

立法會
Legislative Council

LC Paper No. CB(2)1539/09-10
(These minutes have been seen by
the Administration)

Ref : CB2/PL/MP

Panel on Manpower

Minutes of meeting
held on Tuesday, 23 March 2010, at 8:30 am
in Conference Room A of the Legislative Council Building

- Members present** : Hon LI Fung-ying, BBS, JP (Chairman)
Hon IP Wai-ming, MH (Deputy Chairman)
Hon LEE Cheuk-yan
Hon LEUNG Yiu-chung
Hon WONG Kwok-hing, MH
Dr Hon LAM Tai-fai, BBS, JP
Hon CHAN Kin-por, JP
Hon WONG Sing-chi
Hon WONG Kwok-kin, BBS
Hon IP Kwok-him, GBS, JP
- Members attending** : Hon Miriam LAU Kin-yee, GBS, JP
Hon TAM Yiu-chung, GBS, JP
Hon Vincent FANG Kang, SBS, JP
- Members absent** : Hon Andrew CHENG Kar-foo
Hon Frederick FUNG Kin-kee, SBS, JP
Dr Hon PAN Pey-chyou
- Public Officers attending** : Item III

Mr Alvin LI Wing-kong, JP
Assistant Commissioner for Census and Statistics (General)
Census and Statistics Department

Ms Agnes LO Kit-mui
Senior Statistician (Labour) 2
Census and Statistics Department

Ms Reddy NG Wai-lan
Principal Economist
Financial Secretary's Office

Mr FONG Ngai
Assistant Commissioner (Policy Support and Strategic
Planning)
Labour Department

Item IV

Mr LAI Tung-kwok, SBS, IDSM, JP
Under Secretary for Security

Mr Alan LO Ying-ki
Principal Assistant Secretary (Security)
Security Bureau

Mr CHAN Man-lang
Assistant Director of Immigration (Visa & Policies)
Immigration Department

Mr MA Kwok-kuen
Senior Labour Officer
Labour Department

Ms Stephanie HO Sau-fun
Labour Officer
Labour Department

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

**Staff in
attendance** : Ms Clara TAM
Assistant Legal Adviser 9

Mr Ian CHOW
Council Secretary (2) 1

Ms Kiwi NG
Legislative Assistant (2) 1

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I. Confirmation of minutes of previous meeting
(LC Paper No. CB(2)1086/09-10)

The minutes of the meeting held on 21 January 2010 were confirmed.

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II. Date of next meeting and items for discussion

(LC Paper Nos. CB(2)1095/09-10(01) and (02))

2. Members agreed that the next regular meeting originally scheduled for 22 April 2010 at 2:30 pm would be re-scheduled to 26 April 2010 at 2:30 pm to give way to the Chief Executive's Question and Answer Session to be held at 3:00 pm on 22 April 2010. Members agreed to discuss the following items proposed by the Administration at the next regular meeting -

- (a) Measures of the Labour Department to assist vulnerable youths, the unemployed and people with disabilities; and
- (b) Proposal to expand the scope of the Protection of Wages on Insolvency Fund to cover pay for untaken annual leave and statutory holidays under the Employment Ordinance (Cap. 57) ("EO").

3. Referring to the recent sandstorms from northern China which had pushed the air pollution index reaching the range of 200 to 500 in Hong Kong, Mr WONG Kwok-hing suggested discussing at a future meeting the protection for employees working outdoor when high pollution reading was recorded by the Hong Kong Observatory. The Chairman said that she would discuss the matter with the Administration after the meeting.

III. Major findings of the 2009 Annual Earnings and Hours Survey

(2009 Report on Annual Earnings and Hours Survey, LC Paper Nos. CB(2)1095/09-10(04) and CB(2)1157/09-10(01))

4. Assistant Commissioner for Census and Statistics (General) of the Census and Statistics Department ("C&SD") ("AC/C&S") presented the major findings of the 2009 Report on Annual Earnings and Hours Survey ("AEHS") ("the Report"). He informed Members that AEHS enumerated around 10 000 establishments across all employment sizes and all industries covered by the Central Register of Establishments. The survey collected wage, employment and demographic information of all employees except live-in domestic workers and government employees. Among the 10 598 establishments selected to provide data for the second quarter of 2009, 9 312 establishments were enumerated and data in respect of 55 162 employees were collected. Excluding enumerated cases which were outside the scope of AEHS, the overall response rate of the survey was 86%.

(Post-meeting note: The presentation materials tabled at the meeting were issued to members vide LC Paper No. CB(2)1157/09-10 on 23 March 2010.)

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5. Members noted that the major findings of AEHS included, among others, the following -

- (a) the median hourly wage of Hong Kong employees was \$58.5;
- (b) the median monthly wage was \$11 500;
- (c) 4.7% of employees, or 130 200 persons, earned less than \$24 an hour; and
- (d) 16.9% of employees, or 469 400 persons, earned less than \$33 an hour.

Issues raised on the Report

6. The Deputy Chairman enquired why the scope of AEHS excluded government employees and whether agency workers and persons engaged in the provision of outsourced services were covered by AEHS.

7. Assistant Commissioner for Labour (Policy Support and Strategic Planning) of Labour Department ("ACL") explained that government employees were not covered by EO or the Minimum Wage Bill and therefore excluded from AEHS. He confirmed that agency workers and persons engaged in the provision of outsourced services were covered by AEHS.

8. Dr LAM Tai-fai raised the following questions -

- (a) whether C&SD was satisfied with a response rate of 86% for AEHS;
- (b) whether tips received by employees of certain industries such as the catering and tourism industries were counted as wages for the purpose of the survey;
- (c) whether C&SD had analyzed the difference between the distribution of hourly wage based on the basic wage/salary and that based on overtime payment; and
- (d) whether C&SD had analyzed the median hourly wage by districts, especially those of low-income districts.

9. AC/C&S responded that -

- (a) the response rate of 86% for AEHS was acceptable and comparable with other statistical surveys conducted by C&SD;
- (b) tips collected by the establishment and then distributed among the

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service or related personnel were counted as wages, whereas the amount paid directly by customers to service or related personnel was not counted as wages for the purpose of the survey;

- (c) analysis of the distribution of hourly wage in the Report was based on wages which followed the definition as adopted in EO and comprised basic wage/salary, commission, tips, allowances, bonuses of non-gratuitous nature and overtime payment. All the paid overtime hours and overtime payment were counted for the purpose of computing the hourly wage for the survey; and
- (d) the sampling frame for AEHS was based on establishments in the Central Register of Establishments, not on districts of employees' residence.

10. Referring to the reply in paragraph 9(c) above, Dr LAM expressed concern that the hourly wage rate would be inflated since the hourly wage of overtime payment would be higher than that of basic wage payment. AC/C&S responded that overtime payment accounted for merely 1.1% of total wage payment in the survey.

11. Ms Miriam LAU raised the following questions -

- (a) how the data collected from larger establishments and smaller establishments were compiled in order to ensure reliability of data analysis;
- (b) whether there was any relationship between the median hourly wage of \$58.5 and the median monthly wage of \$11,500; and
- (c) why there were two figures for the number of employees earning less than \$24 an hour - 130 200 employees in Table 8 of the Report and 138 200 in page 16 of the presentation materials.

12. AC/C&S explained that -

- (a) data collected from individual sampled establishments were appropriately weighted to reflect the actual number of small, medium and large establishments in different industries, so that reliable statistics pertaining to the overall situation of Hong Kong employees were compiled;
- (b) there was no direct relationship between the median hourly wage of \$58.5 and the median monthly wage of \$11,500; and
- (c) page 16 of the presentation materials depicted that 138 200 employees were earning less than the 5th percentile hourly wage

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which was equal to \$24.04 (rounded off to \$24), whereas Table 8 of the Report showed the number of employees earning less than \$24 an hour (exact figure without rounding) and thus the two employee figures were different.

13. The Chairman raised the following questions -
- (a) whether workers who were not employed under a continuous contract (a "continuous contract" is defined under EO as a contract of employment under which an employee has been employed for four weeks or more and has worked for 18 hours or more in each week, i.e. fulfilling the so-called "4-18" requirement) were covered in the survey;
 - (b) whether the conditions to be regarded as a part-time worker as defined in page 67 of the Report, which were more stringent than those of EO, would impact on the findings of hourly wage rate;
 - (c) whether including incorporated owners as membership organizations under the estate management, security and cleaning service sector as referred to in page 24 of the Report would impact on the findings of hourly wage rate for that sector, given the income disparity between employees working for landlords of a single block building and those for owners' corporations; and
 - (d) given the median hourly wage of \$59.3 for the land transport sector as referred to in page 5 of the Report was unrealistically high, whether the wage data of self-employed drivers were included in the survey.
14. AC/C&S responded that -
- (a) AEHS covered all employees under the coverage of EO, except live-in domestic workers. Part-time workers who did not fulfil the "4-18" requirement were covered in the survey;
 - (b) C&SD had all along adopted the same definition for part-time worker as given in page 67 of the Report, which was modelled on the one adopted by the International Labour Organization. C&SD would, where necessary, suitably adjust the definition having regard to, among other things, the objective of survey;
 - (c) the member organizations under the estate management, security and cleaning service sector included owners' corporations, tenant committees and kaifong welfare associations. The distribution of hourly wage for that sector was set out in Table 12(a) of the Report; and

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- (d) the median hourly wage of the land transport sector represented the overall hourly wage earned by employees working for small transport companies and the large ones including bus operators and the Mass Transit Railway. The scope of AEHS had excluded those who were self-employed.

15. Referring to Table 12(a) of the Report, Mr LEE Cheuk-yan expressed concern that about 20% of the employees in the fast food industry were earning less than \$22 an hour. He considered that the low wages offered by some fast food companies unacceptable. Based on the information provided on the website of the Provisional Minimum Wage Commission ("PMWC"), 1 230 out of the 1 270 establishments in the fast food industry were small and medium enterprises and the 40 large establishments employed about 80% of fast food workers. Given that the manpower cost of fast food industry accounted for merely 22.9% of the total operating costs, the large corporations could afford to pay a higher hourly wage rate to fast food workers. He requested C&SD to provide information on the number of employees earning between \$15 and \$20 per hour, with breakdown of the figures by each incremental dollar.

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16. AC/C&S undertook to study the data concerned and would provide the requested information after the meeting if the data were sufficiently reliable. In response to Ms Miriam LAU's enquiry, AC/C&S explained that the fast food industry employed a total of 48 000 workers and 2 400 persons, or 5% of the total number of workers, were earning less than \$19.5 an hour.

17. In response to Mr LEE Cheuk-yan's enquiry, AC/C&S said that the median hourly wage of part-time workers was \$35. AEHS did not collect data on rental costs of establishments.

18. Mr CHAN Kin-por asked whether C&SD would consult employees and employers to ensure that the findings in the Report were accurate and representative of the relevant sectors. He also enquired whether the Administration would explain the findings of the Report to facilitate the public's understanding.

19. ACL responded that soon after the Report was released on 18 March 2010, C&SD had given a media briefing and issued a press release explaining the overall distribution of hourly wage and the median hourly wage of employees with different characteristics. In the days that followed, there was wide coverage on the survey findings in newspapers and the Administration had responded to enquiries received from the media. The Administration welcomed views from relevant sectors and could meet with them if they so wished.

20. AC/C&S supplemented that to ensure quality of wage data, C&SD had consulted chambers of commerce, employers' associations, trade unions,

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academia and other relevant stakeholders on the methodology of the survey, the design of the sample, and the method for data collection and processing. In addition, lecturers in the statistical faculty of tertiary institutions were consulted on the computation formulae to ensure that the method adopted was compatible with the sampling method. C&SD adopted an open attitude and would furnish the public with more information, if so requested. It was also prepared to explain the survey findings if the public had difficulty in understanding them.

The statutory minimum wage ("SMW") rate and the work of the Provisional Minimum Wage Commission ("PMWC")

21. Mr LEUNG Yiu-chung enquired about the objective of implementing SMW and the criteria adopted by PMWC for determining the SMW rate. ACL explained that the objective of SMW was to provide a wage floor on an hourly basis which could prevent individuals from receiving excessively low wages for the work done. In recommending the initial SMW rate, PMWC would, in accordance with its terms of reference, strike a sensible balance between forestalling excessively low wages and minimizing the loss of low-paid jobs, while sustaining Hong Kong's economic growth and competitiveness.

22. Mr WONG Kwok-hing said that the Hong Kong Federation of Trade Unions ("HKFTU") advocated that the SMW rate should be set at 60% of the median hourly wage. Findings of AEHS indicated that the criterion adopted by HKFTU was reasonable and objective. Mr WONG urged PMWC to consider the formula adopted by HKFTU in deriving the initial SMW rate. He stressed that the SMW rate should not be lower than the level of payment under the Comprehensive Social Security Assistance Scheme to ensure that a person could sustain the living of a family. In his view, an SMW rate of \$20 per hour advocated by a Member was totally unacceptable.

23. Mr LEE Cheuk-yan suggested that Hong Kong should follow the practice of the United Kingdom by pegging the SMW rate to a specified percentage of the median hourly wage rate, as the gross domestic product of the two places were similar. If Hong Kong followed the percentage adopted by the United Kingdom, which was set at 57% of its median hourly wage rate, the SMW rate for Hong Kong would be about \$33 per hour, which was the level advocated by the Hong Kong Confederation of Trade Unions. Mr LEE held the view that industries could afford a minimum hourly wage of \$33.

24. Ms Miriam LAU said that to her understanding, the SMW rate initially adopted by the United Kingdom was about 40% of the median hourly wage rate. She said that the Liberal Party accepted an SMW rate of not more than \$24 per hour, based on an opinion survey conducted in the previous year.

25. The Deputy Chairman and Mr WONG Kwok-kin expressed concern whether the survey, which was conducted in the second quarter of 2009 when

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Hong Kong was adversely affected by the financial tsunami and had a high unemployment rate, was a good reference for determining the initial SMW rate. Given that the Minimum Wage Bill, if enacted, would not be implemented immediately, the Deputy Chairman enquired whether PMWC would take into account the findings of AEHS to be conducted in the second quarter of 2010 when determining the initial SMW rate. He considered the SMW rate to be set at \$20 or \$24, or at a monthly wage of \$5,000, unacceptable.

26. ACL responded that it would be too early to discuss the SMW rate at this stage. He explained that the purpose of AEHS was to find out the level and distribution of wages of employees in Hong Kong. The wage statistics in the second quarter were adopted since they were relatively more stable than those in other quarters. In addition, year-on-year comparison on the basis of wage data pertaining to the same reference period in each year would be meaningful, consistent and of good reference value. The results contained in the Report provided essential inputs for analyses relating to the initial SMW rate, although its statistics might not be the most updated due to the inevitable time lag between data collection and compilation of the Report. ACL stressed that the Report was not the only factor considered by PMWC in deriving the initial SMW rate. PMWC would take more recent information such as the standard of living, labour market conditions, economic growth and inflation into account, which would offset the inherent limitation of AEHS. In view of the time required to collect data for AEHS and to compile a report, it was unlikely for PMWC to take account of the findings of AEHS in 2010 in determining the initial SMW rate.

27. Mr WONG Kwok-hing and Mr WONG Kwok-kin said that the three government officials sitting on PMWC could influence the decision of the initial SMW rate. Mr WONG Kwok-hing urged that the government officials concerned should ensure that the SMW rate would be set in a fair and objective manner to safeguard the interests of low-income people. Mr WONG Kwok-kin enquired about the views of the Administration on the Report.

28. ACL said that the Administration was not in a position to give its views as it needed time to study the Report which had just been released. He stressed that although PMWC comprised government officials, it was an independent body which would adopt an evidence-based approach in advising the Government on the initial SMW rate.

29. The Deputy Chairman enquired whether PMWC would meet with individual workers and organizations to collect their views on the SMW rate. ACL responded that PMWC was inviting the public to give views on the SMW rate, with reference to the Report, as well as other relevant statistical data, to facilitate the conduct of prudent, objective and comprehensive analyses and deliberations on the initial SMW rate. PMWC had already met with 83 stakeholder organizations. He undertook to relay members' concerns to PMWC.

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IV. Policy and arrangements relating to admission of trainees to Hong Kong

(LC Paper Nos. CB(2)1095/09-10(05) and (06))

30. Under Secretary for Security ("US for S") briefed members on the Administration's paper which set out the immigration arrangements for persons entering Hong Kong for training.

31. Noting that an average of about 6 000 trainees were allowed to enter Hong Kong a year to receive training, Mr LEE Cheuk-yan enquired about the number of enterprises involved in sponsoring such trainees. He expressed concern whether there were enterprises which admitted trainees in consecutive batches to fill local staff positions. He asked how such possible abuse was monitored by the Administration. Mr WONG Kwok-kin asked whether a ceiling was imposed on the training duration and whether the Administration had established any mechanism to monitor if any enterprise had admitted consecutive batches of trainees to fill local staff positions. The Deputy Chairman expressed concern that a local aircraft maintenance and repair company had admitted more than 100 trainees each year since 1993. To his knowledge, the company had ceased recruiting apprentices since 2000 before resuming such recruitment about two years ago. He asked how the Administration would handle complaints from trainees admitted from other places and whether the Administration would conduct surprise visits to enterprises to ensure that admitted trainees were not deployed to fill local staff positions.

32. US for S responded that complaints regarding admission of trainees could be lodged with the Administration. He said that the trainees admitted so far were mainly professionals. Assistant Director of Immigration (Visa & Policies) ("AD of Imm") added that the major sectors involved in sponsoring such trainees included the finance, banking and accounting, logistics and transport, academic and education, and the legal sectors. In assessing an application, the Immigration Department ("ImmD") would examine -

- (a) the sponsoring company's nature of business, its capability of providing relevant training, its training facilities, the availability of qualified training personnel, and the amount of time allocated for practical training; and
- (b) whether the person to be admitted possessed relevant working experience and had genuine needs for undergoing training in Hong Kong.

33. AD of Imm stressed that when considering an application, ImmD would pay particular attention to whether an enterprise would deploy trainees admitted from other places to fill local staff positions. Applications from enterprises which had such a past record would not be approved. For instance,

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the Administration had refused application for sponsoring trainees from certain restaurants as the restaurants were found to have deployed trainees to fill local staff positions. ImmD had a dedicated field team for conducting site visits and surprise checks upon the receipt of a complaint and where necessary. ImmD would also examine whether the number of trainees in an enterprise was too large when in comparison with the total number of staff in the enterprise. He pointed out that the training duration of most of the approved applications was three to six months. There were also European chambers of commerce or cultural organizations which operated training programmes with a duration of more than 12 months, with the guarantee of the relevant consulates.

34. Mr LEE Cheuk-yan said that the Cathay Pacific Airways was reported to provide training to more than 100 cabin crews of the China Eastern Airlines. There were complaints that with the deployment of such trainees on board the aircrafts of the Company, the number of local staff deployed on board the aircrafts of Cathay Pacific Airways had been reduced. He expressed concern that this amounted to deployment of trainees to fill local staff positions.

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35. US for S responded that sponsoring companies were required to demonstrate a training need and they were not allowed to reduce local staff positions with the admission of trainees. Mr LEE Cheuk-yan requested the Administration to look into the complaint and report the outcome to the Panel.

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36. Noting that ImmD would consult LD only when necessary in the course of processing an application, the Chairman and the Deputy Chairman requested the Administration to consider setting up a permanent mechanism for both LD and ImmD to take part in the processing of applications for admission of trainees and report to the Panel. The Deputy Chairman added that other relevant government departments should also take part in the processing of applications. For example, the Civil Aviation Department should also take part in the processing of applications involving trainees in the aviation industry.

37. Dr LAM Tai-fai said that while many enterprises had relocated their manufacturing plants to the Mainland for lower costs, there was a need for their employees to undergo training in Hong Kong. Since most of these enterprises were small or medium ones, they might not be classified as well-established enterprises. He asked how the Administration would determine whether an enterprise was well-established, which was one of the eligibility criteria. He also queried if the application threshold for sponsoring foreign trainees in the industrial sector was too high.

38. AD of ImmD responded that in determining whether an enterprise was "well-established", the Administration would consider its business turnover, number of employees, its ability to provide training, and whether there was a need for the trainee to undergo training in Hong Kong. He pointed out that the number of applications from the industrial sector was relatively small. In 2009, the industrial sector accounted for less than 1% of the total applications, while

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in 2010, the Administration had not so far received any application from the industrial sector.

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39. The Deputy Chairman requested the Administration to provide a more detailed breakdown by industry and rank of the statistics provided in paragraph 6 of the Administration's paper.

40. The meeting ended at 10:33 am.

Council Business Division 2
Legislative Council Secretariat
13 May 2010