

立法會
Legislative Council

LC Paper No. CB(2)1741/11-12
(These minutes have been seen
by the Administration)

Ref : CB2/BC/10/10

**Bills Committee on
Protection of Wages on Insolvency (Amendment) Bill 2011**

**Minutes of meeting
held on Thursday, 23 February 2012, at 4:30 pm
in Conference Room 3 of the Legislative Council Complex**

Members present : Hon WONG Ting-kwong, BBS, JP (Chairman)
Hon LEE Cheuk-yan
Hon LEUNG Yiu-chung
Hon LI Fung-ying, SBS, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon Cyd HO Sau-lan
Hon IP Wai-ming, MH
Hon IP Kwok-him, GBS, JP
Dr Hon PAN Pey-chyou

Member absent : Dr Hon Philip WONG Yu-hong, GBS
Hon Tommy CHEUNG Yu-yan, SBS, JP
Hon Jeffrey LAM Kin-fung, GBS, JP
Hon Andrew LEUNG Kwan-yuen, GBS, JP
Hon WONG Sing-chi

Public Officers attending : Item I
Mr Ernest IP
Assistant Commissioner for Labour
Labour Department

Miss Bonny WONG
Senior Labour Officer
Labour Department

Miss Betty CHEUNG
Senior Assistant Law Draftsman
Department of Justice

Mr Allen LAI
Senior Government Counsel
Department of Justice

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

Staff in attendance : Ms Clara TAM
Assistant Legal Adviser 9

Ms Priscilla LAU
Council Secretary (2) 5

Ms Kiwi NG
Legislative Assistant (2) 1

Action

I. Meeting with the Administration

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

2. In relation to the review on the coverage of the Protection of Wages on Insolvency Fund ("PWIF") in respect of pay for untaken annual leave, pay for untaken statutory holidays and the payment ceiling of \$10,500 one year after the implementation of the Bill by the PWIF Board, Ms LI Fung-ying had made suggestion of including in the review the other items covered by PWIF and reporting the outcome of the review to the Panel on Manpower. The Administration undertook to relay Ms LI's suggestion to the PWIF Board for consideration.

(Post meeting note: The Administration has subsequently confirmed that it undertakes to report the outcome of the review to the Panel on Manpower at an appropriate time.)

Action

3. The Bills Committee completed examination of the draft Committee Stage amendments ("CSAs") proposed by the Administration. The Administration was requested to -

- (a) consider revising the Chinese rendition of the draft CSA to the proposed section 16(2)(g)(i) so as to avoid too many "的" in the provision;
- (b) consider using "the applicant's" instead of "his or her" in the proposed section 16(2)(h)(i)(A) so as to be in line with the Chinese rendition of "申請人" in the provision; and
- (c) provide the revised draft CSAs by 27 February 2012.

II. Any other business

4. The Chairman concluded that the Bills Committee had completed scrutiny of the Bill.

5. The Bills Committee agreed that its Chairman would give a verbal report on the deliberations of the Bills Committee at the House Committee meeting on 2 March 2012, and that the Second Reading debate on the Bill be resumed at the Council meeting of 18 April 2012. The Chairman reminded members that the deadline for giving notice of CSAs was 5 April 2012.

6. The meeting ended at 5:28 pm.

**Proceedings of meeting of the
Bills Committee on Protection of Wages on Insolvency (Amendment) Bill 2011
held on Thursday, 23 February 2012, at 4:30 pm
in Conference Room 3 of the Legislative Council Complex**

Time marker	Speaker(s)	Subject(s)	Action Required
<i>Agenda Item I - Meeting with the Administration</i>			
000000 - 000206	Chairman	Opening remarks	
000207 - 000426	Chairman Ms LI Fung-ying Admin	<p>Ms LI Fung-ying's suggestion in the last Bills Committee meeting on 9 January 2012 of including the other items covered by the Protection of Wages on Insolvency Fund ("PWIF") in the review of the pay for untaken annual leave, pay for untaken statutory holidays and payment ceiling of \$10,500 and reporting the outcome of the review to the Panel on Manpower</p> <p>The Administration responded that the PWIF Board had agreed to review the pay for untaken annual leave and untaken statutory holidays one year after its implementation and not the other items. It undertook to relay Ms LI Fung-ying's suggestion to the PWIF Board</p>	Admin to relay the member's suggestion to the PWIF Board
000427 - 001439	Chairman Admin Ms LI Fung-ying Mr IP Wai-ming Ms Audrey EU	Briefing by the Administration on the explanatory paper on the draft Committee Stage amendments ("CSAs") proposed by the Administration (LC Paper No. CB(2)1120/11-12(01))	
001440 - 001820	Chairman Admin Mr IP Wai-ming	Examination of the draft CSAs to the proposed section 16(2)(h)(ii) (page 3 of LC Paper No. CB(2)1120/11-12(02))	
001821 - 002114	Chairman Mr LEE Cheuk-yan Admin	<p>Mr LEE Cheuk-yan enquired about the entitlement to untaken annual leave under section 41D of Employment Ordinance ("EO").</p> <p>The Administration's response about the EO requirement for annual leave to be granted in the following leave year, the coverage under section 41D of EO on payment of annual leave pay for an employee's last two leave years on cesser</p>	

Time marker	Speaker(s)	Subject(s)	Action Required
		<p>of employment and contravention of EO in non-grant of annual leaves beyond the last two leave years</p> <p>Mr LEE Cheuk-yan held the view that the pay for untaken annual leave covered by the ex gratia payment from PWIF should not be limited to the payment under section 41D of EO for untaken annual leave in the last two years, and the pay for untaken annual leave before the last two leave years should be considered in future review</p>	
002115 - 002359	Chairman Mr IP Wai-ming Admin	Clarification on the amount of pay for untaken annual leave and untaken statutory holidays not exceeding in total of \$10,500	
002400 - 002504	Chairman Admin	Explanation by the Administration on the technical refinements to the proposed section 16(2)(h)(ii)	
002505 - 002826	Chairman Ms Audrey EU Admin Ms Cyd HO	Ms Audrey EU suggested that "the applicant's" should be used instead of "his or her" in the proposed section 16(2)(h)(i)(A) so as to be in line with the Chinese rendition of "申請人" in the provision. Ms Cyd HO echoed Ms EU's view and the Administration's response that there could be no question that the reference to "his or her" referred to "the applicant's" and the two texts borne the same meaning	Admin to consider amending the term "his or her" in the proposed section 16(2)(h)(i)(A)
002827 - 003949	Chairman Mr LEE Cheuk-yan Admin	<p>Mr LEE Cheuk-yan enquired as to how the ex gratia payment from PWIF would be apportioned if the pay for untaken annual leave and pay for untaken statutory holidays exceeded \$10,500</p> <p>The Administration's response that the computation would not affect the employees' claims to be registered as priority debts and detailed computation of the two categories of payment from PWIF would be worked out after the passage of the Bill</p>	

Time marker	Speaker(s)	Subject(s)	Action Required
003950 - 004219	Chairman Mr IP Wai-ming Admin	<p>Mr IP Wai-ming pointed out that it was important to have a clear guideline on the method of computation in respect of the ex gratia payment from PWIF for pay on untaken annual leave and untaken statutory holidays</p> <p>The Administration's response that the Labour Department would discuss with the Official Receiver's Office and the Legal Aid Department in respect of the computation and the claims of employees to recover outstanding pay for untaken annual leave and untaken statutory holidays</p>	
004220 - 005419	Chairman ALA9 Admin Mr IP Wai-ming Mr IP Kwok-him Ms Audrey EU	<p>Explanation by the Administration on the technical refinement to the proposed section 16(2)(g)(i) (page 2 of LC Paper No. CB(2)1120/11-12(02))</p> <p>ALA9's view and Administration's response on the technical refinement on the 4-month limit on untaken statutory holidays</p> <p>Discussion on the Chinese rendition of the draft CSA to the proposed section 16(2)(g)(i)</p> <p>Members requested the Administration to revise the Chinese rendition of the draft CSA to the proposed section 16(2)(g)(i) so as to avoid too many "的" in the provision</p>	Admin to consider revising the Chinese rendition of the draft CSA to the proposed section 16(2)(g)(i)
005420 - 005516	Chairman Admin	Explanation by the Administration on the technical refinements to the proposed section 16(2)(g)(iv) and proposed section 16(2)(h)(iii) (page 2 and page 3 of LC Paper No. CB(2)1120/11-12(02))	
005517 - 005724	Chairman ALA9 Admin	ALA9's concern about the implication of the Companies Bill currently under scrutiny by a Bills Committee on the Bill as it contains references to the Companies Ordinance ("CO") (Cap. 32), and the Administration's response that the Companies Bill did not affect the CO provisions under the Bill and only the	

Time marker	Speaker(s)	Subject(s)	Action Required
		name of Cap. 32 might be revised. Given the passage of the Bill, the Companies Bill would make the related amendments	
005725 - 005923	Chairman Admin	Completion of scrutiny of the Bill Date of resumption of the Second Reading debate on the Bill and date of giving a verbal report on the deliberations of the Bills Committee to the House Committee	

Council Business Division 2
Legislative Council Secretariat
17 April 2012