

立法會
Legislative Council

LC Paper No. CB(2)2278/09-10
(These minutes have been seen
by the Administration)

Ref : CB2/BC/11/08

Bills Committee on Minimum Wage Bill

Minutes of meeting
held on Tuesday, 18 May 2010, at 4:30 pm
in the Chamber of the Legislative Council Building

Members present :

- Hon TAM Yiu-chung, GBS, JP (Chairman)
- Hon Paul CHAN Mo-po, MH, JP (Deputy Chairman)
- Hon Albert HO Chun-yan
- Hon LEE Cheuk-yan
- Hon LEUNG Yiu-chung
- Hon Miriam LAU Kin-yee, GBS, JP
- Hon Emily LAU Wai-hing, JP
- Hon Abraham SHEK Lai-him, SBS, JP
- Hon LI Fung-ying, BBS, JP
- Hon Tommy CHEUNG Yu-yan, SBS, JP
- Hon Frederick FUNG Kin-kee, SBS, JP
- Hon Audrey EU Yuet-mee, SC, JP
- Hon Vincent FANG Kang, SBS, JP
- Hon WONG Kwok-hing, MH
- Hon Jeffrey LAM Kin-fung, SBS, JP
- Hon Andrew LEUNG Kwan-yuen, SBS, JP
- Hon WONG Ting-kwong, BBS, JP
- Hon Ronny TONG Ka-wah, SC
- Hon Cyd HO Sau-lan
- Dr Hon LAM Tai-fai, BBS, JP
- Hon CHAN Kin-por, JP
- Dr Hon Priscilla LEUNG Mei-fun
- Dr Hon LEUNG Ka-lau
- Hon CHEUNG Kwok-che
- Hon WONG Sing-chi
- Hon WONG Kwok-kin, BBS
- Hon IP Wai-ming, MH
- Hon IP Kwok-him, GBS, JP
- Dr Hon PAN Pey-chyou
- Hon Paul TSE Wai-chun
- Dr Hon Samson TAM Wai-ho, JP

- Member attending** : Hon Mrs Sophie LEUNG LAU Yau-fun, GBS, JP
- Members absent** : Hon CHIM Pui-chung
Hon Mrs Regina IP LAU Suk-ye, GBS, JP
- Public Officers attending** : Mr Alan WONG Kwok-lun, JP
Deputy Commissioner for Labour (Labour Administration)
- Mr FONG Ngai
Assistant Commissioner for Labour (Policy Support and Strategic Planning)
- Miss Mabel LI Po-yi
Chief Labour Officer (Statutory Minimum Wage) (Acting)
Labour Department
- Ms Queenie TANG Yuen-shan
Senior Labour Officer (Statutory Minimum Wage) (Acting)
Labour Department
- Mr Eamonn MORAN, JP
Law Draftsman
Department of Justice
- Ms Amy CHAN Wing-yan
Senior Government Counsel
Department of Justice
- Clerk in attendance** : Mr Raymond LAM
Chief Council Secretary (2) 1
- Staff in attendance** : Mr Arthur CHEUNG
Senior Assistant Legal Adviser 2
- Mrs Eleanor CHOW
Senior Council Secretary (2) 4
- Ms Kiwi NG
Legislative Assistant (2) 1
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I. Meeting with the Administration

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

2. The Bills Committee requested the Administration to -
 - (a) consider whether "一個" should be added before "以時薪" so as to tally with the English version of "a minimum wage" in the long title;
 - (b) consider whether the word "期" was necessary and whether the words "接受" should be replaced by "進行" so as to tally with the English version of the word "undergo" in section 2(1) of Schedule 2;
 - (c) consider relaxing the scope of student interns exempted from the Bill and imposing a time limit on the exempted period of employment so that all student interns or all local students who studied in universities abroad and undertook internships in Hong Kong could be exempted from the Bill; and
 - (d) consult the Hospital Authority on whether students of its nursing schools were in an employment status.

II. Date of next meeting

3. The Bills Committee noted that the next meeting would be held on 27 May 2010 at 8:30 am.
4. The meeting ended at 7:32 pm.

**Proceedings of meeting of the
Bills Committee on Minimum Wage Bill
on Tuesday, 18 May 2010, 4:30 pm
in the Chamber of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action Required
000132 - 000151	Chairman	Opening remarks Discussion on study areas of "others"	
000152 - 000447	Chairman Admin	Briefing by the Administration on amendment of Schedules 1, 2 and 4 (clause 16), repeal of the Trade Boards Ordinance ("TBO") (clause 18) and commencement of the Minimum Wage Ordinance ("MWO") (clause 1) if the Minimum Wage Bill ("the Bill") was enacted	
000448 - 001213	Chairman Hon LEE Cheuk-yan Admin	Whether the provisions in TBO regarding the normal number of hours of work and overtime payment should be repealed; whether MWO and the statutory minimum wage ("SMW") rate would take effect at the same time; preparatory work required before MWO could commence operation; the Administration explained the reasons for repealing TBO, timing envisaged for commencement of MWO if the Bill was enacted within the current legislative session, and the need to prescribe the SMW rate by way of subsidiary legislation before MWO could commence operation	
001214 - 001736	Chairman Hon Tommy CHEUNG	Time required for the catering industry to prepare for the implementation of MWO; drawing up of industry-based guidelines on implementation of MWO; impact (if any) of the implementation of SMW on employment contracts in the catering industry; publicity and promotional activities to educate employers and employees of their respective obligations and	

Time marker	Speaker	Subject(s)	Action Required
		entitlements under the SMW regime; whether MWO should commence operation one year after the Bill was enacted	
001737 - 002315	Chairman Hon WONG Kwok-hing Admin	Timing for the commencement of MWO if the Bill was enacted in July 2010; preparatory work of the Government to facilitate the implementation of the SMW regime; discussion on the implementation of SMW with relevant stakeholders in different industries; the Administration responded that subject to the passage of the Bill within the current legislative session, determination of the initial SMW rate and enactment of relevant subsidiary legislations, and allowing time for the community and business sector to gear up for implementation, SMW was expected to come on stream in the first half of 2011	
002316 - 002640	Chairman Hon Andrew LEUNG Admin	Timing for the commencement of MWO if the Bill was enacted in July 2010; drawing up of industry-based guidelines on the implementation of SMW; manpower resources required by the Labour Department ("LD") to draw up the guidelines; discussion with relevant stakeholders on the preparation of industry-based guidelines; impact (if any) of the implementation of SMW on employment contracts in different sectors, in particular owners' corporations ("OCs"); preparatory work required in order to ensure smooth implementation of SMW; publicity and promotional activities to educate employers and employees of their respective obligations and entitlements under the SMW regime; the Administration responded that LD would, prior to the implementation	

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		<p>of SMW, vigorously launch a wide range of publicity and promotional activities and the engagement process with stakeholder groups would continue in respect of the preparatory work for implementation such as the drawing up of specific guidelines for the concerned sectors</p>	
002641 - 003417	<p>Chairman Hon Miriam LAU Admin</p>	<p>Discussion between LD and relevant industries on the implementation of SMW; time required to work out (if necessary) the new employment contracts between employers and employees in order to implement SMW; whether the Administration would prepare guidelines under MWO for reference of employers in general; whether the Administration would draw up industry-based guidelines on implementation of SMW; timetable for introducing the guidelines and whether the Legislative Council ("LegCo") would be given the opportunity to scrutinize them; the Administration responded that the Panel on Manpower would be briefed on the general guidelines on SMW</p>	
003418 - 003835	<p>Chairman Hon IP Kwok-him Admin</p>	<p>Repeal of TBO; time required to work out (if necessary) the terms of employment contracts between OCs/estate management companies and their employees in order to implement SMW; publicity and promotional activities to educate OCs and estate management companies of their obligations under the SMW regime; timing for the commencement of MWO; the Administration responded that it had nearly completed briefings on the Bill for all the District Councils and publicity and promotional activities would be undertaken before the implementation of SMW to enhance awareness of OCs and</p>	

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		estate management companies on the SMW requirement	
003836 - 004544	Chairman Hon LEE Cheuk-yan Admin	Whether MWO should commence operation six months after the Bill was enacted; preparatory work to facilitate the implementation of SMW; timetable for the Provisional Minimum Wage Commission ("PMWC") to recommend the initial SMW rate; the Administration's response that according to the Bill, the Chief Executive ("CE") in Council would prescribe the SMW rate by way of subsidiary legislation subject to scrutiny by LegCo	
004545 - 005106	Chairman Hon LEUNG Yiu-chung Admin	Procedures and timetable for PMWC to recommend the initial SMW rate to CE, CE in Council to prescribe the SMW rate, publication of the SMW rate in the Gazette, and LegCo to scrutinize the initial SMW rate by way of subsidiary legislation; possibility of MWO to commence operation in the first half of 2011 if the Bill was enacted and the initial SMW was prescribed around July 2010; the Administration explained that the implementation of SMW was subject to the timing of the passage of the Bill, determination of the initial SMW rate and enactment of relevant subsidiary legislations and preparatory time for the community and business sector to gear up for implementation	
005107 - 005602	Chairman Hon IP Wai-ming Admin	Time lag between the enactment of the Bill and the commencement of MWO; time lag between the announcement of the SMW rate and the commencement of MWO; risks of labour disputes if the two time lags were too long; publicity on the implementation of SMW to prevent labour disputes; the Administration explained that it would start	

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		<p>preparatory work after the enactment of the Bill while part of the follow-up work could commence only after the enactment of subsidiary legislation on the SMW rate</p>	
<p>005603 - 010502</p>	<p>Chairman Hon Tommy CHEUNG Admin</p>	<p>The need to amend terms of some employment contracts in the catering industry; legislative procedure for setting the SMW rate; timetable and administrative work required to implement SMW; drawing up of industry-based guidelines on the implementation of SMW; publicity on the implementation of SMW; manpower for enforcement of MWO; the Administration's response that vigorous publicity and promotional activities would be organized before the commencement of the SMW regime</p>	
<p>010503 - 010833</p>	<p>Chairman Hon WONG Kwok-hing Admin</p>	<p>Appeal to trade unions and employers to co-operate to facilitate the implementation of SMW as soon as practicable; frequency of reviews of the SMW rate</p>	
<p>010834 - 011339</p>	<p>Chairman Hon Miriam LAU Admin</p>	<p>Increasing concerns raised by industries as the enactment of the Bill was drawing near; impact of the implementation of SMW on OCs; time allowed for employers to prepare for the implementation of SMW after the SMW rate was prescribed; impact of SMW on different industries depending on the level of SMW rate; publicity to promote the implementation of SMW; the Administration's response that time would be provided for the community and business sector to gear up for the implementation of SMW</p>	

Time marker	Speaker	Subject(s)	Action Required
011340 - 012121	Chairman Hon LEE Cheuk-yan Admin	The commencement date of MWO and the effective date of the SMW rate and the procedures involved; initial intention of the Administration to make MWO and the SMW rate taking effect at the same time, subject to the practical situation	
012122 - 012700	Chairman Hon Tommy CHEUNG Admin	Possibility of foreign domestic helpers ("FDH") seeking judicial review; legislative stage at which FDHs could seek judicial review; impact of the judicial review on the implementation of SMW; the Administration's response that the exemption of all live-in domestic workers (local or foreign) from the Bill was legally tenable according to legal advice	
012701 - 014831	Chairman Admin SALA2 Hon LEE Cheuk-yan Hon Audrey EU Hon Miriam LAU Hon Tommy CHEUNG	Clause-by-clause examination of the Bill Examination of the long title Whether the policy of a single hourly wage rate for SMW should be specified in the long title; whether "一個" should be added before "以時薪" in order to tally with the English version of "a minimum wage"; whether the word "certain" was necessary; whether the amendments to the Disability Discrimination Ordinance ("DDO") should be regarded as consequential amendments as they had policy implication; views of the Equal Opportunities Commission on the consequential amendments to DDO awaited; the Administration explained that the policy of setting a single hourly wage rate for SMW was clearly prescribed in the long title and the amendments to DDO were considered consequential amendments	Admin to review drafting of the long title

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014832 - 021940	Chairman Admin Hon Audrey EU Hon Miriam LAU SALA2 Hon Tommy CHEUNG Hon Andrew LEUNG Hon LEE Cheuk-yan Hon IP Kwok-him	Examination of clause 1 on short title and commencement, and clause 2 on interpretation Definitions of "hours worked" and "wage period" - whether it was necessary to include the two definitions in clause 2 when they were defined in the relevant sections Definition of "domestic worker" - difference between the definitions of "domestic worker" in the Bill and "domestic servant" in the Employment Ordinance; circumstances under which a boat-boy and a chauffeur would be exempted from the Bill	
021941 - 025110	Chairman Admin Hon Andrew LEUNG SALA2 Hon LI Fung-ying Hon Tommy CHEUNG Hon Miriam LAU Hon LEE Cheuk-yan Dr Hon LEUNG Ka-lau Dr Hon PAN Pey-chyou	Definition of "trial period of employment" - whether the provision should specify that the trial period of employment referred to that of persons with disabilities; whether the word "期" was necessary in section 2(1) of Schedule 2; whether the words "接受" should be replaced by "進行" so as to tally with the English version of the word "undergo" in section 2(1) of Schedule 2 Definition of "place of employment" - whether a stand-by place and multiple working places of an employee would be regarded as "place of employment" under the Bill would depend on the facts of the case	Admin to review drafting of section 2(1) of Schedule 2
025111 - 025528	Chairman Hon LI Fung-ying Admin Hon Tommy CHEUNG	Definition of "student intern" - whether the Administration intended to relax the scope of student interns to be exempted from the Bill, and if so, when the Administration would provide Committee Stage amendments to the Bill for the Bills Committee's scrutiny; the Administration's	

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		response that requests and suggestions made by Members and stakeholders were under consideration	
025529 - 030233	Hon Tommy CHEUNG Chairman Admin Hon LEE Cheuk-yan Dr Hon PAN Pey-chyou	Proposal to impose a time limit on the exempted period of employment so that students studying overseas and undertaking local internships would be exempted from the Bill; concern about the proposal to exempt all student interns from the Bill would be open to abuse; whether nursing schools under the Hospital Authority ("HA") or nurse training provided by private hospitals were included in Schedule 1 to the Bill	Admin to consider the proposal to impose a time limit on the exempted period of employment for student interns and to relax the scope of student interns as defined in clause 2; Admin to consult HA on whether students of its nursing schools were in an employment status
030234 - 030251	Chairman	Date of next meeting	