

立法會
Legislative Council

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(These minutes have been seen
by the Administration)

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Subcommittee on Minimum Wage (Criteria for Approved Assessors)
Notice and Minimum Wage (Assessment Methods) Notice

Minutes of meeting
held on Monday, 14 February 2011, at 2:30 pm
in Conference Room B of the Legislative Council Building

Members present : Hon TAM Yiu-chung, GBS, JP (Chairman)
Hon LEE Cheuk-yan
Hon LEUNG Yiu-chung
Hon LI Fung-ying, SBS, JP
Hon Tommy CHEUNG Yu-yan, SBS, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon WONG Ting-kwong, BBS, JP
Hon Cyd HO Sau-lan
Hon CHEUNG Kwok-che
Hon WONG Sing-chi
Hon IP Kwok-him, GBS, JP
Hon Alan LEONG Kah-kit, SC
Hon LEUNG Kwok-hung

Members absent : Hon IP Wai-ming, MH
Hon WONG Yuk-man

Public Officers attending : Item I

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

Mr Charles HUI Pak-kwan
Chief Labour Officer (Statutory Minimum Wage)
Labour Department

Miss Cindy YIM Lai-kwan
Senior Labour Officer (Statutory Minimum Wage)
Labour Department

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

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

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

Staff in attendance : Mr Bonny LOO
Assistant Legal Adviser 3

Ms Alice LEUNG
Senior Council Secretary (2) 2

Miss Lulu YEUNG
Clerical Assistant (2) 1

I. Meeting with the Administration

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

2. Hon Audrey EU requested putting on record that she did not consider the two pieces of subsidiary legislation under scrutiny entirely satisfactory as the Administration had not fully addressed her concerns, including those regarding the eligibility and sufficiency of the number of approved assessors and the avenues for lodging complaints against approved assessors. However, she had no better choice than to support the two Notices so that the implementation of the special arrangement of productivity assessments for persons with disabilities would not be delayed, given the launching of the statutory minimum wage ("SMW") on 1 May 2011. Therefore, she urged the Administration to review the

productivity assessment mechanism after the implementation of the special arrangement for persons with disabilities under the Minimum Wage Ordinance (Cap. 608) and introduce improvements where necessary in the light of operational experience. She also suggested that the Panel on Manpower should follow up with the Administration on the results of the review scheduled for two years after the implementation of SMW.

3. At the request of the Subcommittee, the Administration undertook to -

- (a) provide the Panel on Manpower with its administrative guidelines for approved assessors and the relevant forms contained therein, including the certificate of assessment; and
- (b) review the special arrangement for persons with disabilities, including whether there is a need for an appeal mechanism and the impact of SMW on the employment opportunities of persons with disabilities, in the light of operational experience within two years after the implementation of SMW and report the results to the Panel on Manpower.

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 18 February 2011, and the deadline for giving notice of a motion to amend the two pieces of subsidiary legislation, if any, at the Council meeting on 2 March 2011 was 23 February 2011.

5. There being no other business, the meeting ended at 3:20 pm.

**Proceedings of meeting of the
Subcommittee on Minimum Wage (Criteria for Approved Assessors) Notice and
Minimum Wage (Assessment Methods) Notice
held on Monday, 14 February 2011, at 2:30 pm
in Conference Room B of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action Required
000000 - 000523	Chairman	Opening remarks	
000524 - 001356	Admin	Briefing by the Administration on its response to issues raised at the Subcommittee at the meeting on 27 January 2011 (LC Paper No. CB(2)998/10-11(01))	
001357 - 002253	Hon CHEUNG Kwok-che Admin	<p>Whether recognised organizations which provided training courses for applicant assessors under the vocational rehabilitation practitioner category could recommend these course participants to become approved assessors</p> <p>The Administration responded in the negative as an approved assessor under the vocational rehabilitation practitioner category should have a recommendation of the recognized organization(s) which had engaged him in the provision of vocational rehabilitation or other services in relation to the employment of persons with disabilities</p> <p>Hon CHEUNG Kwok-che considered that in the event that none of the recognized organizations which had engaged the vocational rehabilitation practitioner agreed to recommend him to become an approved assessor, the applicant should be allowed to approach the Labour Department ("LD") for assistance</p> <p>The Administration responded that if LD received requests for assistance of such a nature, it would follow up with the recognized organization(s) concerned as appropriate</p>	
002254 - 003022	Hon Cyd HO Admin	<p>Suggested the Administration to consider allowing applicant assessors to use their performance appraisal reports issued by the recognized organization(s) as a substitute for the recommendation</p> <p>The Administration advised that the past performance appraisal reports of an applicant</p>	

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		<p>assessor usually embodied a lot of sensitive personal data which were not relevant to the applicants' eligibility as approved assessors and the assessments contained therein might not sufficiently and accurately reflect his suitability for undertaking the duties of an approved assessor</p>	
003023 - 003702	Chairman Admin	Suggested that the drafting of item (iii) in paragraph 4 in the Important Notes and item 3 in Part 2 of the draft certificate of assessment be improved to enhance clarity	
003703 - 004214	Hon Cyd HO Admin Chairman	<p>Hon Cyd HO considered that the draft certificate of assessment was too simple and should provide comprehensive information relating to the assessment on the degree of productivity of persons with disabilities</p> <p>The Administration responded that while the certificate of assessment provided the assessment result on the degree of productivity of persons with disabilities, the administrative guidelines for approved assessors would include detailed information about methods and procedures of productivity assessment</p> <p>The Administration undertook to provide the Panel on Manpower its administrative guidelines for approved assessors and the relevant forms contained therein, including the certificate of assessment</p>	
004215 - 004457	ALA3 Admin Chairman	<p>ALA3 sought clarification from the Administration as to whether the procedures for withdrawing approval granted to an approved assessor would be provided in the administrative guidelines for approved assessors; and drew members' attention that the same person (i.e. the Commissioner for Labour) would have the powers to withdraw the approval granted to an approved assessor and to review the decision so made upon application by the assessor concerned</p> <p>The Administration advised that the procedures for withdrawing approval granted to an approved assessor were administrative in nature and that it would consult the Department of Justice to work out a procedure that would comply with the relevant administrative law principles on procedural fairness</p>	

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004458 - 004722	Hon Audrey EU Admin	<p>Hon Audrey EU requested to put on record her views/request as follows -</p> <p>(a) she did not consider the two pieces of subsidiary legislation under scrutiny were entirely satisfactory as the Administration had not fully addressed her concerns;</p> <p>(b) she had no better choice than to support the two Notices so that the implementation of the special arrangement for persons with disabilities under the Minimum Wage Ordinance (Cap. 608) ("MWO") would not be delayed given the launching of the statutory minimum wage ("SMW") on 1 May 2011;</p> <p>(c) the Administration was urged to review the productivity assessment mechanism after the implementation of the special arrangement for persons with disabilities and introduce improvements where necessary in the light of operational experience; and</p> <p>(d) the Panel on Manpower should follow up with the Administration on the results of the review scheduled for two years after the implementation of SMW</p> <p>The Administration undertook to review the productivity assessment mechanism within two years after the implementation of the special arrangement for persons with disabilities under the SMW regime</p>	
004723 - 004905	Hon LEUNG Yiu-chung Admin	<p>In response to Hon LEUNG Yiu-chung's enquiry, the Administration explained that it was not the policy intent of MWO to provide wage subsidy. As such, the review on the special arrangement for productivity assessment of persons with disabilities would not cover the issue of wage subsidy</p>	
004906 - 004958	Chairman	<p>Report to the House Committee; deadline for giving notice of amendments to the two pieces of subsidiary legislation</p>	