

立法會
Legislative Council

LC Paper No. CB(2)806/10-11
(These minutes have been seen
by the Administration)

Ref : CB2/PL/MP

Panel on Manpower

Minutes of meeting
held on Thursday, 18 November 2010, at 2:30 pm
in Conference Room A of the Legislative Council Building

- Members present** : Hon LEE Cheuk-yan (Chairman)
Hon LI Fung-ying, SBS, JP (Deputy Chairman)
Hon CHEUNG Man-kwong
Hon LEUNG Yiu-chung
Hon Andrew CHENG Kar-foo
Hon Tommy CHEUNG Yu-yan, SBS, JP
Hon Frederick FUNG Kin-kee, SBS, JP
Hon WONG Kwok-hing, MH
Hon Andrew LEUNG Kwan-yuen, GBS, JP
Dr Hon LAM Tai-fai, BBS, JP
Hon CHAN Kin-por, JP
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 Alan LEONG Kah-kit, SC
Hon LEUNG Kwok-hung
- Members attending** : Hon Ronny TONG Ka-wah, SC
Hon Paul TSE Wai-chun

Public Officers attending : Item III

The Administration

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

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

Mrs Tonia LEUNG SO Suk-ching
Assistant Commissioner for Labour (Employment Services)

Miss Grace CHAN Wing-han
Senior Labour Officer (Employment Services) (Operation)
Labour Department

Mr Stanley NG, BBS
Executive Director
Employees Retraining Board

Item IV

The Administration

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

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

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

Item V

The Administration

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

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

Miss Mabel LI Po-yi
Chief Labour Officer (Statutory Minimum Wage)
Labour Department

Provisional Minimum Wage Commission

Miss Cindy YIM Lai-kwan
Secretary

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

Staff in attendance : Ms Clara TAM
Assistant Legal Adviser 9

Miss Josephine SO
Senior Council Secretary (2) 1

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)134/10-11)

The minutes of the meeting held on 14 October 2010 were confirmed.

II. Date of next meeting and items for discussion
(LC Paper Nos. CB(2)276/10-11(01) and (02))

2. The Chairman informed members that he had attended a meeting on 25 October 2010 with the Deputy Chairman and the Secretary for

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Labour and Welfare to discuss the work plan of the Panel for the 2010-2011 session. After discussion, the items "Protection against anti-union discrimination", "Employment policy", "Establishment of a re-employment support scheme and employment services for unemployed Comprehensive Social Security Assistance recipients" and "Implementation of family-friendly employment practices" had been deleted from the list of outstanding items for discussion. The updated version of the list had been issued to members on 12 November 2010.

Regular meeting in December 2010

3. Members agreed to discuss the following items proposed by the Administration at the next regular meeting to be held on 16 December 2010 -

- (a) Work Incentive Transport Subsidy Scheme;
- (b) Productivity assessment of persons with disabilities under the statutory minimum wage regime - proposed criteria for assessors and methods of assessment; and
- (c) Guidelines on statutory minimum wage for employers and employees.

4. To allow sufficient time for discussion of all the items on the agenda, the Chairman proposed and members agreed that the meeting on 16 December 2010 should be held from 2:30 pm to 5:30 pm. Members also agreed that issues raised by Mr WONG Sing-chi in his letter dated 4 November 2010 (LC Paper No. CB(2)251/10-11(01)) on whether the meal time of employees should be counted as hours worked and whether employees should be paid for their meal time should be discussed under the agenda item as referred to in paragraph 3(c) above.

Special meeting in November 2010

5. The Chairman reminded members that a special meeting had been scheduled for Tuesday, 23 November 2010, from 9:00 am to 12:00 noon to receive views from deputations on the subject "Provision of employment-related transport subsidy". In view of the large number of deputations interested in making oral presentations to the Panel, members agreed that the meeting be extended to end at 1:00 pm.

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III. Progress of the setting up of a pioneer one-stop employment and training centre in Tin Shui Wai

(LC Paper Nos. CB(2)276/10-11(03) and (04))

6. Permanent Secretary for Labour and Welfare ("PSLW") and Commissioner for Labour ("C for L") briefed members on the progress in setting up a pioneer one-stop employment and training centre ("OSS") in Tin Shui Wai as set out in the Administration's paper.

Employment services provided by OSS

7. Mr WONG Kwok-hing enquired about the duration for which the personalized and customized employment services would be provided by OSS to 500 unemployed able-bodied Comprehensive Social Security Assistance ("CSSA") recipients in Tin Shui Wai ("the services"). Mr CHAN Kin-por asked how the 500 CSSA recipients would be selected.

8. C for L responded that OSS would provide on a trial basis personalized and customized employment services to 500 unemployed able-bodied CSSA recipients in its first year of operation, with a view to helping them secure employment and become self-reliant. The Social Welfare Department ("SWD") would refer fresh CSSA recipients to OSS as existing CSSA recipients were already receiving assistance under the employment assistance programmes operated by SWD. After gaining experience and refining (if appropriate) the modus operandi, OSS would then be more ready to serve more unemployed able-bodied CSSA recipients in the district. C for L added that apart from these 500 CSSA recipients, OSS would also serve other job-seekers in need of employment assistance in a way similar to job centres of the Labour Department ("LD").

9. Ms LI Fung-ying queried the effectiveness of the needs assessment tool to be adopted by OSS to analyze the employment needs of individual job-seekers.

10. C for L explained that the computer-aided, 45-minute needs assessment tool would analyze the employment needs of individual job-seekers with reference to their qualifications, skills, experiences, motivation, interests, job preferences, personalities, attitudes and aptitudes for work. Based on the assessment results, case managers would provide job-seekers requiring intensive employment support with customized services.

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11. Mr LEUNG Kwok-hung said that he would provide the Administration with information on two cases in need of the proposed services.

Location and operation of OSS and the Service Centre of Employees Retraining Board ("ERB")

12. Mr WONG Kwok-hing asked why OSS was to be set up in Tin Shui Wai, given its remote location. Ms LI Fung-ying asked whether OSS was to be merged with the existing Yuen Long Job Centre ("YLJC") due to resource constraints.

13. C for L explained that Tin Shui Wai had the second highest unemployment rate in Hong Kong. OSS would provide residents of Tin Shui Wai with enhanced employment services. In addition, the new Amenity and Community Building in Tin Ching Estate could provide additional space for OSS to operate. OSS in Tin Shui Wai would be easily accessible by various transportation means and it was only 15 minutes away by public transport from Yuen Long town centre. The merging of OSS and the existing YLJC would facilitate better utilization of resources. Apart from deploying all the officers currently working at YLJC to work at OSS, additional manpower would be deployed to provide quality services to job-seekers.

14. Ms LI Fung-ying enquired how the ERB Service Centre would be operated.

15. Executive Director of ERB explained that the tendering exercise for a training body to operate the ERB Service Centre would commence in January 2011 and the result would be announced around May 2011. The ERB Service Centre would provide a full range of training support services to trainees and job-seekers. These included the introduction of a personalized "training consultancy service" for users requiring more intensive support and advice on ERB courses. This new service would be provided by ERB staff. Other training support services would be provided by the appointed operator.

16. Mr IP Wai-ming asked whether the services of OSS and the ERB Service Centre would be coordinated to facilitate job-seekers in obtaining one-stop employment and training/retraining services.

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17. PSLW responded that OSS and the ERB Service Centre would coordinate with each other to provide job-seekers with employment and training/retraining services in one stop.

18. C for L further explained that OSS would provide job-seekers with a full range of employment assistance to help them secure employment. Where job-seekers were assessed by OSS staff to be in need of other professional services, such as in-depth psychological counselling to help them overcome their psychological barriers to secure and sustain in employment or retraining services to enhance their employability, referrals to SWD or ERB would be arranged for them as appropriate.

19. Mr IP Wai-ming enquired how the Administration would evaluate the success of the proposed OSS. Dr PAN Pey-chyou asked when the Administration would review the operations of the proposed OSS, and whether the Administration would establish OSS in other districts. He also asked whether the Administration planned to replace existing job centres of LD with OSSs.

20. C for L responded that in the initial period of operation, the performance of OSS would largely be measured in quantitative terms, such as the number of job-seekers using the facilities of OSS, seeking job referrals and receiving case management services. Thereafter, the effectiveness in assisting hard-to-employ job-seekers to secure employment, for which a longer time was needed for consolidating the experience, could be evaluated. The operation of OSS would be reviewed two years after its commencement.

21. PSLW and C for L advised that OSS would be extended to other districts if the pilot OSS was proved successful in the provision of employment assistance and the services of OSS were found suitable to the districts having regard to their unique socio-economic characteristics. If OSS was to be extended to other districts, a major challenge would be the availability of suitable premises with sufficient space.

22. The Chairman expressed support for the proposed OSS, which offered one-stop employment assistance. He considered that the Administration should expedite the provision of such services.

Employment opportunities in Tin Shui Wai

23. Referring to a submission tabled at the meeting, which expressed concern over the land use of area 112B in Tin Shui Wai, Mr WONG

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Kwok-hing asked whether the Administration would consider the suggestion in the submission of creating jobs in the Tin Shui Wai district. Mr LEUNG Yiu-chung enquired if the Administration would consider promoting Tin Shui Wai's local community economy so as to create more employment opportunities for local residents. Mr CHAN Kin-por asked if the Administration would encourage the creation of jobs which provided backup support in Tin Shui Wai. He considered that residents of Tin Shui Wai were in need of employment opportunities instead of training and retraining facilities.

24. PSLW and C for L responded that the views regarding the land use of area 112B in Tin Shui Wai and development of Tin Shui Wai's local economy would be referred to relevant bureaux/government departments for consideration. PSLW added that there were efforts to increase the employment opportunities for local residents in Tin Shui Wai. For example, the Hong Kong Jockey Club had set up a telebet centre in Tin Shui Wai, which provided local residents with employment opportunities and the Hong Kong Housing Society had proposed the launching of an Integrated Elderly Community Project, which was aimed at bringing new economic impetus and creating employment opportunities in Tin Shui Wai.

25. Mr LEUNG Yiu-chung enquired whether the Administration had assessed the number of employment opportunities in Tin Shui Wai. The Chairman queried whether launching the Integrated Elderly Community Project in Tin Shui Wai would boost local employment opportunities. He was of the view that the Administration should focus on providing more employment opportunities in Tin Shui Wai.

26. C for L responded that job vacancies were available in Yuen Long District but as in other parts of the territory, there was a mismatch of vacancies and job-seekers' expectations in the district. Assistant Commissioner for Labour (Employment Services) advised that in October 2010, there were over 12 000 job vacancies in Yuen Long, Tuen Mun, Sheung Shui, and Tsuen Wan districts, among which over 2 000 were elementary occupations which were not very demanding on the qualifications of the applicants. LD had been actively lining up employers in Yuen Long and nearby districts to stage job fairs in Tin Shui Wai so as to expedite the dissemination of vacancy information to the residents. Between 2008 and October 2010, seven large-scale job fairs had been staged in Tin Shui Wai. Another job fair was also planned for December 2010.

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27. Referring to the serious job mismatch problem in Tin Shui Wai, Mr CHAN Kin-por asked if the Administration had analyzed the nature of the employment opportunities in the district. He considered that no applicant would apply for a job with low salary and long working hours. He asked whether the Administration had discussed the problem with employers who offered such jobs.

28. C for L responded that LD would advise employers of the prevailing market rate if their job orders were found offering low wages. Once the Minimum Wage Ordinance (Cap. 608) ("MWO") came into effect in May 2011, all employers would have to comply with the statutory minimum wage rate when placing job orders with LD.

(Post-meeting note: The submission from 推動天水圍經濟發展大聯盟及社區發展陣線天水圍社區發展計劃, which was tabled at the meeting, was issued to members vide LC Paper No. CB(2)349/10-11 on 19 November 2010.)

IV. Rationalization and strengthening of the directorate establishment for labour administration in the Labour Department

(LC Paper No. CB(2)276/10-11(05))

29. PSLW and C for L briefed Members on the Administration's proposal to create in the Labour Administration Branch ("the LA Branch") of LD one permanent post of Assistant Commissioner for Labour ("AC for L") and one permanent post of Chief Labour Officer ("CLO"), with the latter to be offset by the deletion of one supernumerary CLO post which had been created for a period of three years from January 2009 to lead a dedicated team in LD to take forward the legislative exercise relating to the implementation of the statutory minimum wage ("SMW"). Details of the proposal were set out in the Administration's paper.

30. Mr WONG Kwok-hing said that he was in support of the proposal to strengthen the directorate establishment of LD, so as to enhance its capability in planning and implementing expanded and new portfolios and initiatives in labour administration. Mr WONG considered it equally important for LD to have adequate staff at the non-directorate level in order to cope with the increased workload arising from various initiatives. He asked whether the Administration had any plan to strengthen the staffing at the non-directorate level to support the new AC for L and the permanent CLO.

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31. PSLW and C for L responded that alongside the planned creation of two directorate posts, the Administration would create non-directorate posts in 2011-2012 to strengthen the existing staffing resources for various ongoing and new initiatives relating to labour administration. In line with the principle of prudent management of public resources, the Administration kept the operational and manpower requirements of LD under constant review and would consider the feasibility of measures such as internal redeployment, streamlining and re-engineering. If necessary, the Administration would seek additional resources through the established resource allocation mechanism.

32. The Deputy Chairman said that she supported in principle the funding proposal for creation of posts in LD, having regard to the persistent manpower shortage in as well as the anticipated increase in workload of LD. She noted from paragraph 16 of the Administration's paper that at present, the supernumerary CLO post was supported by a team of 13 non-directorate staff. Among the non-directorate staff, one post of Senior Labour Officer was time-limited and four supporting staff, including two employed on non-civil service contract ("NCSC") terms, were on loan from other divisions. Expressing concern about the propriety of engaging staff on NCSC terms in the light of its impact on the morale of staff concerned, the Deputy Chairman enquired whether the Administration had any plan to convert the NCSC posts into civil service posts and to make the time-limited post a permanent one, given the fact that there was a continuous operational need to retain the posts for implementation of SMW.

33. C for L replied in the affirmative and advised that the Administration had all along been prudent in the use of public money. Hence, when the relevant staffing proposal was last submitted to the Panel for consideration in late 2008, the CLO(SMW) post was proposed to be created for three years subject to practical need and anticipated workload as it would not be appropriate for the Administration to make any assumptions about the passage and the timing of passage of the Minimum Wage Bill. With the passage of MWO in July 2010 and LD's labour administration portfolios expanding in volume as well as complexity on various fronts, the Administration had reviewed the long-term staffing requirement of LD and decided to convert those supernumerary and NCSC posts responsible for SMW implementation into permanent posts to ensure adequate support for the implementation of the SMW regime.

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34. Mr IP Wai-ming expressed concern about the adequacy of frontline manpower resources, in particular Labour Inspectors, for enforcement of MWO. He called on the Administration to take measures to ensure that LD would have the necessary manpower to implement the new policy initiatives outlined in the Administration's paper.

35. In response, C for L advised that -

- (a) the Administration attached great importance to the implementation of MWO. To safeguard employees' entitlements to SMW, appropriate measures and strategies would be adopted to ensure effective enforcement of MWO;
- (b) at the same time, LD would continue its all-out enforcement efforts to protect the statutory rights and benefits of employees under various labour legislation;
- (c) resources required for implementing and enforcing MWO, including the manpower requirement in respect of Labour Inspectors, would be handled according to the established resource allocation mechanism; and
- (d) the relevant subsidiary legislation relating to SMW had been published in the Gazette on 12 November 2010. If everything went well, the initial SMW rate would come into force on 1 May 2011. In the meantime, LD would launch an extensive publicity and promotion campaign on the SMW requirements.

36. Dr PAN Pey-chyou said that although he supported in principle the proposal to create two directorate posts in the LA Branch of LD to spearhead the implementation of SMW, he had reservations about the continued requirement for the two proposed posts after the development/finalization of industry-specific guidelines on SMW and the special arrangement for assessing the degree of productivity of persons with disabilities. Echoing the view of Mr WONG Kwok-hing, Dr PAN said that additional manpower resources at the non-directorate level should be provided to ensure the smooth and effective implementation of SMW. He enquired about the increase in the number of non-directorate staff in the LA Branch in 2011-2012.

37. Mr LEUNG Yiu-chung shared the view that additional resources and manpower should be sought to cope with the expanded portfolios of

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work of LD. He requested the Administration to step up publicity and promotion to raise the awareness and understanding of employers and employees of the SMW requirements.

38. In response, PSLW and C for L made the following points -

- (a) SMW was a new policy initiative, the implementation of which would involve a substantial amount of work in all aspects, as outlined in the Administration's paper, on a long-term basis. Given the significant impact of SMW, there would be a sustained need to educate employers and employees on the requirements of SMW and to keep the guidelines abreast of changes in the employment patterns in various sectors;
- (b) LD reviewed from time to time the manpower resources and workload of various grades in the department. It would ensure that sufficient resources were made available for implementing and enforcing MWO. In addition to internal redeployment, additional resources would be sought, if necessary, to cope with operational needs; and
- (c) regarding the need for resources, in particular manpower at the non-directorate level, arising from the implementation of SMW, necessary provision would be included in the draft Estimates of future years.

39. Responding to Mr Tommy CHEUNG's enquiry as to whether the staffing proposal under discussion had been examined by the relevant bureaux, C for L replied in the affirmative and advised that the staffing proposal was supported by the Labour and Welfare Bureau, the Financial Services and the Treasury Bureau and the Civil Service Bureau before its submission to the Panel.

40. Mr Tommy CHEUNG enquired about the total number of additional posts to be created in LD to take forward the expanded and new portfolios and initiatives in labour administration, and the grades and ranks of these posts.

41. In response, C for L said that the Administration could not disclose at this stage the number of additional posts to be created in LD. However, the posts to be created would include both professional and general grades.

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42. Summing up, the Chairman reminded Members that one of the main duties and responsibilities of the permanent AC for L post under consideration was to plan, launch, monitor and review the implementation of the territory-wide Work Incentive Transport Subsidy Scheme. He also informed Members that the Administration planned to submit the funding proposal to the Establishment Subcommittee on 5 January 2011.

V. Report of the Provisional Minimum Wage Commission - the initial statutory minimum wage rate

(Annex E to the Legislative Council Brief on subsidiary legislation in relation to the Minimum Wage Ordinance issued by the Labour and Welfare Bureau (File Ref.: LD SMW 1-55/1/4(C)) and LC Paper No. CB(2)276/10-11(06))

43. PSLW gave a brief introduction on the Report of the Provisional Minimum Wage Commission ("PMWC") which contained PMWC's recommendations concerning the initial SMW rate.

Time lag between data collection, deliberation of the statutory minimum wage rate and the date of its implementation

44. The Deputy Chairman said that there was a time lag issue as the initial SMW rate of \$28 per hour recommended by PMWC, which was based on the wage distribution in the second quarter of 2009, would come into operation on 1 May 2011, given that Hong Kong had entered into an inflationary period with wages and employment earnings picking up. She said that the Federation of Hong Kong & Kowloon Labour Unions would suggest the following measures for consideration by the Administration, with a view to assisting the low-income groups -

- (a) regarding the proposed Work Incentive Transport Subsidy Scheme which was aimed at subsidizing employed members of low-income families in meeting their travelling expenses commuting to and from work, the Administration should consider relaxing the thresholds for a person to become eligible for receiving transport subsidy, in particular the requirements in respect of personal asset, monthly income and the total number of hours worked by the person in a wage period;

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- (b) the Administration should consider issuing food coupons and providing subsidies to low-income people and families; and
- (c) the Administration should come up with measures to assist those low-income employees who might lose their jobs upon the implementation of SMW.

45. Responding to the Deputy Chairman's concern about the time lag issue, Principal Economist, Financial Secretary's Office ("PE/FSO") said that there was inevitably a time lag between data collection and availability of the statistics. In recognition of this limitation, PMWC had already taken into account relevant indicators with more up-to-date data sources, especially with regard to business operating conditions and the latest wage trend, as well as the latest inflation and economic forecasts.

46. The Chairman expressed dissatisfaction with the Administration's response. He pointed out that the Low Pay Commission in the United Kingdom had provided in its first report a deflated recommended minimum wage rate in assessing the impact of the initial National Minimum Wage rate. He expressed concern whether PMWC had taken into account the inflation forecast for the period up to 1 May 2011 in conducting impact assessment of the initial SMW rate.

Timing for future reviews of the statutory minimum wage rate and factors to be considered by the statutory Minimum Wage Commission ("MWC") during the reviews

47. Mr WONG Kwok-hing and Mr IP Wai-ming said that the Hong Kong Federation of Trade Unions considered that the initial SMW rate should be set at a level higher than the one as currently recommended by PMWC, preferably not lower than \$33 per hour. They further said that future reviews of the SMW rate should be conducted annually, so as to shorten the time lag between data collection, deliberation of the SMW rate and the date of its implementation. They asked whether the second SMW rate could be implemented in the first half of 2012.

48. The Deputy Chairman shared the view that the Administration should explore whether there was room for shortening in future the lead time between the setting of an SMW rate and its implementation date. In her view, future reviews of the SMW rate should be conducted once a year.

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49. In response, PSLW advised that -
- (a) it had been specified in MWO that the SMW rate should be reviewed at least once every two years and a report on the recommendation of the SMW rate had to be made by MWC to the Chief Executive in Council accordingly. If necessary, MWC could advance its review. The exact timeframe for the review was still under consideration;
 - (b) it should be noted that the Census and Statistics Department ("C&SD") conducted Annual Earnings and Hours Survey ("AEHS") every year to collect comprehensive data on the level and distribution of wages, employment and demographic characteristics of employees in Hong Kong. In line with the evidence-based approach, the actual impact of SMW subsequent to its implementation and the movement of indicators relevant to the setting of SMW rate would be closely monitored with a view to conducting a review of the SMW rate at an appropriate time; and
 - (c) since Hong Kong had no experience in implementing SMW, more detailed and other relevant statistical data had to be collected, in order to ascertain and verify the impact assessment of the implementation of SMW.

50. PE/FSO supplemented that in deliberating the recommended initial SMW rate, PMWC had identified a basket of indicators after taking into account the views of stakeholders, experience of other places and the socio-economic circumstances of Hong Kong. The basket of indicators included general economic conditions, labour market conditions, competitiveness and standard of living. PSLW said that as some implications of SMW would be either qualitative or could be measured only after the implementation of SMW, PMWC had also taken into account other relevant considerations, such as enhancing social harmony, enhancing work incentive, enhancing quality of life, raising purchasing power and other potential chain effects.

51. Mr LEUNG Yiu-chung shared the view that future reviews of the SMW rate should be conducted once a year, and the Administration should provide the Panel with a more concrete timetable in respect of the future reviews to be conducted by MWC on the SMW rate.

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52. In response, PSLW said that the Administration understood the concerns of Members that the review of the initial SMW rate should commence as soon as possible. He reiterated that under the SMW system, the SMW rate was determined using an evidence-based approach, and the situation would be closely monitored so that a review of the SMW rate would be conducted at an appropriate time. It should be noted that apart from drawing reference to AEHS conducted by C&SD, more detailed statistical data would have to be collected after the implementation of SMW, so as to ascertain and verify the assessment of the impact of SMW.

53. Mr Tommy CHEUNG said that as depreciation was a significant cost element especially in the catering industry, it should be taken into account in determining the SMW rate. To facilitate future reviews of the SMW rate, he requested that C&SD should gather more information on depreciation in its future collection of data relating to the operating cost of enterprises.

54. Mr Tommy CHEUNG further said that in the catering industry, the market wages in different districts varied. Businesses operating in districts with lower consumer spending power might not be able to afford a wage increase. In his view, "ripple effect" was bound to emerge in the catering industry after the implementation of SMW. He hoped that MWC and the Administration would take it into consideration in assessing the impact of SMW on the catering sector.

55. Mr Andrew LEUNG expressed concern about the types of statistical data to be considered by MWC in its review of the SMW rate. He asked whether the number of low-paid jobs lost subsequent to the implementation of SMW, the "ripple effect" mentioned by Mr Tommy CHEUNG and the impact of SMW on the competitiveness of small and medium enterprises ("SMEs") would be taken into account.

56. In response, PE/FSO advised that -

- (a) given the limitations and constraints arising from the lack of experience and empirical evidence guiding the identification of the appropriate initial SMW rate, the mechanism for deliberating the SMW rate would have to be further refined by properly taking into account further evidence that might become available after the implementation of SMW; and
- (b) it should be noted that the actual impact of SMW could only be identified and assessed over a longer period of time

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through dedicated studies after the implementation of SMW. To facilitate future reviews of the SMW rate, survey and research studies would be conducted to monitor and evaluate the actual impact of SMW, in particular, on vulnerable workers, enterprises in the low paying sectors and SMEs, with special reference to the changes in employment policy/practices and detailed pay hierarchy to facilitate an in-depth examination of the possible knock-on effects.

57. Mr WONG Kwok-hing considered the Administration's response unacceptable, and queried whether the Administration was using the detailed studies as an excuse to procrastinate the review. He strongly requested that the Administration should complete the review of the initial SMW rate and provide a report for consideration by LegCo no later than May 2012.

58. The Chairman expressed disappointment at the recommendation of PMWC to specify the initial SMW rate at \$28 per hour. He considered that the rate was too low to ensure the generation of sufficient income for low-income employees, thus failing to provide the unemployed and the displaced workers with an incentive for work without the need to resort to CSSA. The Chairman was concerned that the determination of the initial SMW rate was based on the wage distribution in the second quarter of 2009 while the initial SMW rate would be implemented on 1 May 2011. He considered that the commencement of MWO and the initial SMW rate should be advanced, and the review of the initial SMW rate should commence immediately, so as to shorten the time lag between data collection, deliberation of the SMW rate and the date of its implementation.

59. PSLW responded that -

- (a) implementing the SMW regime on 1 May 2011 would give some six months' preparation time for the community. It should be noted that time was needed for some establishments to review and, if necessary, revise their business service contracts. Some owners' corporations might also need to review their cleaning and security services contracts and adjust the management fees. The Administration would also draw up general and industry-specific guidelines for employers and employees as well as launch publicity activities on the implementation of SMW;

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- (b) MWO specified that MWC should make a report on its recommendation of the SMW rate at least once in every two years. In view of Members' concern about the time lag issue, the Administration would explore whether there was room for shortening in future the lead time between the setting of an SMW rate and its implementation date. It was, however, worth noting that the SMW rate should be deliberated in line with the evidence-based approach. The basket of indicators should be taken into account by MWC in addition to the wage data collected by C&SD through AEHS; and
- (c) the SMW rate was intended to serve as a wage floor instead of a living wage in the context of Hong Kong. At the SMW rate, wages might not be sufficient to cover all family expenses of all employees which could vary greatly according to family size and composition, number of wage earners in the family and other family circumstances. While eligible employees in need could obtain financial assistance under the current social security system, PMWC had taken into account the average monthly CSSA payment for the unemployment category in deliberating the initial level of SMW since SMW could be a disincentive for people to remain on this CSSA category.

Possible impact of the implementation of the statutory minimum wage and other potential chain effects

60. Mr WONG Kwok-hing, Mr IP Wai-ming and Mr LEUNG Yiu-chung expressed deep concern about the possibility that some unscrupulous employers might change the employment terms to reduce their employees' working hours and/or fringe benefits or force their employees to become self-employed, in order to mitigate the additional SMW-induced staff costs. Mr IP expressed dissatisfaction at PMWC's unduly excessive elaboration in its report on the possible measures/strategies that might be adopted by enterprises for mitigating the SMW-induced staff costs. He enquired about the measures adopted by the Administration to prevent unscrupulous employers from circumventing the SMW requirement.

61. Responding to Members' concerns over issues such as false self-employment, increase in the number of lay-offs and reduction in working hours and/or fringe benefits after the implementation of SMW, Chief Labour Officer/LD explained that -

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- (a) making changes to the terms in a contract of employment was subject to the mutual agreement between the employer and the employee concerned; and
- (b) under the Employment Ordinance (Cap. 57), there was protection against unilateral variation of employment terms and conditions by employers. Employees who found their employment rights undermined might seek help from LD.

62. In view of the wide range and complexity of issues involved, the Chairman suggested that Members might raise the employment issues, notably the extent to which the implementation of SMW would impact on workers, again when the Panel discussed the item "Guidelines on statutory minimum wage for employers and employees" at the meeting in December 2010.

63. Mr LEUNG Kwok-hung was concerned that some enterprises might close down if the increase in staff costs was beyond their affordability and as a result, employees of these enterprises would lose their jobs. He asked whether the Administration had considered implementing specific measures to assist the most vulnerable workers who might be affected by SMW, given the availability of the huge amount of accumulated surplus in the Exchange Fund ("EF") for disposal by the Government. He asked about the financial position of EF, in particular the total surplus accumulated to date.

64. Regarding the support provided for vulnerable employees, PSLW said that the Government had all along been adopting a multi-pronged approach to assist employees who lost their jobs in redundancy and closure exercises. In addition to the retraining programmes organized by ERB and its training bodies to help workers to rejoin the labour market, LD offered intensive and personalized counselling services to the retrenched employees, and provided them with priority job matching and referral services. To improve the placement opportunities for middle-aged job seekers, LD had launched the Employment Programme for the Middle-aged to encourage employers to take on middle-aged job seekers. As for the financial position of EF, PSLW undertook to provide the requested information after the meeting.

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65. Mr CHAN Kin-por said that in seeking to offset the cost increases triggered by SMW, enterprises would tend to adopt price-raising and manpower streamlining strategies. Expressing concern about the magnitude of inflation and job loss due to the implementation of SMW,

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he asked about the measures to be adopted by the Administration to address the possible inflation and unemployment problems.

66. In response, PSLW made the following points -

- (a) in deliberating the recommended initial SMW rate, PMWC had taken into account a number of considerations, including impact on unemployment rate and inflationary pressure;
- (b) PMWC noted that the Hong Kong economy was currently on track to recovery, and the labour market had progressively improved with unemployment rate receding and wages and employment earnings picking up. It was further noted that the inflationary pressure remained modest at the present stage. PMWC was of the view that these should provide a relatively favourable macro-economic environment for SMW implementation. Against the above economic background and after taking into account a wide range of evidence and conducting thorough impact assessment, PMWC reached the consensus of recommending the initial SMW rate at \$28 per hour;
- (c) in the view of PMWC, the additional SMW-induced staff costs should be manageable by most business sectors through mitigation measures and were unlikely to trigger serious reorganization of work practices leading to substantial downsizing. The impact of the introduction of SMW on Hong Kong's overall unemployment rate was likely to be relatively mild, particularly when viewed against the improving economic and labour market conditions. The inflationary impact should also be mild; and
- (d) as explained above, the actual impact of SMW could only be assessed after it had been implemented for a period of time. The Administration would closely monitor the impact of the introduction of SMW and take appropriate measures, such as strengthening the support services to the unemployed, as and when necessary.

67. Referring to the Administration's response in paragraph 66(c), Mr Paul TSE sought clarification on the anticipated surge in unemployment rate, although it was estimated to be "relatively mild". Noting from paragraph 6.19 of PMWC's report that the impact of the

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introduction of SMW on overall inflation was estimated to increase by 0.4 percentage point, Mr TSE queried whether PMWC was overly optimistic about the impact of SMW on inflation and whether the increase was within the tolerable limits.

68. In response, PE/FSO advised that -

- (a) according to PMWC's estimation, the impact of the recommended initial SMW rate of \$28 per hour, which represented 48% of Hong Kong's median hourly wage in the second quarter of 2009, would vary across sectors, enterprises and employees. PMWC estimated that around 314 600 or 11.3% of the total number of employees in Hong Kong would receive an average wage increase of 16.9%, thereby causing an increase to the total wage bill by 0.6% to \$541.6 billion;
- (b) PMWC had pointed out in its report that enterprises employing a higher proportion of low-paid workers would face heavier cost impacts, and if the cost increase could not be fully passed onto consumers through price increase or be absorbed through profit reduction, part of the adjustments could take the form of lay-offs and reduction in working hours and/or fringe benefits. In the view of PMWC, the additional wage costs should, on the whole, be manageable by most business sectors through mitigation measures, and would unlikely trigger serious reorganization of work practices leading to substantial downsizing. Feedback from stakeholders had suggested that enterprises might not be able to accommodate more than 30% of the additional wage bill through downsizing. If enterprises chose to absorb 30% of additional wage bill through downsizing, this would represent an estimated job loss of 45 200, translating into 1.2 percentage points impact on the overall unemployment rate;
- (c) PMWC estimated that the inflationary impact should also be mild. Even assuming a full pass-through of the additional wage costs onto consumer prices, the impact of the recommended initial SMW rate on overall inflation was estimated to be modest with a rise in both the Composite Consumer Price Index and the Consumer Price Index (A) by 0.4 percentage point. Since full pass-through was unlikely to take place, the actual inflationary impact should be less

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significant than the above estimate; and

- (d) it was noteworthy that PMWC made the above assessment on the basis of information available. The actual impact would have to be evaluated through detailed tracking studies over a longer period of time after the implementation of SMW.

(Members agreed to extend the meeting by 15 minutes.)

69. Regarding the estimated number of employees who might be laid off under different SMW scenarios, as suggested in Figure 5.4 of PMWC's report, the Chairman cautioned that the figures represented the worst-case scenario that at most 30% of additional wage bills would be absorbed by downsizing and hence, they should be interpreted with care.

70. Mr Tommy CHEUNG was concerned about the measures to be adopted by the Administration to assist enterprises which would likely be more affected by the introduction of SMW, including SMEs in the catering as well as other low paying sectors, such as residential care homes for the elderly, given that they were labour-intensive in nature with the majority of the workforce at the frontline level being remunerated below the SMW rate.

71. PSLW responded that although PMWC reckoned that the cost impact would be more visible in the low paying sectors where a relatively large number or a high proportion of low-paid workers were engaged, the extent and magnitude of the impact were uncertain at the present stage and would need to be examined in future studies. With the implementation of SMW, LD would strengthen employment services for young and middle-aged people and those with disabilities. If the situation so warranted, the Administration would consider suitable employment support to assist the unemployed.

Other issues

72. Mr LEUNG Kwok-hung said that to his knowledge, rents assumed a greater portion of operating costs than wages. He questioned whether the high rental charge had a much greater impact on the viability of business operations.

73. In response, PE/FSO advised that in deliberating the initial SMW rate, PMWC had taken into account the operating characteristics and cost

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structure of the low paying sectors based on data obtained from C&SD's Programme of Annual Economic Surveys. It was revealed that except for the retail sector, in all of the other low paying sectors, such as cleaning and guarding services and catering, wages rather than rental accounted for the largest element of the operating costs of businesses.

74. Responding to Mr IP Wai-ming's enquiry about the impact of changes in unit labour cost, PE/FSO explained that unit labour cost was an indicator to reflect competitiveness, which showed the average labour cost required to produce a unit of output. By definition, enterprises would benefit from a low unit labour cost, which entailed a higher level of efficiency and productivity.

75. The Chairman noted that PMWC had, in Chapter 7 of its report, made a number of recommendations other than the initial SMW rate, covering the studies and review to be conducted to evaluate the actual impact of SMW subsequent to its implementation and the publicity and promotional activities to familiarize the community with the design of SMW. He requested the Administration to provide a response on whether and how it would take forward PMWC's recommendations.

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76. The meeting ended at 5:50 pm.

Council Business Division 2
Legislative Council Secretariat
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