

立法會
Legislative Council

LC Paper No. CB(2)2734/07-08
(These minutes have been seen
by the Administration)

Ref : CB2/PL/MP/1

Panel on Manpower

Minutes of meeting
held on Thursday, 19 June 2008, 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 LEE Cheuk-yan
Hon CHAN Yuen-han, SBS, JP
Hon LEUNG Yiu-chung
Hon Jasper TSANG Yok-sing, GBS, JP
Hon LI Fung-ying, BBS, JP
Hon Tommy CHEUNG Yu-yan, SBS, JP
Hon Frederick FUNG Kin-kee, SBS, JP
Hon WONG Kwok-hing, MH
Hon Andrew LEUNG Kwan-yuen, SBS, JP
Hon Alan LEONG Kah-kit, SC
Hon LEUNG Kwok-hung

Members absent : Hon Andrew CHENG Kar-foo

Public Officers attending : Item II
Mr CHEUNG Kin-chung, Matthew, GBS, JP
Secretary for Labour and Welfare

Mr TANG Kwok-wai, Paul, JP
Permanent Secretary for Labour and Welfare

Mrs TSE LING Kit-ching, Cherry, JP
Commissioner for Labour

Miss YIM Lai-kwan, Cindy
Senior Labour Officer (Special Duties) 2
Labour Department

Item III and Item IV

Mr CHEUNG Kin-chung, Matthew, GBS, JP
Secretary for Labour and Welfare

Mr TANG Kwok-wai, Paul, JP
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Miss YIM Lai-kwan, Cindy
Senior Labour Officer (Special Duties) 2
Labour Department

Mr HOU Ka-chun, Desmond
Senior Economist (4)
Financial Secretary's Office

Ms CHAN Mei-ping, Cecilia
Senior Statistician (L) 2
Census and Statistics Department

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

Staff in attendance : Ms Janet SHUM
Senior Council Secretary (2) 8

Miss Helen DIN
Legislative Assistant (2) 1

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I. Date of next meeting and items for discussion
(LC Paper Nos. CB(2)2274/07-08(01) and (02))

Members agreed that the following items would be discussed at the next meeting to be held on 7 July 2008 -

- (a) safety in the use of tower cranes on construction sites;

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- (b) enforcement of Labour Tribunal awards; and
- (c) preparatory work for introducing a statutory minimum wage for cleaning workers and security guards if the Wage Protection Movement fails to yield satisfactory results - Composite Report on the Practical Issues Discussed

(Post meeting note: The meeting has been rescheduled for 8 July 2008.)

II. Preparatory work for introducing a statutory minimum wage for cleaning workers and security guards if the Wage Protection Movement fails to yield satisfactory results - Enforcement and penalty in relation to the implementation of a statutory minimum wage

(LC Paper No. CB(2)2274/07-08(03))

2. Mr WONG Kwok-hing said that The Hong Kong Federation of Trade Unions (HKFTU) agreed with the Administration's proposal on the enforcement and penalty in relation to the implementation of a statutory minimum wage (SMW), i.e., the extension of the prevailing enforcement mechanism and legal sanctions of the Employment Ordinance (Cap. 57) (EO) to SMW. Mr WONG enquired about the specific timetable for the introduction of a bill on SMW into the Legislative Council (LegCo) in the 2008-2009 session.

3. Secretary for Labour and Welfare (SLW) said that having sought members' views on the key issues related to SMW, the Administration would proceed immediately with the legislative procedure for the introduction of a SMW should the overall review of the Wage Protection Movement (WPM) find it ineffective. The Administration would need to issue drafting instructions to the Department of Justice (DoJ) for drafting a bill on SMW and hoped that it could be introduced into LegCo in the first half of the 2008-2009 legislative year.

4. Referring to Mr Henry TANG's recent comment made in the capacity as the Acting Chief Executive (CE) that the introduction of legislation on SMW was not a matter of natural course as a SMW might marginalise the disabled and aged workers, Mr WONG Kwok-hing asked whether the Administration had changed its stance.

5. Miss CHAN Yuen-han considered that Mr TANG's remarks on SMW was a deviation from the policy agenda of CE. She said that deputations representing the disadvantaged groups had expressed their support for the introduction of SMW.

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6. SLW said that Mr TANG's remarks was consistent with the Administration's stance on the SMW issue. As stated in CE's 2007-2008 Policy Address, the Administration would introduce a bill on SMW for cleaning workers and security guards as early as possible in the 2008-2009 session if the overall review of WPM found that it failed to yield satisfactory results. Subsequent to the mid-term review of WPM, the Administration had started the preparatory work for SMW legislation while stepping up the promotion of WPM.

7. Ms LI Fung-ying agreed with the Administration's proposal that breaches of SMW legislation would be no different from breaches of the provisions on wage payments under EO. Referring to paragraph 16 of the Administration's paper which stated that application of section 64B of EO in relation to the enforcement of SMW might arouse unease and concern among Owners' Corporation (OC) committee members, Ms LI asked whether any research had been done to underpin the claim and any measures would be proposed to tackle the problem. She considered that the Administration should adopt a more proactive approach to solve foreseeable problems instead of highlighting the negative impact of SMW legislation which was intimidating. Miss CHAN Yuen-han shared similar view.

8. SLW said that it was important to study the SMW issue objectively and analyse the relevant details from a holistic perspective. He further said that the Labour Department (LD) had commissioned the Census and Statistics Department (C&SD) to conduct a survey and collect relevant data to find out the possible impact of a SMW for cleaning workers and security guards employed by OCs or residents of private residential buildings. The survey would gather information in respect of the different types of residential buildings and the level of affordability of different groups of residents in paying management fees. He added that the Labour Advisory Board (LAB) would further discuss the enforcement of SMW targeting at residential buildings at its future meetings.

9. Commissioner for Labour (C for L) added that according to the data of C&SD in September 2007, there were some 18 000 private residential buildings in the territory of which 11 900 (65%) were single block buildings and 45% of these single block residential buildings were without management companies or OCs/Owners' Committees. LD had sought the advice of DoJ on the legal liability of residents of private residential buildings if SMW was to be introduced. In the event of introduction of SMW legislation, effort would need to be made to advise owners of residential buildings to form OCs and give attention to the details in drawing up employment contract so as to avoid a breach of the law.

10. The Chairman said that while the management of residential buildings had always been an issue, the Administration should be more proactive and

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come up with positive proposals to forestall future problem.

11. Mr LEE Cheuk-yan considered that the introduction of a SMW would not have any impact on tenement buildings or single residential blocks which had not been procuring any cleansing and guarding services. As for OCs which had engaged cleaning workers and security guards, there was always a need for compliance whether it was under the provisions of EO or that of SMW legislation. While agreeing that SMW legislation should be in alignment with EO, Mr LEE held the view that section 64B of EO should be amended so as to reverse the onus of proof or impose an evidential burden on the defendant director as to his not having knowledge of or consented to the offence. The Administration should draw reference to similar provisions under the Copyright Ordinance (Cap. 528) and consider introducing amendments to section 64B of EO.

12. SLW said that it was necessary to list out all the potential problems which might arise in the event of implementation of SMW. As regards the need to amend section 64B, DoJ had advised that the addition of the two elements, namely, "act without reasonable excuse" and "failure to act without reasonable excuse" would not in any way lessen the burden of proof on the prosecution for invoking section 64B offences to prosecute the responsible persons of a body corporate. He said that the issue concerned was more on investigation strategies rather than the provision in legislation. Pursuant to the enhanced enforcement action of LD including the strengthening of its capability in evidence collection and intelligence gathering, the number of convictions had increased sharply.

13. Mr LEUNG Yiu-chung supported the introduction of legislation for SMW. He enquired about the legal liability of OCs which had procured outsourced cleansing and guarding services and legal protection for eligible employees serving as witnesses against defaulting employers.

14. SLW said that the provisions of EO or SMW legislation would be applicable wherever an employer-employee relationship was established. For those residential buildings which had procured outsourced cleansing and guarding services, it would be the contractors providing the services who should be responsible for their employees' entitlement and benefits under EO or SMW legislation. He added that the issue of unscrupulous employers requiring employees to become self-employed was a prevailing problem irrespective of whether or not SMW was to be introduced and should be addressed separately.

15. C for L said that the determination of self-employment would not sheerly base on a person's post title but the establishment of an employer-employee relationship. In case of allegation against employers in breach of EO, enforcement agencies would conduct investigation by interviewing company directors, employers and employees and inspecting relevant documents such as

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records of employees' working hours and wage particulars. She called on members to report to LD cases concerning exploitation of employees.

16. Miss CHAN Yuen-han considered that the Administration should provide positive solution to address the potential problem arising from tenement buildings/single residential blocks in the event of the implementation of SMW. She enquired how the Administration would address the problem of exploitation of self-employed persons. She cited a case in which an elderly cleaner forced to become self-employed could not get her severance payment despite the fact that she was in possession of production tool provided by the OC. She added that SMW should cover aged employees so as to enable them to earn a living.

17. C for L said that LD had stepped up enforcement against cases of false self-employment such as conducting targeted inspection and encouraging employees to report to LD. In case of dispute over the employer-employee relationship, LD would provide conciliation service for the parties concerned. In some cases, employees who had signed a self-employment contract could also be awarded with the employees' statutory rights and benefits if they could provide sufficient evidence to prove to the court the existence of the employer-employee relationship. She added that LAB would further discuss the issue on enforcement of SMW relating to residential buildings pursuant to LAB members' return from the overseas visit. As the issue was a complex one, the Administration would need time to work out further details with other concerned parties such as the Home Affairs Department.

18. Referring to paragraph 10 of the Administration paper, Mr Alan LEONG asked why the rate of statutory benefits of some employees might be affected by the existence of a SMW.

19. C for L said that under EO, employees' statutory benefits would be calculated according to the average daily wages earned by an employee in the 12-month period. In the event of the introduction of a SMW for the two specified occupations adopting an hourly rate approach, the rate of statutory benefits of some employees might be affected, namely, a different denominator would be used in the calculation for these employees due to the existence of a SMW.

20. Mr Alan LEONG further asked whether the Administration had sought legal advice on the offences of non-compliance with records keeping, and if not, when it would do so.

21. C for L said that under EO, every employer must at all times keep a minimum of 12 months' wage record setting out the wages and employment history of each employee. While there was no prescribed form under EO for employers to keep employment record, the Administration would consider

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requiring employers to maintain detailed minimum wage records in a prescribed form should SMW legislation be in place. A stringent requirement on the maintenance of wage records would help facilitate enforcement agencies' investigation against false self-employment and exploitation of employees. She added that LD had liaised closely with DoJ in the course of the preparatory work for SMW legislation. LD would seek DoJ's advice on issues related to offences of record keeping in the following week.

22. Mr LEUNG Kwok-hung held the view that the Administration should proceed immediately with the introduction of legislation for SMW so as to alleviate the problem of working poverty.

23. In response to Mr LEE Cheuk-yan's comment that it was intimidating for the Administration to state the risk of displacement of the vulnerable workers after a SMW was introduced, C for L said that it was upon the advice of the Economist Analysis and Business Facilitation Unit that the Administration raised the issue of a possible behavioural change in engaging cleansing and guarding services in the event of implementation of SMW legislation. She explained that overseas experience indicated that the SMW level was crucial as to whether a mandatory wage requirement would give rise to possible behavioural change. If the level of SMW was set too high and allowed no room for downward adjustment, job opportunity for low-skilled workers with little occupational mobility might diminish as a result.

24. C for L added that LD would need to further study the issues related to the enforcement of SMW legislation targeting at residential buildings and the possible impact it would have on OCs and buildings without management companies and OCs. Apart from the need to encourage OCs to engage management companies in the light of future implementation of Mandatory Building Inspection Scheme, if a SMW was to be implemented, there might be a need to provide transitional period for residential buildings and launch publicity campaign to enhance the awareness of OCs to comply with SMW legislation.

25. Considering that a SMW ought to be computed on an hourly or monthly basis, Mr LEUNG Yiu-chung asked why statutory benefits for minimum wage earners would be calculated in relation to the average daily wages earned by an employee in the preceding 12 months.

26. C for L explained that the existing mode of calculation of the statutory entitlements by making reference to the average daily wages earned by an employee during the 12-month period, or such lesser period when the employee was under the employment of the concerned employer was agreed by members during the scrutiny of the Employment (Amendment) Bill 2006. If a SMW was to be introduced, the statutory benefits for eligible employees would be calculated at a wage rate not lower than the SMW level. As the Administration

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proposed that a SMW would be set on an hourly basis, eligible employees' monthly salary, notwithstanding the number of hours worked per day, would be a sum no less than the multiple of a minimum hourly rate.

27. Mr LEUNG Kwok-hung reiterated that CE should affirm his stance on the implementation of legislation for SMW and consider introducing mandatory collective bargaining and statutory maximum working hours simultaneously.

III. Preparatory work for introducing a statutory minimum wage for cleaning workers and security guards if the Wage Protection Movement fails to yield satisfactory results - Setting of the level of a statutory minimum wage
(LC Paper No. CB(2)2274/07-08(04))

28. Mr WONG Kwok-hing agreed that the level of SMW should be set with reference to a basket of social, economic and employment factors. He said that HKFTU was of the view that in setting the SMW level, the market average wage rates and basic cost of living should be taken into account. He asked how the two components "the ability of employers to absorb the wage increases" and "wage levels and trends of lower-end workers" would be considered as the relevant factors in setting the minimum wage level.

29. SLW said that the information provided in the Administration's paper served as a basis for discussion. The Administration did not have a stance on the indicators/factors listed therein, and they were among the many possibilities which could be considered in setting the wage level. The Administration would keep an open mind and consider the matter in a holistic manner. He added that LAB would further discuss the issue on the SMW level.

30. C for L said that the SMW regime in the United States (US) and the United Kingdom (UK) had respectively adopted "ability of employers to absorb the wage increases" and "economic conditions" as one of the criteria in setting SMW level, while "wage of comparable workers" was adopted by US and Australia in their SMW regime. According to the initial feedback of the delegation which was studying the SMW regime in UK, the Low Pay Commission advised that in setting the SMW level, it was important to adopt a flexible, cautious and evidence-based approach. To identify the extent of data to be collected for the purpose of setting the SMW level in Hong Kong, C&SD's representative would study the approaches adopted in official statistical agencies in UK and other places. LAB would further discuss the issue pending members' return from the overseas visit.

31. Miss CHAN Yuen-han agreed that the Administration could consider a basket of factors/indicators in setting the SMW level, but a minimum wage

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should ultimately enable workers to sustain a basic standard of living. She said that the SMW level should not be lower than the level of CSSA in order to provide an incentive for workers to live on self-reliance. She added that a SMW regime should be implemented in tandem with other relief measures such as those adopted by US and other places.

32. SLW reiterated that the information provided in the Administration's paper served as a basis for discussion and the Administration did not have a fixed stance on the issue. He added that the setting of the SMW level and that of CSSA should be considered as two separate issues as the two regimes were designated for different purposes.

33. C for L said that the Administration's paper had suggested the cost of living as one of the basic components in setting the SMW level. She explained that it was necessary to include the "ability of employers to absorb the wage increases" as one of the factors/indicators having regard to the Hong Kong economy at large. She added that Hong Kong was one of the most externally-oriented economies in the world, and it was important to ensure that pursuit of minimum pay would not entail a significant loss of jobs and economic competitiveness of Hong Kong. How the local job market had fared during the previous economic downturn with the outbreak of the Severe Acute Respiratory Syndrome helped illustrate the point.

34. Senior Economist (4)/Financial Secretary's Office (SE(4)/FSO) supplemented that Hong Kong had a high degree of external-orientation with total trade in goods and services being more than four times that of its Gross Domestic Product (GDP) in 2007. In contrast, the respective ratios in US and UK were 29% and 55%. It implied that Hong Kong was extremely sensitive to vicissitudes in the external economic environment.

35. Mr Frederick FUNG said that the level of SMW and that of CSSA should be read across instead of separately, as a SMW set at too low a level or below the CSSA level could not serve as an incentive to encourage people to live on self-reliance, conversely, people might turn to rely on CSSA. Mr FUNG considered that the flexible, cautious and evidence-based approach mentioned by C for L in setting the SMW level should be substantiated with measurable indicators. He suggested that the SMW level should be no lower than the CSSA level and above the poverty line, set at 60% or 70% of the median wages and sufficient to meet the basic cost of living. The factor of inflation rate should be considered when the minimum wage rate was under review.

36. SLW said that while the CSSA level could be used as a reference indicator in setting the SMW level, it should be noted that the level of CSSA was calculated in the light of the living cost of a family unit. Its nature was different from SMW which was an employee's entitlement in respect of work

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done. In setting the SMW level, the Administration would take into consideration a basket of factors including the cost of living and inflation rate.

37. C for L supplemented that the delegation to UK would report on its findings and LAB would continue its discussion on the SMW issue. She added that when UK first introduced a SMW, the level was set at one third of the average wage.

38. Referring to paragraph 4 of the Administration paper, Ms LI Fung-ying considered that the Administration was not being objective in stating that the higher the SMW wage level, the greater would be the risk of displacement of the more vulnerable workers. She held the view that a SMW for the two occupations should be set at a level higher than the existing market wages and that of CSSA, as wages earned by employees should enable them to sustain a living for themselves and their family members. Ms LI further said that other places with a less prosperous economy than Hong Kong were equally subject to vicissitudes in the global market, yet many of them had implemented SMW to protect low-paid workers.

39. SLW agreed that a SMW should enable a person to live on self-reliance. He reiterated that the setting of the SMW level would take into account a basket of economic, social and employment considerations. The Administration kept an open mind and would listen to members' views.

40. C for L said that the Administration's paper had stated that the main purpose of a SMW, if introduced, should be to forestall the payment of excessively low wages, thereby protecting the vulnerable groups prone to exploitation. However, as Hong Kong was the second (next to Singapore) most externally-oriented economies in the world with total trade in goods and services being more than four times that of GDP, it was important to give consideration to economic factors in the setting of the SMW level. She added that similar to the low-income subsidy in other economies like the US, financial assistance was available under the low-income CSSA Scheme for eligible recipients in Hong Kong.

41. Miss CHAN Yuen-han said that financial subsidy for eligible recipients under the CSSA Scheme was subject to very stringent requirements. She suggested that the Administration should consider adopting relief measures such as those implemented in US and UK and also study the system in Singapore where a mechanism was in place to facilitate wage negotiations between employers and unions. She commended the initiation of LD to commission C&SD to conduct new/modified surveys to collect data relevant to the setting of SMW level.

42. Mr LEUNG Kwok-hung asked how the externally-oriented economy in Hong Kong would have an effect on the setting of SMW level for cleaning

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workers and security guards, which were domestically in nature and not easy to be offshored.

43. SE(4)/FSO responded that the fact that Hong Kong was a highly externally-oriented economy had no direct bearing on whether the two occupations would be displaced upon the introduction of a SMW. C for L added that the SMW level would have an impact on business costs.

44. Mr LEE Cheuk-yan pointed out that both the International Labour Organization and the Organization of Economic Co-operation and Development were unable to draw a conclusion on the impact of a minimum wage on the economy or employment. He considered that the implementation of SMW legislation for the two specified occupations could benefit only 10% of the working population. A minimum wage for the two occupations would have minimal effect on Hong Kong's economy. Mr LEE agreed with the Administration that the main purpose of introducing a SMW should be to forestall the payment of excessively low wages to workers. He said that the Hong Kong Confederation of Trade Unions suggested a minimum hourly wage rate of around \$30 calculated with reference to the CSSA level some years ago. In his view, a wage earned should at least enable an earner to sustain a living for a two-person household.

45. Mr LEE Cheuk-yan said that the Administration should single out the key indicator among the many factors in setting the SMW level. In this regard, he considered the prime indicator for the setting of SMW level should be the cost of living. The other proposed indicators would be meaningful only if the Administration would introduce a SMW for all trades. He added that the minimum wage issue of the two specified occupations could alternatively be resolved through a collective bargaining system.

46. SLW said that in view of the fact that some unscrupulous employers had paid their employees excessively low wage subsequent to the outbreak of the Severe Acute Respiratory Syndrome in 2003, the Government took the lead to set a model of good employer by adopting mandatory wage arrangement for government out-sourced contracts. The Administration had not changed its stance of introducing a SMW for the two occupations should WPM fail to yield satisfactory results. He added that SMW was a complex issue and the setting of minimum wage rate should be considered from a holistic perspective while giving attention to the relevant details.

47. C for L said that in setting the SMW level for cleaning workers and security guards, there was a practical need to study the economic factors specific to the two sectors, while giving consideration to the economic situation as a whole. As the profile of workers of the two occupations was similar to other elementary workers in the market, it was likely that there would be an overall economic impact on the market if SMW was to be introduced for the

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two occupations.

48. Mr LEE Cheuk-yan held the view that the basket of economic, social, and employment factors proposed by the Administration was unnecessary if SMW was to be introduced only for the two occupations, as a minimum wage rate could be simply set through collective bargaining such as in case of the recent dispute between the bar benders and the contractors.

49. Mr LEUNG Kwok-hung said that the SMW level at 30% of the market average wage when the UK SMW regime was first implemented should not be taken as reference, as the standard of living had largely improved compared to the past. He pointed out that Article 7 of the International Covenant on Economic, Social and Cultural Rights stipulated that the remuneration to workers should be sufficient for providing a decent living for the workers and their families. He stressed that the Administration had a responsibility to protect low-paid workers from employers' exploitation and ensure that their wages earned would be sufficient to support their family.

50. Miss CHAN Yuen-han asked whether the Administration would give consideration to adopting a collective bargaining system and implementing relief measures for employers to lessen the financial impact of SMW. She considered that the restrictions for payments to CSSA recipients should be relaxed to alleviate the problem of working poverty.

51. SLW said that as SMW was a complex issue, the Administration would need to critically examine the relevant issues from an all-round perspective at the initial stage.

52. Permanent Secretary for Labour and Welfare (PSLW) said that it was important to strike a proper balance in setting the SMW level. While a SMW should not be set at a level so low that people would turn to live on CSSA allowance, a wage rate too high might not be affordable to employers who might in turn hire less workers, a case in point would be the OCs of residential buildings. He added that the Administration had provided a safety net in terms of financial assistance to CSSA recipients to enable them to sustain a living. Under the CSSA Scheme, the need of each family would be assessed case by case in view of its particular situation and family income.

53. Mr LEE Cheuk-yan asked about the methodology to be adopted in calculating the cost of living as a criterion for setting the minimum wage level.

54. C for L said that such details had not yet been worked out. C&SD would study the SMW regimes in UK and other places and find out whether data used to calculate the cost of living for the purpose of setting a minimum wage rate level in other places would be applicable to Hong Kong. She added that the cost of living would be considered as a factor both in the setting and

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reviewing of SMW level.

55. Mr LEE Cheuk-yan held the view that a minimum wage should be set at a level above the poverty line and no lower than that of CSSA, and sufficient for workers to sustain a basic standard of living for a two-person family. Mr LEE added that in tandem with the introduction of a SMW, a system similar to that implemented in US and UK providing financial subsidy for low-income workers outside the CSSA Scheme should be introduced, so that the problem of working poverty could be tackled thoroughly.

56. SLW agreed in principle that a wage earned should not be so low that a workable person would be driven to live on CSSA than self-reliance. Nevertheless, the SMW level should not be worked out based on a broad assumption or a sole criterion without giving due consideration to other relevant factors.

57. Mr LEUNG Kwok-hung said that in providing financial subsidy for low-paid workers, the Administration could help improve the quality of life of low-income families and enable the younger generation of these families to live with dignity.

IV. Preparatory work for introducing a statutory minimum wage for cleaning workers and security guards if the Wage Protection Movement fails to yield satisfactory results - Mechanism for reviewing the level of the statutory minimum wage
(LC Paper No. CB(2)2274/07-08(05))

58. Miss CHAN Yuen-han considered that the review of SMW level should be conducted at a half-year interval when the regime was first implemented and thereafter on an annual basis. She asked whether the Administration had any concrete plan as to whether the review should be operated through collective bargaining, LAB or other mechanism.

59. SLW said that LAB would further discuss the issue in detail. Meanwhile, the Administration would keep an open mind and listen to members' views. He pointed out that the decision on the frequency and timing of regular reviews should take into account the time required to collect the relevant data for conducting impact assessment and avoid causing confusion or disruption to enforcement agencies. He noted that overseas experience indicated that review of the minimum wage rate was usually conducted at a yearly basis.

60. SLW further said that voluntary and direct negotiation between employers and employees was in operation in some trades. The Administration had no plan to introduce statutory collective bargaining system. He added that

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the Administration would work in full force to introduce SMW should the overall review of WPM found that it failed to yield satisfactory results.

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61. Mr LEE Cheuk-yan requested the Administration to revert to the panel when the specific data required for setting the SMW level was available. He considered that similar to the annual civil service pay adjustment mechanism, review on the minimum wage rate should be conducted at an interval no less than one year. Furthermore, reference indicators should be adopted for the regular review such as using wage trend and inflation rate as the two main indicators for adjustment of wage rate. An overall review at every five to six years should also be included in the review mechanism.

62. Ms LI Fung-ying considered that an independent body with statutory power rather than an advisory body should be set up responsible for the review of SMW level. In adjusting the SMW level, consideration should be given to the "basket of indicators" referred to when SMW was introduced and reference to the pay adjustment mechanism of the civil service should be made. She noted that in addition to the annual civil service pay adjustment mechanism, a periodic pay level survey would be conducted to assess the civil service pay levels every three-year. She said that while it was agreeable that adjustment of the minimum wage rate be reviewed on an annual basis, the review mechanism should allow flexibility and specify the circumstances under which special adjustment could be made on an ad hoc basis, such as in time of high inflation. Mr Frederick FUNG shared the same views.

63. Mr LEUNG Kwok-hung was of the view that an independent commission should be empowered to review the SMW level and the adjustment should take into account factors such as the GDP and Gini Coefficient, and wages should be considered in terms of monetary compensation as well as fringe benefits such as funding of education.

64. Miss CHAN Yuen-han asked whether any cross-departmental task force had been formed to work on the introduction of SMW and who would take the lead.

65. SLW said that the delegation to UK comprising LAB members and staff members of LD, C&SD, and the Financial Secretary's Office had indicated a collaborative effort to prepare for the introduction of SMW. SLW said that he had all along participated in the policy-making process in relation to the possible introduction of SMW and C for L, who chaired LAB ex-officio, was responsible for policy implementation.

66. Miss CHAN Yuen-han requested the Secretariat to prepare a paper summarising members' discussions on the introduction of a SMW for cleaning workers and security guards for the Panel at the beginning of the 2008-2009 legislative session.

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67. The meeting ended at 5:00 pm.

Council Business Division 2
Legislative Council Secretariat
15 August 2008