

**立法會**  
**Legislative Council**

Ref : CB2/BC/3/06

LC Paper No. CB(2)1318/06-07  
(These minutes have been seen by  
the Administration)

**Bills Committee on  
Employment (Amendment) Bill 2006**

**Minutes of the 2nd meeting  
held on Thursday, 1 March 2007, at 4:30 pm  
in the Chamber of the Legislative Council Building**

- Members present** : Hon KWONG Chi-kin (Chairman)  
Hon LEE Cheuk-yan  
Hon Margaret NG  
Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP  
Hon CHAN Yuen-han, JP  
Hon LEUNG Yiu-chung  
Hon Jasper TSANG Yok-sing, GBS, JP  
Hon Andrew CHENG Kar-foo  
Hon LI Fung-ying, BBS, JP  
Hon Audrey EU Yuet-mee, SC, JP  
Hon Vincent FANG Kang, JP  
Hon WONG Kwok-hing, MH  
Hon Jeffrey LAM Kin-fung, SBS, JP  
Hon Andrew LEUNG Kwan-yuen, SBS, JP  
Dr Hon Fernando CHEUNG Chiu-hung  
Hon WONG Ting-kwong, BBS
- Members absent** : Hon Martin LEE Chu-ming, SC, JP  
Hon Alan LEONG Kah-kit, SC  
Hon LEUNG Kwok-hung
- Public Officers attending** : Mr Alan WONG Kwok-lun, JP  
Assistant Commissioner for Labour  
(Labour Relations)

Ms Monica LAW Man-yuen  
Senior Assistant Law Draftsman  
Department of Justice

Ms Bertha CHENG Wai-yue  
Chief Labour Officer (Labour Relations)  
Labour Department

Ms Teresa FONG Yuk-sim  
Senior Labour Officer (Labour Relations)  
Labour Department

Ms Christine BUT Wing-tung  
Labour Officer (Labour Relations)  
Labour Department

**Deputations  
by invitation**

: The Law Society of Hong Kong

Mr Duncan ABATE  
Chairman of the Employment Law Committee

Hong Kong Business Community Joint Conference

Mr Aaron SHUM

Mr Edward CHAN

Federation of Hong Kong Industries

Mr Stanley LAU  
Deputy Chairman

Mr Roger TAM  
Manager

Employers' Federation of Hong Kong

Mr Brian RENWICK  
Council Member

Miss Jodi KOON  
Senior Director, Operations

Right Hand Drive Motors Association (HK) Ltd.

Mr Johnny YEUNG  
Treasurer

Mr SHIH Wing-ching

Hong Kong Real Estate Agencies General Association,  
New Territories Estate Agency Association Ltd, Hong  
Kong Chamber of Professional Property Consultants  
Limited, Property Agencies Association and Estate  
Agents Management Association

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Mr Alfred TSO  
President

Hong Kong Chamber of Small and Medium  
Business Ltd.

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Mr Dennis NG  
President

Mr Andy YIU  
Chairman of Policy Concern Committee

Hong Kong Electronic Industries Association

Mr CHAN Kei-biu  
Chairman

Mr Benny KONG

The Hong Kong Federation of Trade Unions

Mr TANG Cheung-seng  
Committee member, Rights & Benefits Committee

Mr WU Yiu-fung  
Committee member, Rights & Benefits Committee

Hong Kong Confederation of Trade Unions

Mr MUNG Siu-tat  
Organising Co-ordinator

Neighbourhood and Worker's Service Centre

Mr WONG Yun-tat  
Community Affairs Officer

The Federation of Hong Kong & Kowloon Labour Unions

Ms NG Wai-yee  
Supervisor

Ms AU Sin-lai  
Vice Supervisor

Hong Kong Services Industry Employees Association

Miss CHONG Ling-lung  
President

Union of Hong Kong Beauty and Health Care Employees

Miss KUNG Sheung-nog  
Vice President

**Clerk in attendance** : Miss Mary SO  
Chief Council Secretary (2) 5

**Staff in attendance** : Miss Josephine SO  
Council Secretary (2) 1

Ms Sandy HAU  
Legislative Assistant (2) 5

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Action

- I. Meeting with deputations and the Administration**  
(LC Paper Nos. CB(2)991/06-07(04), CB(2)1158/06-07(04) to (05),  
CB(2)1167/06-07(03) to (07), CB(2)1184/06-07(01) and  
CB(2)1216/06-07(01) to (07))

The Bills Committee deliberated (Index of proceedings at **Annex**).

Action

2. The Bills Committee received views from the following organisations/individual on the Bill -

- (a) The Law Society of Hong Kong;
- (b) Hong Kong Business Community Joint Conference;
- (c) Federation of Hong Kong Industries;
- (d) Employers' Federation of Hong Kong;
- (e) Right Hand Drive Motors Association (HK) Ltd.;
- (f) Mr SHIH Wing-ching;
- (g) Hong Kong Real Estate Agencies General Association, New Territories Estate Agency Association Ltd, Hong Kong Chamber of Professional Property Consultants Limited, Property Agencies Association and Estate Agents Management Association;
- (h) Hong Kong Chamber of Small and Medium Business Ltd.;
- (i) Hong Kong Electronic Industries Association;
- (j) The Hong Kong Federation of Trade Unions;
- (k) Hong Kong Confederation of Trade Unions;
- (l) Neighbourhood and Worker's Service Centre;
- (m) The Federation of Hong Kong & Kowloon Labour Unions;
- (n) Hong Kong Services Industry Employees Association; and
- (o) Union of Hong Kong Beauty and Health Care Employees.

**II. Dates of subsequent meetings**

3. Members agreed to hold the next two meetings on -

- (a) 8 March 2007 at 8:30 am; and
- (b) 16 March 2007 at 10:45 am.

Action

4. The Clerk was instructed to seek members' availability for the proposed dates of meetings from 27 March 2007 to end of May 2007 after the meeting.
5. There being no other business, the meeting ended at 6:45 pm.

Council Business Division 2  
Legislative Council Secretariat  
15 March 2007

**Proceedings of meeting of the  
Bills Committee on  
Employment (Amendment) Bill 2006  
held on Thursday, 1 March 2007, at 4:30 pm  
in the Chamber of the Legislative Council Building**

<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action Required</b>
000000 - 000445	Chairman	Opening remarks	
000446 - 001131	The Law Society of Hong Kong	Presentation of views (LC Paper No. CB(2)991/06-07(04))	
001132 - 001647	Hong Kong Business Community Joint Conference	Presentation of views (LC Paper No. CB(2)1167/06-07(03))	
001648 - 002130	Federation of Hong Kong Industries	Presentation of views (LC Paper No. CB(2)1167/06-07(04))	
002131 - 002552	Employers' Federation of Hong Kong	Presentation of views (LC Paper No. CB(2)1167/06-07(05))	
002553 - 002855	Right Hand Drive Motors Association (HK) Ltd.	<p>Presentation of views -</p> <ul style="list-style-type: none"> <li>- additional financial burden on employers if the proposed amendments were implemented; and</li> <li>- supported setting a wage ceiling on commission for calculating statutory entitlements</li> </ul>	
002856 - 003405	Mr SHIN Wing-ching	<p>Presentation of views -</p> <ul style="list-style-type: none"> <li>- resultant increase in operating costs would make it more difficult for small and medium enterprises (SMEs) to stay in business; and</li> <li>- adverse impact of the proposed amendments on employer-employee relationship</li> </ul>	
003406 - 003824	Hong Kong Real Estate Agencies General Association, New Territories Estate Agency Association	Presentation of views (LC Paper No. CB(2)1216/06-07(01))	

Time marker	Speaker	Subject(s)	Action Required
	Ltd, Hong Kong Chamber of Professional Property Consultants Limited, Property Agencies Association and Estate Agents Management Association		
003825 - 004056	Hong Kong Chamber of Small and Medium Business Ltd.	Presentation of views (LC Paper No. CB(2)1216/06-07(02))	
004057 - 004518	Hong Kong Electronic Industries Association	Presentation of views - <ul style="list-style-type: none"> <li>- concerned that some employers would be required to backpay their employees' statutory entitlements after the enactment of the Bill; and</li> <li>- supported setting a wage ceiling on commission for calculating statutory entitlements</li> </ul>	
004519 - 004814	The Hong Kong Federation of Trade Unions	Presentation of views (LC Paper No. CB(2)1216/06-07(03))	
004815 - 005311	Hong Kong Confederation of Trade Unions	Presentation of views (LC Paper No. CB(2)1216/06-07(04))	
005312 - 005654	Neighbourhood and Worker's Service Centre	Presentation of views (LC Paper No. CB(2)1216/06-07(07))	
005655 - 010212	The Federation of Hong Kong & Kowloon Labour Unions	Presentation of views (LC Paper No. CB(2)1158/06-07(04))	
010213 - 010541	Hong Kong Services Industry Employees Association	Presentation of views (LC Paper No. CB(2)1167/06-07(06))	
010542 - 010704	Union of Hong Kong Beauty and Health Care Employees	Presentation of views (LC Paper No. CB(2)1167/06-07(07))	



Time marker	Speaker	Subject(s)	Action Required
010705 - 010717	Chairman	Inviting response from the Administration	
010718 - 011759	Admin	<p>The Administration's response to deputations' views -</p> <ul style="list-style-type: none"> <li>- the Bill did not seek to introduce any new rights and benefits for employees or create new obligations for employers, but to ensure that the original policy intention behind the calculation of statutory entitlements of employees under the Employment Ordinance (EO) was adequately reflected;</li> <li>- considerable efforts had been made by the Administration to gauge the views of employers and employees before introducing the Bill. The Labour Advisory Board (LAB) had also convened four meetings to discuss the proposal since April 2006. The proposal received majority support of the members present at the meeting of LAB on 22 August 2006;</li> <li>- rationale for the use of a 12-month moving average for calculation of statutory entitlements;</li> <li>- the Administration's stance on the proposal of setting a ceiling on commission for calculating statutory entitlements;</li> <li>- rationale behind the provision of making reference to a comparable person for the calculation of daily average or monthly average of wages where it was impracticable to calculate the amount earned by an employee, and the practicability of such application; and</li> </ul>	

Time marker	Speaker	Subject(s)	Action Required
		<ul style="list-style-type: none"> <li>- with the keeping of proper wage and leave records which was a good human resources management practice, the adoption of a moving 12-month average should not create much additional administrative work</li> </ul>	
011800 - 012334	Hon LEE Cheuk-yan Admin	<p>Using different modes of calculation of statutory entitlements for employees with fixed wages and variable wages</p> <p>Measures, if any, to ensure the keeping of proper wage and leave records by employers</p>	
012335 - 013605	Hon LI Fung-ying Hong Kong Business Community Joint Conference Admin Hon CHAN Yuen-han Federation of Hong Kong Industries	<p>Prevalence of employers in including commission of a contractual nature in the calculation of statutory entitlements under EO</p> <p>Deliberations of LAB on the proposal of introducing a workable mode of calculation for statutory entitlements under EO and the suggestion of setting a wage ceiling on commission for calculating statutory entitlements</p>	
013606 - 014116	Hon WONG Kwok-hing Admin	<p>Expressed support for putting in place a clear, simple and workable mode of calculation for statutory entitlements where commission of a contractual nature was involved</p> <p>Concerned that some employers might not have kept proper wage and leave records</p> <p>Queried how the provision of making reference to a comparable person for the calculation of daily average or monthly average of wages where it was impracticable to calculate the amount earned by an employee could safeguard the interests of employees</p>	

<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action Required</b>
014117 - 014940	Hon Mrs Selina CHOW Admin Hon Andrew LEUNG	Concerned about the financial impact of the Bill on employers, in particular those of SMEs  The Liberal Party was supportive of the proposal to set a wage ceiling on commission for calculating statutory entitlements	
014941 - 015204	Hong Kong Electronic Industries Association Hong Kong Business Community Joint Conference	Disagreed with the Administration's view that the proposed amendments did not seek to introduce any new rights and benefits for employees, or create new obligations for employers	
015205 - 015248	Hong Kong Chamber of Small and Medium Business Ltd.	Views of SME employers were not well represented on LAB	
015249 - 015418	Employers' Federation of Hong Kong	The Administration should conduct a comprehensive review of that part of EO concerning calculation of statutory entitlements before making changes to the existing arrangements	
015419 - 015527	Hong Kong Confederation of Trade Unions	Enforcement action should be taken against employers who failed to include commission of a contractual nature in the calculation of statutory entitlements	
015528 - 020040	Hon Jeffrey LAM Admin	Queried whether LAB had reached a consensus on the proposed amendments in the Bill	
020041 - 020826	Hon CHAN Yuen-han Hong Kong Business Community Joint Conference Hon Mrs Selina CHOW Hon LEE Cheuk-yan	Discussion on the need to implement the proposed amendments as soon as practicable and the necessity to strike a right balance between the interests of employers and employees to foster harmonious employer-employee relationship	
020827 - 021010	Chairman	Dates of subsequent meetings	