

立法會
Legislative Council

LC Paper No. CB(2)481/08-09
(These minutes have been seen
by the Administration)

Ref : CB2/PL/MP

Panel on Manpower

Minutes of special meeting
held on Thursday, 23 October 2008, at 10:30 am
in the Chamber of the Legislative Council Building

- Members present** : Hon LI Fung-ying, BBS, JP (Chairman)
Hon WONG Kwok-kin, BBS (Deputy Chairman)
Hon LEE Cheuk-yan
Hon LEUNG Yiu-chung
Hon Andrew CHENG Kar-foo
Hon WONG Kwok-hing, MH
Hon Alan LEONG Kah-kit, SC
Hon CHAN Kin-por, JP
Dr Hon LEUNG Ka-lau
Hon WONG Sing-chi
Hon IP Kwok-him, GBS, JP
Dr Hon PAN Pey-chyou
- Member attending** : Hon CHEUNG Man-kwong
- Members absent** : Hon Frederick FUNG Kin-kee, SBS, JP
Hon LEUNG Kwok-hung
Dr Hon LAM Tai-fai, BBS, JP
Hon IP Wai-ming, MH
- Public Officers attending** : Item I

Mr Michael SUEN Ming-yeung, GBS, JP
Secretary for Education

Mr Raymond WONG Hung-chiu, JP
Permanent Secretary for Education

Mr Michael WONG, JP
Deputy Secretary for Education (1)

Mr Daniel CHENG
Principal Assistant Secretary (Further Education)

Item II

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

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

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

Mrs Jenny CHAN MAK Kit-ling, JP
Deputy Commissioner for Labour
(Labour Administration)

Mrs HUI LAM Yin-ming, Erika, JP
Deputy Commissioner for Labour (Occupational Safety
and Health)

Clerk in attendance : Mr Raymond LAM
Chief Council Secretary (2) 1

Staff in attendance : Ms Clara TAM
Assistant Legal Adviser 9

Mrs Eleanor CHOW
Senior Council Secretary (2) 4

Miss Helen DIN
Legislative Assistant (2) 1

Action

I. Briefing by the Secretary for Education on relevant policy initiatives in the Chief Executive's 2008-2009 Policy Address (LC Paper Nos. CB(2)65/08-09(01) and 138/08-09(01))

Secretary for Education (SED) briefed Members on the development of Qualifications Framework (QF), one of the on-going initiatives of the Education Bureau, in the 2008-2009 Policy Agenda, as detailed in his speaking note tabled at the meeting.

Action

(*Post-meeting note*: The speaking note was subsequently issued to members vide LC Paper No. CB(2)138/08-09 on 24 October 2008.)

2. Members noted that QF, established to provide a platform to promote lifelong learning, was a seven level hierarchy covering qualifications in the academic, vocational and continuing education sectors. So far, 12 industries had participated in QF. Among them, Recognition of Prior Learning (RPL) mechanism had been implemented on a pilot basis in three industries, namely, the Printing & Publishing, Watch & Clock, and Hairdressing industries. RPL mechanism gave formal recognition to the knowledge, skills and experience acquired by workers.

3. Mr LEUNG Yiu-chung pointed out that many workers were skeptical about QF. They were uncertain whether the implementation of QF would affect employment opportunities and how their qualifications would be recognized under QF. Mr LEUNG considered that the Administration should launch a large scale publicity campaign to educate the public about the benefits of QF and impart a clear message on the means to acquire the relevant qualifications to allay workers' concerns. For instance, workers should be informed that qualifications would be recognized under QF on the basis of their working experience and accredited learning programmes they had successfully completed.

4. Deputy Secretary for Education (DSED) said that the legal framework for the accreditation of academic and vocational qualifications under QF commenced full operation on 5 May 2008. The Administration adopted a multi-pronged approach to promote QF. The basic promotional theme was that QF would enhance the overall competitiveness of the workforce. As regards promoting QF to specific industries, it should tie in with the respective learning programmes in order to achieve the optimal effect. So far, 12 industries, covering over 760 000 employees (approximately 20% of the labour force), had set up Industry Training Advisory Committees (ITACs) to develop Specification of Competency Standards (SCSs). Three industries had started providing learning programmes to their workers, another three industries had just completed their SCSs, and four industries were in the final stage of completing their SCSs. In tandem with the introduction of learning programmes of certain industries, the Administration would step up publicity to promote QF to the relevant associations and trade unions. The Administration considered it inappropriate to carry out a large scale publicity campaign at this juncture. The Administration would also consider whether publicity should be stepped up to enhance workers' awareness of the means to attain qualifications, in particular those at the lower hierarchy of RPL.

5. The Deputy Chairman asked about the number of workers of the three industries referred to in paragraph 2 above who had applied for RPL, the success rate of these workers, and the criteria for assessing the effectiveness of the RPL mechanism.

Action

Admin

6. DSED and Principal Assistant Secretary (Further Education) (PAS(FE)) said that RPL mechanism had been implemented in the three industries on a pilot basis for a period of two years with effect from June 2008. The pilot scheme would be reviewed one year after implementation. Given that RPL mechanism had just been implemented and there would be a transitional period of five years, there was no pressing need for workers in the three industries to apply for RPL at current stage. In assessing the effectiveness of the RPL mechanism, the Administration would take into account, among others, the views of employees and employers who participated in QF. According to the Vocational Training Council, the appointed assessment agency for the RPL pilot programmes in the three industries, the success rate was high, especially for those applying for Level 1 to Level 3 of RPL. As at 15 October 2008, over 300 workers of the three industries had applied for RPL. As the Administration did not have information on hand on the success rate of workers who applied for RPL recognition in the three industries, DSED undertook to provide the relevant information after the meeting.

7. Mr LEE Cheuk-yan asked whether other industries would also implement the RPL mechanism. PAS(FE) responded that subject to the outcome of the review on the RPL mechanism implemented in the three industries, the Administration would consider extending the mechanism to the remaining nine industries which had participated in QF. At present, the industries which had set up ITACs and developed SCSs were studying how their RPL mechanism should be developed.

8. The Chairman asked whether the Administration would offer incentives to stimulate participation of employers and employees in QF. She pointed out that many employees had long working hours and could hardly spare the time to take training courses after work. Some workers believed that they could negotiate for a reasonable salary provided that their employers were satisfied with their experience and skills. These workers might not subscribe to the concept of recognition of qualifications under QF, and this would call into question whether QF could be successful.

9. SED said that the Education Bureau had been working closely with the relevant stakeholders including employers, employees, trade unions, professional bodies, and education and training providers to build up the infrastructure of QF. The implementation of QF would benefit both employers and employees, as employers would be assured of workers' qualifications and the courses developed would help workers to upgrade their skills. QF, with a seven level hierarchy covering qualifications of the various sectors, also helped workers to assess whether their pay was commensurate with their qualifications. It would take time for the community to accept and appreciate the benefits brought about by QF.

10. The Deputy Chairman asked whether study leave would be offered to encourage workers to attend learning programmes. Permanent Secretary for

Action

Education said that QF sought to provide a platform to promote lifelong learning. The provision of study leave was a matter for individual industries and employers.

11. Mr WONG Kwok-hing said that the Secretary for Development had pointed out that Hong Kong would need imported labour to assist in the implementation of the 10 major infrastructure projects. He considered that labour shortage could be met by local supply, if the necessary training was provided to the local workforce so that they could take up jobs created by the 10 major infrastructure projects. He asked whether the necessary training would be provided to the local workforce.

12. SED explained that the labour to be imported to assist in the 10 major infrastructure projects would be low-skilled labour, the training of whom was under the purview of the Labour and Welfare Bureau.

II. Briefing by the Secretary for Labour and Welfare on relevant policy initiatives in the Chief Executive's 2008-2009 Policy Address
(LC Paper Nos. CB(2)65/08-09(02) and 158/08-09(01))

13. Secretary for Labour and Welfare (SLW) briefed Members on the new and on-going initiatives of the Labour and Welfare Bureau in respect of the labour and manpower portfolios in the 2008-2009 Policy Address and Policy Agenda.

(Post-meeting note: The speaking note of SLW was subsequently issued to members vide LC Paper No. CB(2)158/08-09 on 28 October 2008.)

Minimum wage

14. Members noted that the Wage Protection Movement (WPM) was a voluntary movement modelled on the mandatory wage arrangement for government outsourced service contracts introduced by the Government since May 2004. WPM was launched in October 2006 under which enterprises participated had pledged to offer market wage rates to workers of the two specified occupations, namely cleaning workers and security guards. In his Policy Address 2008-2009, the Chief Executive (CE) stated that the overall review of WPM revealed that there were limits in promoting wage protection through voluntary participation and the Government was inclined to go for an across-the-board statutory minimum wage (SMW). The Administration would proceed with the preparatory work for the establishment of an advisory Minimum Wage Commission (MWC).

15. Mr WONG Kwok-hing enquired about the legal status of MWC, and queried whether it had the power to discharge its functions if it was not a statutory body. He also expressed concern about the remarks made by CE in

Action

paragraph 66 of the Policy Address that "the minimum wage may not be sufficient to cover family expenses of all employees".

16. SLW explained that the status of MWC as a statutory body would be recognised upon enactment of a bill on SMW. It was not uncommon for the Government to set up an advisory or preparatory committee before it was converted into a statutory body. MWC would carry out a lot of preparatory work in order to advise the Government on the level of SMW, its review mechanism and related issues. During the launch of WPM, the Census and Statistics Department (C&SD) had collected statistics relating to wages of cleaning workers and security guards only. As the statistics were insufficient for deriving a SMW level across the board, C&SD had to collect more data on the wage levels of workers engaged in different trades in the coming year. C&SD would start collecting statistics in the second quarter of 2009 before proceeding to analyse the data in the third quarter. Based on the information provided by C&SD, MWC would study the appropriate level of SMW to be set and make recommendations to the Government.

17. SLW added that there was a misconception in the community that the implementation of SMW would enable a worker to meet all his family expenses. The remarks made by CE in paragraph 66 of the Policy Address sought to clarify that this was not always the case, as the size of a family varied from one worker to another.

18. Mr LEE Cheuk-yan held the view that SMW should be set at a level sufficient for workers to sustain a basic standard of living for a two-person family. He added that in tandem with the introduction of a SMW, a scheme similar to the "negative taxation" scheme implemented in the United Kingdom (UK) to provide financial subsidy for low-income workers should be introduced, so that the problem of poverty could be tackled thoroughly. He pointed out that under UK's "negative taxation" scheme, a driver who earned 200 pounds a week and supporting a family of four persons could receive a subsidy of 80 pounds per week without going through any means test. In Hong Kong, a family with savings between \$20,000 and \$30,000 would not be eligible for financial subsidy for low-income workers under the Comprehensive Social Security Assistance (CSSA) Scheme.

19. SLW responded that MWC would comprise members from the labour sector, business community, academia and government departments. MWC would take into account all relevant factors in recommending the SMW level. SLW further said that low-income workers who could not sustain the livelihood of his family could apply for financial subsidy under the CSSA Scheme. At present, over 13 000 low-income workers were receiving such subsidy.

20. The Deputy Chairman said that to ensure public acceptance of the recommendations made by MWC, its members must be representative of the

Action

larger community. He asked about the distribution of members from the labour sector, business community, academia and government departments. Mr LEUNG Yiu-chung stressed that the composition and operation of MWC should be transparent. He asked whether there would be public consultation on the recommendations of MWC.

21. SLW assured Members that the operation of MWC would be transparent. As MWC would be an advisory committee, it would collect views from different sectors of the society. There would be balanced participation of representatives from different sectors to ensure that issues would be studied in a scientific and objective manner. MWC would study the level of SMW as well as the review mechanism with a view to striking a reasonable balance between safeguarding the interests of grassroots workers and forestalling the loss of low-paid jobs, while sustaining economic growth and competitiveness.

22. Mr Alan LEONG said that the Civic Party welcomed the introduction of an across-the-board SMW. As MWC had yet to be set up, Mr LEONG asked about the initial views of the Administration on the following key issues -

- (a) whether the Administration would adopt the practice of some overseas countries in setting SMW at a certain percentage of median wage, and whether the minimum wage level would be family or individual based;
- (b) whether different SMW levels would be set to protect the interest of vulnerable groups such as people with disabilities, and whether exemptions would be provided to them to ensure that their employment opportunities would not be adversely affected; and
- (c) whether maximum working hours would be prescribed to tie with the implementation of SMW.

23. SLW said that for overseas countries adopting SMW, the SMW rate as a percentage of the median wage was an outcome after detailed studies, which was based on a basket of data and a series of analyses. MWC would adopt a similar approach when recommending the level of SMW to the Government. SLW clarified that the task of MWC was not to study whether exemptions should be offered to vulnerable groups. MWC's prime task was to study and advise the Government on the level of minimum wage and its review mechanism. The Labour Department (LD) had arranged two focused meetings with relevant parties in the coming two months to discuss whether special treatment under the SMW scheme should be introduced for people whose performance had been impaired by their disabilities. SLW further said that as SMW would be set at an hourly basis, a worker would earn more if he worked longer hours. In this connection, it was not necessary to prescribe maximum working hours.

Action

24. Dr LEUNG Ka-lau asked when minimum wage would be implemented. He expressed concern about possible exploitation of workers despite a SMW. He also asked whether the number of working hours for a worker would be prescribed in an employment contract, in order to ensure that the worker would be paid for overtime work.

25. Commissioner for Labour (C for L) explained that under the existing laws, employers were required to keep a record of wages earned by their employees for 12 months. When SMW was implemented, it might be necessary to stipulate in law the additional information to be kept by an employer, such as the number of hours worked by an employee and amount of wage paid. Based on this information, one would be able to determine whether SMW had been offered to the employees concerned. C for L clarified that the Administration favoured an hourly SMW rate as this could help forestall exploitation of employees by ensuring that their pay would be commensurate with the duration of work, with wages no lower than the SMW level.

Protection of Wages on Insolvency Fund

26. The Deputy Chairman said that following the financial tsunami, more and more companies would become insolvent. He expressed concern that some workers, especially those who worked for outsourced contractors, were not eligible for ex gratia payment under the Protection of Wages on Insolvency Fund (PWIF) and hence would not be able to recover defaulted wages. He pointed out that instead of requiring C for L to exercise her discretion in each and every case, the relevant legislation might need to be amended in order to safeguard the interest of outsourced workers.

27. SLW said that whether an outsourced worker would be eligible for ex gratia payment under PWIF would depend on the circumstances of the case concerned. For example, if the uniform, tools and equipment of an outsourced worker were provided by the insolvent company, an employer-employee relationship might exist. According to court judgment, each case should be examined on its own merits in deciding on the employment relationship. While he was sympathetic towards outsourced workers, he cautioned that relaxing the relevant laws might lead to employers shifting their responsibility to PWIF.

28. Mr LEUNG Yiu-chung expressed concern that employees defaulted of wage payment were normally required to go through various processes with LD, the Labour Tribunal and the Legal Aid Department before eligible for ex gratia payment from PWIF. Some workers did not receive payment from PWIF until six months after lodging a claim. He urged the Administration to streamline the procedures involved or to consider providing one-stop service for handling cases of arrears of wages. He also urged the Administration to provide more protection for workers by extending the coverage of ex gratia payment to cover annual leave pay.

Action

29. SLW advised that LD had constantly sought to streamline the processing of applications for ex gratia payment under PWIF. This included simplifying forms and procedures. In fact, LD had responded promptly in assisting employees in recent insolvency cases. With a balance of \$1.4 billion in PWIF and in anticipation of the increase in the number of insolvent employers as a result of economic downturn, there should be thorough deliberation regarding any proposal to expand the scope of PWIF.

30. C for L supplemented that LD had to abide by its performance pledge of effecting payment to eligible PWIF applicants within 10 weeks upon receipt of all relevant information and documents required for processing the applications. As regards the proposal to expand the ex gratia payment to cover accumulated annual leave pay, PWIF Board had reached in-principle agreement, and subject to more detailed deliberation by the Administration, the proposal would be presented to the Labour Advisory Board and the Panel for consideration.

31. The Chairman said that she was disappointed that CE's Policy Address 2008-2009 had placed emphasis on the measures to tackle financial crisis but attached little importance to the tackling of unemployment which would be an imminent problem. She hoped that the Administration would introduce measures to safeguard the interest of the local workforce when there was a need to import labour to implement the 10 major infrastructure projects. She also urged the Administration to introduce preventive measures to safeguard workers from exploitation by unscrupulous employers who were financially able but defaulted wage payment after their companies became insolvent.

32. SLW responded that the Administration anticipated that the unemployment rate would rise in face of the financial tsunami. One of the ways to help the unemployed was to upgrade their skills. To this end, the Employees Retraining Board (ERB) had earlier undertaken a strategic review on its future roles and responsibilities and released a public consultative document which set out recommendations on enhancement of training and retraining services with a view to upgrading the quality of the local workforce. SLW further said that the Government was very concerned about wage default and had continuously stepped up enforcement against wage offences.

Youth training programmes

33. Mr WONG Sing-chi expressed concern about any possible overlapping between the training courses offered by ERB, the Youth Pre-employment Training Programme (YPTP), and the Youth Work Experience and Training Scheme (YWETS). He said that he had received complaints from some youth groups that they had applied for subsidies to organise some youth courses but the applications were turned down on the ground that ERB was offering similar courses. He expressed concern about the relaxation of the eligibility criteria of the Employees Retraining Scheme (ERS) since 1 December 2007 to cover young people aged 15 to 29 and those with education attainment at sub-degree

Action

level or below. As young people aged between 15 and 29 had limited working experience, he queried why such young people should need retraining.

34. SLW clarified that the term "retraining" under ERS covered both training and retraining. The eligibility criteria for ERS were relaxed in response to the demand of the society. The training and employment support offered by ERS, YPTP and YWETS should complement each other and there should be no duplication. To further enhance the effectiveness of its youth employment and training programmes, LD was undertaking a review of the mode of operation, training contents and future directions of YPTP and YWETS. In conducting the review, LD would take into account the views received from different youth groups. It would also take into account youth training courses offered under ERS to ensure the optimal use of resources and foster the provision of coordinated training and employment support for young people.

35. The meeting ended at 11:35 am.

Council Business Division 2
Legislative Council Secretariat
12 December 2008