

**立法會**  
**Legislative Council**

LC Paper No. CB(2)931/10-11  
(These minutes have been seen  
by the Administration)

Ref : CB2/SS/2/10

**Subcommittee on Subsidiary Legislation  
Relating to Statutory Minimum Wage**

**Minutes of meeting  
held on Wednesday, 8 December 2010, at 8:30 am  
in the Chamber of the Legislative Council Building**

- Members present** : Hon TAM Yiu-chung, GBS, JP (Chairman)  
Hon LEE Cheuk-yan  
Hon CHEUNG Man-kwong  
Hon LEUNG Yiu-chung  
Hon Miriam LAU Kin-ye, GBS, JP  
Hon Abraham SHEK Lai-him, SBS, JP  
Hon LI Fung-ying, SBS, JP  
Hon Tommy CHEUNG Yu-yan, SBS, JP  
Hon Audrey EU Yuet-mee, SC, JP  
Hon WONG Kwok-hing, MH  
Hon Jeffrey LAM Kin-fung, SBS, JP  
Hon Andrew LEUNG Kwan-yuen, GBS, JP  
Hon WONG Ting-kwong, BBS, JP  
Hon Ronny TONG Ka-wah, SC  
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
- Members absent** : Hon Frederick FUNG Kin-kee, SBS, JP  
Hon Cyd HO Sau-lan  
Hon LEUNG Kwok-hung

**Public Officers** : Item I  
**attending**

Mr Alan WONG Kwok-lun, JP  
Deputy Commissioner for Labour (Labour Administration)

Miss Mabel LI Po-yi  
Assistant Commissioner for Labour (Special Duties)

Ms Reddy NG Wai-lan  
Government Economist (Acting)  
Financial Secretary's Office

Miss Cindy YIM Lai-kwan  
Secretary of Provisional Minimum Wage  
Commission

Ms Amy CHAN Wing-yan  
Senior Government Counsel  
Department of Justice

Ms Grace LEUNG Pui-kay  
Senior Government Counsel  
Department of Justice

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

**Staff in** : Mr KAU Kin-wah  
**attendance** Assistant Legal Adviser 6

Miss Josephine SO  
Senior Council Secretary (2) 1

Ms Kiwi NG  
Legislative Assistant (2) 1

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- I. Meeting with the Administration**  
(File Ref.: LD SMW 1-55/1/4(C), L.N. 145, L.N. 146, L.N. 147,  
L.N. 148, LC Paper Nos. CB(2)387/10-11(02), CB(2)497/10-11(01)  
and CB(2)510/10-11(01))

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

2. Mr LEE Cheuk-yan moved a motion to the effect that the Subcommittee would move an amendment to the Minimum Wage Ordinance (Commencement) (No. 2) Notice 2010 to the effect that the Minimum Wage Ordinance (except sections 1, 2 and 16, Part 3 and Schedule 4) would be implemented on 1 February 2011 and consequently the statutory minimum wage rate would have effect from that date. As there were divided views among members, a vote was taken on the motion. Six members voted in favour of the motion and seven voted against it. The Chairman declared that the motion was negatived.

3. Mr IP Wai-ming moved a motion to raise the monthly monetary cap for exempting employers from keeping records of the total number of hours worked by their employees to \$20,000. As there were divided views among members, a vote was taken on the motion. Five members voted in favour of the motion and eight voted against it. The Chairman declared that the motion was negatived.

4. The Chairman concluded that the Subcommittee had completed its scrutiny work. Members noted that the Subcommittee would report its deliberations to the House Committee on 17 December 2010, and the deadline for giving notice of a motion to amend the subsidiary legislation, if any, at the Council meeting on 5 January 2011 was 28 December 2010.

5. Members agreed that the meeting originally scheduled for 13 December 2010 at 2:30 pm be cancelled.

6. The being no other business, the meeting ended at 10:05 am.

**Proceedings of meeting of the  
Subcommittee on Subsidiary Legislation Relating to Statutory Minimum Wage  
held on Wednesday, 8 December 2010, at 8:30 am  
in the Chamber of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action Required
000000 - 000252	Chairman	Opening remarks	
000253 - 000710	Admin	Administration's response to issues raised by members at the Subcommittee meetings on 26 November, 30 November and 6 December 2010 (LC Paper Nos. CB(2)497/10-11(01) & CB(2)510/10-11(01))	
000711 - 001310	Hon LEE Cheuk-yan	<p>Whether the Provisional Minimum Wage Commission ("PMWC") had made reference to the experience of the Low Pay Commission in the United Kingdom and taken into consideration the inflation for the period up to 1 May 2011 in deliberating the initial statutory minimum wage ("SMW") rate; the total number of employees involved under the initial SMW level if the latest inflation and inflation forecast were taken into account</p> <p>Response of the Administration -</p> <p>(a) PMWC had spelt out clearly in its report that if the initial SMW rate was to be fixed at \$28 per hour, around 314 600 or 11.3% of the total number of employees in Hong Kong would be covered. This estimation was based on the survey data in the second quarter of 2009. As wages had resumed a modest increase since late 2009 and were expected to rise gradually, the proportion of involved employees after SMW implementation might be slightly lower than the estimation;</p> <p>(b) given the fact that Hong Kong had no experience in implementing an SMW, the impact could not be measured with precision. In addition, the chain effects arising from the interactions of different parties' reaction to SMW could only be ascertained some time after the implementation of SMW</p>	

Time marker	Speaker	Subject(s)	Action Required
001311 - 001958	Hon IP Wai-ming Admin	<p>When and how future reviews of the SMW rate would be conducted; whether the Administration would consider raising the monthly monetary cap on keeping records of the total number of hours worked by an employee, so as to prevent employers from circumventing the legal requirement by asking their employees to work longer hours</p> <p>The Administration advised that the monetary cap itself did not affect an employee's entitlement to receive wages not less than the SMW rate. Employees whose wages payable were at a level above the monetary cap of \$11,500 were still entitled to SMW, although their employers were not required to keep records of the total number of hours worked by them. The monetary cap would be reviewed when the SMW rate was revised in the future</p> <p>Hon IP Wai-ming's indication of intention to move a motion to amend/raise the monetary cap</p>	
001959 - 002622	Hon LEUNG Yiu-chung Chairman Admin	<p>The need to have a six months' period to prepare for the implementation of SMW; the time lag of six months between the announcement of the initial SMW rate and its implementation; whether there would also be such a time lag in the implementation of future SMW rates; the possibility of shortening the review interval</p>	
002623 - 003327	Hon CHEUNG Kwok-che Admin	<p>Enquiry on the detailed arrangements under the Minimum Wage Ordinance ("MWO") for assessing the degree of productivity of persons with disabilities, including the date on which the assessment mechanism would come into operation, the estimated number of persons with disabilities who would apply and undergo assessment before the commencement of MWO, and the estimated time required for completing a productivity assessment</p> <p>The Administration advised that it would brief the Panel on Manpower in December 2010 on the proposed criteria for approved assessors and methods of assessment for the productivity assessment of persons with disabilities under the SMW regime</p> <p>Whether the Administration would consider providing wage subsidies to persons with</p>	

Time marker	Speaker	Subject(s)	Action Required
		<p>disabilities by subsidizing the difference between the level an employee was remunerated according to his productivity assessed and the SMW rate</p> <p>The Administration advised that it had no plan to provide wage subsidy (which was also not the policy intent of MWO and its subsidiary legislation) to top up the difference between SMW and the wage level of persons with disabilities determined according to their assessed degree of productivity when invoking the special arrangement</p>	
003328 - 003712	Hon LI Fung-ying Admin	<p>Basket of indicators/statistical data which would be considered by the statutory Minimum Wage Commission ("MWC") during its future reviews of the SMW rate; circumstances to activate the review mechanism; frequency and timing of future reviews</p> <p>The Administration advised that MWO required MWC to make a report on its recommendation about the amount of the prescribed minimum hourly wage rate at least once in every two years. The SMW rate should be deliberated through an evidence-based approach. Hence, whenever there was evidence supporting the need of a review, the SMW rate could be reviewed at an appropriate time</p>	
003713 - 005000	Hon Paul TSE Admin Hon IP Kwok-him	<p>Considered that the monthly monetary cap of \$11,500 was too high; pointed out the administrative burden on employers, in particular those operating small and medium enterprises and in the tourism services industry</p> <p>The numbers of employers and employees who would be affected by the record-keeping requirement currently proposed by the Administration; the respective numbers/percentages of change if the monetary cap was raised to \$20,000</p>	
005001 - 005315	Hon WONG Kwok-kin Admin Chairman	Requested that the Administration should ensure that employees of Government outsourced service contractors would continue to receive wages not lower than the average market rate for the relevant industry/occupation published in the latest Quarterly Report of Wages and Payroll	

Time marker	Speaker	Subject(s)	Action Required
		<p>Statistics issued by the Census and Statistics Department after MWO came into operation, although the initial SMW rate recommended by PMWC might be lower than the prevailing average market rates of certain occupations</p> <p>The Administration advised that it would study the impact of MWO on Government outsourced service contracts. The Administration hoped to revert to the Panel on Manpower on the outcome of its study in the first quarter of 2011</p>	
005316 - 010605	<p>Hon Tommy CHEUNG Hon Ronny TONG Chairman Admin Hon Miriam LAU</p>	<p>Expression of views by Hon Tommy CHEUNG and Hon Miriam LAU on the appropriateness to specify \$11,500 as the monthly monetary cap on keeping records of the total number of hours worked</p> <p>The numbers of employers and employees who would be affected by the record-keeping requirement currently proposed by the Administration; the respective numbers/percentages of change if the monetary cap was raised to \$20,000</p>	
010606 - 010944	<p>Hon Andrew LEUNG Chairman Admin</p>	<p>Expression of views on the wage level for exempting employers from recording the total number of hours worked</p> <p>The Administration emphasized that the monetary cap itself did not affect an employee's entitlement to receive wages not less than the SMW rate. Employees whose wages payable were at a level above the monetary cap of \$11,500 were still entitled to SMW, although their employers were not required to keep records of the total number of hours worked by them</p>	
010945 - 011235	<p>Chairman Hon LEE Cheuk-yan Hon IP Kwok-him Hon Miriam LAU</p>	<p>Hon LEE Cheuk-yan's indication of intention to move a motion to the effect that the Subcommittee would move an amendment to the Minimum Wage Ordinance (Commencement) (No. 2) Notice 2010 to the effect that MWO (except sections 1, 2 and 16, Part 3 and Schedule 4) would be implemented on 1 February 2011 and consequently the SMW rate would have effect from that date</p>	
011236 - 011433	<p>Hon LEE Cheuk-yan Chairman</p>	<p>Hon LEE Cheuk-yan elaborated on his motion at <b>Appendix I</b></p>	

<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action Required</b>
011434 - 011814	Hon Paul TSE Hon Ronny TONG	Expression of views by Hon Paul TSE and Hon Ronny TONG on the motion proposed by Hon IP Wai-ming at <b>Appendix II</b>	
011815 - 011924	Hon Ronny TONG Chairman ALA6	Hon Ronny TONG's expression of support for the early implementation of SMW as proposed by Hon LEE Cheuk-yan	
011925 - 012140	Hon CHEUNG Man-kwong	Expression of views on the motion proposed by Hon IP Wai-ming	
012141 - 012330	Hon IP Wai-ming	Reason for proposing a higher wage level for exempting employers from recording the total number of hours worked	
012331 - 012914	Hon IP Kwok-him Hon CHEUNG Man-kwong Hon Tommy CHEUNG	Expression of views by Hon IP Kwok-him, Hon CHEUNG Man-kwong and Hon Tommy CHEUNG on the motion proposed by Hon IP Wai-ming  Hon Tommy CHEUNG's view on Hon LEE Cheuk-yan's proposal to advance the implementation of the SMW rate from 1 May 2011 to 1 February 2011	
012915 - 013402	Chairman	Extension of meeting time  Clause by clause examination of the subsidiary legislation (L.N. 145, L.N. 146, L.N. 147 and L.N. 148)  Voting on the motion moved by Hon IP Wai-ming; the motion was negatived with five members in favour of the motion and eight against it  Voting on the motion moved by Hon LEE Cheuk-yan; the motion was negatived with six members in favour of the motion and seven against it	
013403 - 013534	Chairman	Deadline for giving notice of amendments to the subsidiary legislation; legislative timetable; cancellation of the meeting scheduled for 13 December 2010	



**研究法定最低工資附屬法例的小組委員會  
在2010年12月8日會議上被否決的議案**

"本委員會動議修訂於2010年11月17日提交立法會會議省覽的《2010年〈最低工資條例〉(生效日期)(第2號)公告》(即刊登於憲報的2010年第147號法律公告),廢除"2011年5月1日"而代以"2011年2月1日"。"

動議人：李卓人議員  
和議人：張國柱議員

(Translation)

**Motion negatived by the Subcommittee on Subsidiary Legislation Relating to  
Statutory Minimum Wage at the meeting on 8 December 2010**

"That, this Subcommittee move a motion to amend the Minimum Wage Ordinance (Commencement) (No. 2) Notice 2010 (L.N.147 of 2010 published in the Gazette) tabled at the Legislative Council meeting on 17 November 2010 by repealing "1 May 2011" and replacing it with "1 February 2011"."

Moved by: Hon LEE Cheuk-yan

Seconded by: Hon CHEUNG Kwok-che

**研究法定最低工資附屬法例的小組委員會  
在2010年12月8日會議上被否決的議案**

"為保障工人避免工時過長，缺乏證據證明其工時紀錄，而引至不必要的勞資糾紛；同時為標準工時研究保留完備的工時紀錄。本小組委員會促請政府修訂備存總工作時數紀錄的每月金額上限至20,000元"

動議人：葉偉明議員  
和議人：李鳳英議員

(Translation)

**Motion negatived by the Subcommittee on Subsidiary Legislation Relating to  
Statutory Minimum Wage at the meeting on 8 December 2010**

"That, to protect workers from excessively long working hours and lacking in evidence to serve as records of hours they have worked, which may cause unnecessary labour disputes, and at the same time retain complete records of hours worked to facilitate the study on standard working hours, this Subcommittee urges the Administration to revise the monetary cap on keeping records of hours worked to \$20,000 per month."

Moved by: Hon IP Wai-ming  
Seconded by: Hon LI Fung-ying