60. Ms LI Fung-ying asked how injury sustained during the period when an employer could not take out ECI for his employees would be compensated.

61. Mr CHAN Kin-por said that employers were generally informed 45 days before the expiry of their existing insurance policy whether their insurance would be renewed. Thus, employers should have sufficient time to take out new insurance, if their existing insurance would not be renewed.

62. Ms LI Fung-ying said that many employers had complained that they were unable to know whether their insurance would be renewed even prior to the expiry of their existing insurance. She asked whether there would be objective criteria for assessing the availability and accessibility of the proposed residual scheme.

63. Mr Andrew CHENG said that there were complaints about some insurance companies claiming a wide coverage when insurance was offered, but used different reasons to refuse compensation when claims were made. He asked about the criteria to be adopted for assessing the availability and affordability of the proposed residual scheme, and the criteria for assessing the viability of a central ECI scheme in Hong Kong.

64. PSL responded that the implementation details of the proposed residual scheme had yet to be worked out. He pointed out that HKFI had indicated that Legislative Council Members and representatives from the labour sector would be invited to participate in the management committee of the proposed residual scheme.

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65. The Chairman asked about the timetable for implementation of the proposed residual scheme.

66. Mr CHAN Kin-por said that as some lead time was required for the actuaries to work out the benchmark premium rate, the earliest time when the proposed residual scheme would be implemented was the first quarter of 2006.

67. Dr KWOK Ka-ki expressed disappointment that a residual scheme would be launched instead of a central ECI scheme. He pointed out that a private scheme could not provide rehabilitation as well as promotion of occupational safety and health offered by a central ECI scheme. He asked about the Administration's timetable for the introduction of a central ECI scheme. He considered that there should be a mechanism for the rehabilitation of injured employees.

68. PSL reiterated that a three-pronged approach would be adopted for improving ECI in Hong Kong. Besides taking steps to improve the existing ECI system, a residual scheme would be launched and the Administration would continue with its study on the feasibility of a central ECI scheme in Hong Kong. He said that it was too early to conclude whether a central ECI scheme would be feasible, as the study had not yet been completed.

69. Mr LEUNG Yiu-chung said that the improvement of the existing ECI system and the proposed residual scheme could not provide long-term solutions to existing problems. He considered that the Administration might have no intention to launch a central ECI scheme. He expressed concern that the private voluntary ECI market might diminish to such a stage where most ECI cover was provided under the residual scheme.

70. Mr CHAN Kin-por said that even where most ECI cover was provided under the residual scheme, ECI coverage was still provided by the insurance sector. However, such a scenario was very unlikely to happen as the proposed residual scheme was meant to be a last resort.

71. CI said that if a disproportionate amount of ECI had to be provided by the residual scheme, this would be an indication to the community that the risk for that particular sector or type of activity is unusually high. It was a signal to the community that we must find out the cause of it and do something to reduce the risk so as to reduce injuries and improve safety at work. .

72. Mr Bernard CHAN said that the proposed residual scheme was intended for addressing the problem of non-availability of ECI cover rather than high premium, which was usually determined by the claims situation. He added that overseas experience indicated that insurance premium was usually higher for a central ECI scheme. He pointed out that as ECI business currently accounted for one-quarter of the general insurance business, replacing a private market by a central ECI scheme would

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have significant impact on employees in the industry. He considered that as the insurance sector had proposed a residual scheme to address the problem of non-availability of ECI cover, they should be given the opportunity to try out the scheme.

73. The Deputy Chairman asked about the timetable for assessing the success of the proposed residual scheme. He also asked about the timetable for the Administration's study on the viability of a central ECI scheme in Hong Kong.

74. PSL responded that the residual scheme should be allowed to run for at least one to two years before its effectiveness could be assessed. He said that the feasibility of a central ECI scheme needed more studies. He added that if the proposed residual scheme could successfully address the problem of non-availability of ECI cover, it was open to question whether a central ECI scheme should be launched at all.

75. The Deputy Chairman said that if a certain period was allowed for assessing the success of the proposed residual scheme, the study on a central ECI scheme should also be completed within the same period. This would facilitate the prompt introduction of a central ECI scheme, if the proposed residual scheme was proved not viable. The Chairman said that a central ECI scheme should be launched, if the proposed residual scheme was not successful.

76. Mr WONG Kwok-hing and Mr LEE Cheuk-yan moved the following motion –

“本委員會促請在推行剩餘市場機制之餘，同時政府必須盡快落實中央補償機制，以確保香港的僱員補償保險制度得以健全。”

(Translation)

“That this Panel urges that, while introducing the residual market mechanism, the Government should, at the same time, expeditiously implement a central employees' compensation mechanism to ensure the integrity of the employees' compensation insurance system in Hong Kong.”

77. The Chairman put the motion to vote. Seven members voted in favour of the motion and no member voted against the motion. The Chairman declared that the motion was carried.

## **VI. Protection for employees who are not employed under a continuous contract**

78. In view of the time constraint, members agreed that discussion of the item would be deferred to the next meeting to be held on 16 June 2005.

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79. Ms LI Fung-ying said that the information provided in the Administration's paper dated back to 2001. She requested the Administration to provide members with more updated information.

80. There being no other business, the meeting ended at 4:40 pm.

Council Business Division 2  
Legislative Council Secretariat  
5 August 2005