

立法會
Legislative Council

LC Paper No. CB(2)1665/10-11
(These minutes have been seen
by the Administration)

Ref : CB2/PL/MP

Panel on Manpower

Minutes of meeting
held on Thursday, 17 March 2011, at 3:00 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 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 Kwok-kin, BBS
Hon IP Wai-ming, MH
Hon IP Kwok-him, GBS, JP
Dr Hon PAN Pey-chyou
Hon LEUNG Kwok-hung
- Members absent** : Hon Frederick FUNG Kin-kee, SBS, JP
Hon WONG Sing-chi
Hon Alan LEONG Kah-kit, SC
- Public Officers attending** : Item IV
Mr CHEUK Wing-hing, JP
Commissioner for Labour

Mr Byron NG Kwok-keung, JP
Assistant Commissioner for Labour (Labour Relations)

Ms Melody LUK Wai-ling
Chief Labour Officer (Labour Relations)
Labour Department

Miss Candice CHENG Lai-fan
Senior Labour Officer (Labour Relations)
Labour Department

Item V

Mr CHEUK Wing-hing, JP
Commissioner for Labour

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

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

Item VI

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

Ms Marion CHAN Shui-yu
Senior Statistician
Census and Statistics Department

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

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

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) 7

Miss Lulu YEUNG
Clerical Assistant (2) 1

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I. Confirmation of minutes of previous meeting
(LC Paper No. CB(2)1244/10-11)

The minutes of the meeting held on 20 January 2011 were confirmed.

II. Date of next meeting and items for discussion
(LC Paper Nos. CB(2)1246/10-11(01) and (02))

2. Members agreed to discuss the following items proposed by the Administration at the next regular meeting to be held on Tuesday, 19 April 2011, at 4:30 pm -

- (a) Wage arrangement for non-skilled workers engaged in government service contracts; and
- (b) Review of the system for recognition and monitoring of Mandatory Safety Training Courses.

(Post-meeting note: On the instruction of the Chairman, the Panel meeting originally scheduled for 19 April 2011 was re-scheduled to 11 April 2011 at 2:00 pm and the item "Statutory minimum wage : reference guidelines for employers and employees" was added to the agenda for the meeting. Members were notified of the arrangements vide LC Paper No. CB(2)1418/10-11 issued on 1 April 2011.)

Performance of driving duties by foreign domestic helpers

3. The Deputy Chairman said that to her knowledge, many employers asked their foreign domestic helpers ("FDHs") to perform driving duties instead of domestic duties, despite the ban imposed on driving duties by

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FDHs. At the Council meeting of 16 February 2011, she had raised a question on the abuse by employers of the existing policy regarding the granting of special permission for FDHs to perform driving duties. The Deputy Chairman however considered the Administration's reply to the oral question on the subject far from satisfactory. She was particularly concerned about the measures taken by the Administration to prevent abuse of the policy and performance of driving duties by FDHs. She suggested that the issue be discussed by the Panel at a future meeting.

4. The Chairman asked the Clerk to check with the Administration on whether the issue would be ready for discussion in April or May 2011.

(Post-meeting note: The Administration advised after the meeting that the issue of foreign domestic helpers undertaking driving duties would not be ready for discussion in April 2011.)

III. Proposal to conduct an overseas duty visit to study the experience in the implementation of standard working hours
(LC Paper No. CB(2)1246/10-11(03))

5. Members agreed to conduct an overseas duty visit in the last week of July 2011 to the Republic of Korea to study its experience in the implementation of standard working hours. The Secretariat would proceed with the preparatory work.

IV. Replacement holiday arrangements

(LC Paper Nos. CB(2)1007/10-11(01), CB(2)1014/10-11(04) and CB(2)1030/10-11(01))

6. Commissioner for Labour ("C for L") briefed members on the Administration's proposal to amend the Employment Ordinance (Cap. 57) ("EO") and the General Holidays Ordinance (Cap. 149) ("GHO") in relation to the arrangement for replacement holiday when a Lunar New Year holiday or the day following the Chinese Mid-Autumn Festival fell on a Sunday, details of which were set out in the Administration's paper.

7. Mr WONG Kwok-hing welcomed the proposal but considered that there was room to further improve the replacement holiday arrangement. He said that while an increasing number of organizations were implementing a five-day work week, employees working in these organizations would unlikely be able to benefit from the replacement

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holiday arrangement as presently proposed. He asked whether the Administration was prepared to look into the issue further to address the concerns of employees who worked five days a week from Monday to Friday with day-off on Saturday. He requested the Administration to examine and improve the current arrangement for replacement holiday when a statutory holiday fell on a Saturday.

8. Mr CHEUNG Kwok-che shared similar concern and pointed out that the vast majority of employees working under the five-day week pattern were required to work longer hours during weekdays in order to have a day-off on Saturday. It would be unfair to employees working five days a week from Monday to Friday with day-off on Saturday, if the replacement holiday arrangement were not extended to cover Saturday.

9. C for L and Assistant Commissioner for Labour (Labour Relations) ("AC for L(LR)") responded that -

- (a) the Administration was aware of the calls from both members and the local community for a review of the current arrangement for replacement holiday when a statutory holiday or general holiday fell on a Saturday. Views on the issue were divergent. On the one hand, there was a suggestion that employees should also be granted a replacement holiday should a statutory holiday or general holiday fall on a Saturday. On the other hand, there were also views that as many establishments remained open on Saturdays and many employees were still required to work on Saturdays, the impact of such arrangement on business operation and costs should not be underestimated and that the suggestion should not be considered before its full implications were carefully assessed;
- (b) regarding the concern about an employee with a five-day week pattern who was required to work longer hours during weekdays in order to have a day-off on Saturday on top of his rest day on Sunday, the matter should be considered from the perspective of an employee's whole employment package rather than viewed only against his number of working hours on an individual day, which also meant enjoying more off hours on a leave day; and

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- (c) although the number of employees working five days a week was growing, they were not yet the majority. There were still a significant number of employees working five and a half day or six days a week. The Labour Department ("LD") had commissioned the Census and Statistics Department ("C&SD") to collect and compile statistical data for the purpose of facilitating better understanding of the working days and holiday patterns of employees in Hong Kong. Where appropriate, the Administration would carry out an analysis and consult relevant stakeholders, including the industry, employers and employees organizations.

10. The Deputy Chairman recalled that the Chief Executive ("CE") had undertaken in early 2010 to conduct a thorough review of the existing arrangement for replacement holidays. She expressed disappointment that the Administration had not reviewed in one exercise the replacement arrangements for all statutory holidays that fell on a Sunday or a Saturday. In her view, the scope of the present proposal was too narrow. Noting that the Administration had commissioned C&SD to conduct a survey, the Deputy Chairman enquired about the Administration's timetable for completing the study.

11. In response, C for L and AC for L(LR) made the following points -
- (a) the undertaking by CE in early 2010 was only to review the arrangement when a Lunar New Year holiday fell on a Sunday;
 - (b) it was provided under EO that should any of the first three days of Lunar New Year fall on a Sunday, the day immediately preceding the Lunar New Year's Day (i.e. the Lunar New Year's Eve which fell on a Saturday) should be granted to employees as a replacement holiday; and in the event that the day following the Chinese Mid-Autumn Festival fell on a Sunday, the day of the Chinese Mid-Autumn Festival, which fell on a Saturday, should be designated as a replacement holiday;
 - (c) the Administration's proposal to change the replacement holiday arrangement as referred to in sub-paragraph (b) was predicated on the growing concern in recent years over whether the arrangement of designating replacement

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holidays for the Lunar New Year and Chinese Mid-Autumn Festival holidays ahead of the said holidays still suited the present-day circumstances following the socio-economic changes over the past few years;

- (d) it should be noted that Saturdays were not designated as general holidays under GHO. There was no basis for making arrangements for additional general holiday when a statutory holiday fell on a Saturday; and
- (e) the statistical data to be collected by C&SD were expected to be available in the first quarter of 2012.

12. Mr IP Wai-ming queried why the Administration's review of and proposal to change the existing arrangement for replacement holiday was only confined to Lunar New Year holidays and the day following the Chinese Mid-Autumn Festival falling on a Sunday.

13. C for L explained that there was no need for a change to the replacement arrangement for statutory holidays other than the Lunar New Year holidays and the day following the Chinese Mid-Autumn Festival, since the practice of designating the day following the holiday as a replacement holiday should a statutory holiday fall on a rest day was adopted across-the-board except for the two specific holidays under discussion. It was the different arrangement for replacement holiday in respect of the Lunar New Year and Chinese Mid-Autumn Festival holidays that had caused wide concern in the community.

14. Mr IP Wai-ming held the view that the present proposal was far from satisfactory as it failed to address the various concerns of employees who worked five days a week from Monday to Friday with day-off on Saturday.

15. Mr LEUNG Yiu-chung shared a similar view, adding that the present proposal had given the public an impression that the Administration did not encourage the implementation of five-day week in private enterprises.

16. Dr PAN Pey-chyou and Mr LEUNG Yiu-chung expressed concern that at present, employees of banks, educational establishments, public offices and government departments were entitled to 17 days of general holidays every year under GHO, whereas employees other than those of the aforesaid organizations were entitled to only 12 days of statutory

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holidays, commonly referred to as labour holidays under EO. They asked whether the Administration would consider aligning the labour holidays with the general holidays.

17. In reply, C for L and AC for L(LR) advised that -

- (a) general holidays, as provided for by GHO, were days kept as holidays by banks, educational establishments, public offices and government departments. At present, there were 17 general holidays in a year in addition to Sundays;
- (b) it should be noted that general holidays were holidays taken by all relevant institutions on which no service was provided, whereas statutory holidays or the so-called "labour holidays" were benefits to which employees were entitled and granted by employers as required under EO. General holidays and statutory holidays were of different nature and established under different backgrounds. Nevertheless, in both the public and private sectors, some employers might, having regard to their own circumstances, offer their employees benefits above the EO requirements by granting leave on general holidays in addition to statutory holidays; and
- (c) the current stipulation of 12 days of statutory holidays under EO was a community consensus after extensive consultation. In contemplating improvements to employee benefits, including increasing the number of statutory holidays, it was necessary to strike a reasonable balance between the interests of employers and employees and, in particular, carefully consider and assess the possible impact of the proposed measures on business costs. A consensus of the community at large was also important. The Administration would need to study the matter carefully.

18. The Chairman and Mr LEUNG Kwok-hung considered the non-alignment of labour holidays with the general holidays an unfair and discriminatory policy against employees engaged in service industries, especially grass-root workers, who were normally provided with 12 days of statutory holidays with pay in a year. They urged the Administration to review the policy, with a view to improving employee benefits in this respect.

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19. Mr Tommy CHEUNG cautioned that the two suggestions to enhance the level of employee benefits, namely, granting a replacement holiday should a statutory holiday or general holiday fall on a Saturday as well as aligning the labour holidays with the general holidays, would have far-reaching implications on Hong Kong's society and economy. Their impact on business operation and costs should be carefully assessed before implementation.

20. C for L assured members that the Administration would consult the relevant stakeholders, including employers and employees groups, and the public before taking a view on the matter.

V. Progress of preparation for implementation of statutory minimum wage

(LC Paper Nos. CB(2)1246/10-11(04) and (05))

21. C for L briefed members on the progress of the preparatory work undertaken by LD for the implementation of statutory minimum wage ("SMW"), as set out in the Administration's paper.

22. Mr WONG Kwok-hing noted that to tie in with the implementation of SMW, LD had been organizing a range of promotional activities to enhance public awareness as well as employers' and employees' understanding of the Minimum Wage Ordinance (Cap. 608) ("MWO"). In his view, the most effective way to achieve the desired effect would be the continued efforts of the Government to set an example of a good employer for non-government organizations and enterprises in the private sector to follow. In gist, Mr WONG considered that the Administration should ensure that the rights of employees of government outsourced service contractors would remain unchanged after the implementation of SMW.

23. C for L responded that -

- (a) as SMW was a new policy, employers and employees needed time to get accustomed to the SMW regime. To this end, LD had vigorously launched publicity and promotional activities to enable both employers and employees to better understand the legal provisions and their respective obligations and entitlements under MWO. LD would also stand ready to help employers and employees to resolve labour-management differences that might arise during the implementation of MWO; and

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- (b) the Administration had been considering the wage arrangement for non-skilled workers engaged under government service contracts upon the implementation of SMW. It would brief the Panel on the subject at the meeting in April 2011.

24. Mr Tommy CHEUNG expressed grave concern about the slow progress of the Administration in drawing up the reference guidelines on SMW for employers and employees. He said that to his knowledge, many employers of small and medium enterprises in the catering as well as other sectors, such as residential care homes for the elderly, were yet in full understanding of their obligations under the SMW regime and the method for calculating wages. These employers were particularly worried that they might breach the law unknowingly. They hoped that the Administration could provide them with more information and assistance in this regard.

25. In response, C for L advised that LD was working at full steam to prepare for the implementation of SMW. It had at an earlier time drawn up a set of draft general reference guidelines on SMW for employers and employees. The draft guidelines were applicable to all trades and industries and had been issued to over 300 stakeholder groups for comments in December 2010. LD was at an advanced stage of finalizing the general reference guidelines so that they could be ready for wide distribution within March 2011. In view of the great varieties in the mode of employment, the guidelines would provide illustrative examples to explain the relevant provisions and application of MWO. Given the specific circumstances of individual sectors, LD was also working with industry-based Tripartite Committees, relevant employers' associations, trade unions and stakeholder groups to formulate industry-specific guidelines on SMW, to provide employers and employees of several trades, including those which would likely be more affected by the introduction of SMW such as those in the retail, catering, property management, security and cleaning services industries, with more information about the application of MWO.

26. C for L further advised that since the passage of MWO and up to mid-March 2011, about 9 000 participants had attended some 50 briefings on MWO conducted by LD officers. These briefings included large-scale seminars for employers, employees and the public at large, as well as talks for targetted groups such as Incorporated Owners, Owners Committees ("OCs"), Mutual Aid Committees, property management companies and human resources practitioners.

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27. Responding to the Deputy Chairman's and Mr IP Wai-ming's enquiry about the work progress of LD in the drafting and preparation of the general as well as the industry-specific guidelines on SMW, C for L advised that -

- (a) LD aimed at finalizing the general reference guidelines and issuing the draft industry-specific guidelines for the retail, catering, cleaning, security and property management industries in March 2011; and
- (b) LD was working hard on the remaining draft industry-specific guidelines for the hotel and tourism, logistics as well as the real estate agent industries. The Administration would expedite the process, with a view to finalizing the guidelines before the commencement of SMW on 1 May 2011. Nonetheless, since these guidelines were formulated with tripartite members of the relevant industries, the timing of finalizing individual guidelines would depend on the comments of stakeholders of the relevant trade on the draft.

28. Assistant Commissioner for Labour (Development) ("AC for L(D)") supplemented that the general reference guidelines on SMW, in draft form, had been uploaded onto LD's webpage for easy reference, access and retrieval by the public. While the reference guidelines were being finalized, employers or employers who had queries about the implementation details of MWO could make enquiries with LD through its 24-hour special telephone hotline (2717 1771) and labour relations district offices, visit LD's webpage or make reference to the leaflet on SMW. LD was also working at full steam with industry-based Tripartite Committees, related employers' associations, trade unions and stakeholder groups on the draft industry-specific guidelines addressing the particular needs and characteristics of individual sectors. Subject to stakeholders' comments, LD aimed at finalizing the guidelines for the nine industries/sectors referred to in paragraph 27 before 1 May 2011.

29. In response to Mr IP Wai-ming's enquiry about the enforcement actions to be taken by the Administration to ensure compliance with MWO, AC for L(D) said that in tandem with the implementation of MWO, LD would adopt a multi-pronged strategy to ensure compliance with the law through conducting proactive workplace inspections to establishments of various trades and mounting targetted enforcement campaigns for low-paying sectors. During workplace inspections, Labour

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Inspectors would explain the requirements of MWO if employers and employees did not have a clear understanding on the calculation of SMW. If problems or irregularities were detected, they would require employers to take appropriate measures to ensure their compliance with MWO, including prompt payment of any wages falling short of the SMW rate to employees.

30. Dr PAN Pey-chyou asked whether additional manpower, especially Labour Inspectors, would be provided for enforcement of MWO.

31. C for L replied that in 2011-2012, 25 Labour Inspectors posts would be created to strengthen the manpower for workplace inspections and follow-up investigations arising mainly from the implementation of MWO.

32. The Deputy Chairman pointed out that a number of private residential buildings in the territory were single block buildings. It was her understanding that many of these single block residential buildings did not have OCs and management companies had not been engaged to manage the buildings. She asked about the measures adopted by the Administration to promote awareness and understanding of the SMW requirement among owners and residents of these single block residential buildings to avoid their inadvertent non-compliance with the law.

33. C for L responded that LD had since December 2010 been holding briefings targetting at small OCs and residents of private residential buildings to explain to them the requirements of MWO. So far, over 1 000 participants had attended these briefings organized by LD, which had also published leaflets and posters on SMW for wide distribution and display. Advertisements through different channels had also been arranged. To continue to step up the promotional efforts, LD would broadcast promotional messages and carry out other publicity activities on various public transports, place newspaper supplements, conduct talks and roving exhibitions, and display banners for outdoor publicity.

34. In response to the Deputy Chairman's concern over issues such as increase in the number of lay-offs and reduction in working hours and fringe benefits after the implementation of SMW, C for L explained that under EO, there was protection against unreasonable dismissal as well as unilateral variation of employment terms and conditions by employers. Employees who suspected their employment rights infringed might make enquiries with or seek assistance from LD. LD would step up the publicity of its complaint hotline (2815 2200) to encourage employees to

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report breaches of labour laws. All complaints received would be promptly and thoroughly investigated. LD would make every effort to take out prosecution against offenders who were wilful and where there was sufficient evidence.

35. Mr LEUNG Kwok-hung expressed concern about the displacement effect brought about by the implementation of SMW on the less productive workers. He surmised that some low-paid workers, who were mostly lower-skilled and with low educational attainment, might accept a wage level lower than the SMW rate even after the commencement of SMW on 1 May 2011 when they faced the risk of dismissal. Mr LEUNG considered that comprehensive support services, including employment and re-employment programmes, should be readily made available to displaced workers from all trades.

36. Mr CHEUNG Kwok-che and Dr PAN Pey-chyou sought details about the employment services to be provided for displaced workers upon the implementation of SMW on 1 May 2011.

37. C for L responded that to tie in with the implementation of SMW, LD would continue to implement its various specialized employment programmes for job seekers. As a matter of fact, LD provided employment services to all job seekers through a network of 12 Job Centres, two industry-based recruitment centres, the Interactive Employment Service website and exhibitions. To enhance the employment support, LD would also organize job fairs targeting at the low-paying sectors and set up a dedicated hotline for providing employment service for workers affected by the implementation of SMW. Employers who had recruitment needs were also encouraged to approach LD for assistance. The latter would help employers disseminate their vacancy information to job seekers speedily through various channels.

38. Mr CHAN Kin-por said that to his knowledge, many employers and employees still had doubt about whether employees should be provided with paid meal breaks and rest days. Notwithstanding the Administration's repeated clarification in the past that it was a matter of employer-employee agreement, the issue remained a major concern and had caused disputes between employers and employees. Mr CHAN enquired whether the Administration had any plan to make it clear in the law whether meal breaks and rest days should be remunerated.

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39. C for L responded that -

- (a) all along, employers and employees could agree on their employment terms having regard to the circumstances of individual enterprises and personal needs of employees, including whether rest days were paid or not, whether meal breaks constituted hours worked by employees or not, and whether meal breaks not constituting hours worked were with pay or not;
- (b) EO did not prescribe that meal breaks and rest days should be paid, and MWO did not alter this well-established principle. In the course of scrutinizing the Minimum Wage Bill, the relevant Bills Committee had also thoroughly deliberated the circumstances under which meal breaks should constitute hours worked for the purpose of computing SMW. If an employee was, during his meal breaks, in attendance at a place of employment in accordance with the contract of employment or with the agreement or at the direction of the employer, such time should be included in the hours worked by the employee for computing SMW, irrespective of whether he was provided with work or not. Furthermore, if meal breaks were regarded as working hours of the employee according to his employment contract or agreement with his employer, such hours should also be taken into account in computing SMW; and
- (c) SMW was totally new to Hong Kong. It would take time for the community, especially employers and employees, to get used to it. When employers and employees sought to clarify unclear terms in their existing employment contracts, there should be thorough staff consultation with a view to reaching consensus on lawful, sensible and reasonable grounds through labour-management communication and negotiation. Under EO, employers should not unilaterally vary the employment terms and conditions of employees. Employees who found their employment rights undermined should seek help from LD. Any provision in the employment contract seeking to reduce the employee's SMW entitlement should be void.

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40. Mr LEUNG Yiu-chung said that many employers and employees still had queries about how "hours worked" should be counted for computing minimum wage. He suggested that for wider dissemination of the statutory requirements, the Administration should make more frequent use of electronic media in its publicity and promotion work.

41. In response, C for L reiterated that the Administration was launching extensive publicity and promotional activities to familiarize the community with MWO and facilitate employers and employees in understanding their respective obligations and entitlements under the SMW regime. As an integral part of its promotional efforts, LD had produced a new one-minute television programme series on SMW and newspaper supplements for release shortly in March 2011, apart from leaflets and posters on SMW already in extensive distribution and display.

(Members agreed to extend the meeting by 20 minutes.)

VI. Major findings of the 2010 Annual Earnings and Hours Survey (2010 Report on Annual Earnings and Hours Survey and LC Paper No. CB(2)1246/10-11(06))

42. With the aid of powerpoint presentation, Assistant Commissioner for Census and Statistics (General) of C&SD ("AC/C&S") presented the major findings in the 2010 Report on Annual Earnings and Hours Survey ("AEHS") ("the Report").

(Post-meeting note: The softcopy of the powerpoint presentation materials was issued to members vide LC Paper No. CB(2)1302/10-11(01) on 21 March 2011.)

43. Mr LEUNG Yiu-chung expressed concern that according to Table 9 of the Report, the hourly wages of female employees for different age groups, except for the group of female employees aged 15 to 24, were significantly lower than those of male employees of the corresponding age groups.

44. AC/C&S said that in the second quarter of 2010, the median hourly wage for male employees was \$65.1 while that for female employees was \$54.4. The median hourly wage of male employees was higher than that of female employees mainly because the proportion of male employees who had completed education at Secondary 6 level and above was higher than the corresponding proportion of female employees. He added that

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the wage earned by an employee would depend primarily on the nature and skill set requirement of the job.

45. The Deputy Chairman noted that in the second quarter of 2010, the 10th, 25th, 50th, 75th and 90th percentile hourly wages of Hong Kong employees were \$28.1, \$39.5, \$59.5, \$96.7 and \$176.0 respectively, representing an across-the-board increase over 2009. She held the view that the initial SMW rate of \$28 per hour was rather unrealistic without giving full consideration to inflation, wage increase and economic growth when it was set based on the wage data collected in the second quarter of 2009. She enquired whether the Administration would commence the review of the initial SMW rate immediately so that the second SMW rate could be implemented as soon as possible.

46. AC for L(D) and Principal Economist, Financial Secretary's Office ("PE/FSO") responded that -

- (a) when the Subcommittee on Subsidiary Legislation Relating to Statutory Minimum Wage scrutinized the four Notices under MWO which sought to stipulate, among others, the initial SMW rate, the Administration had advised that in recognition of an inevitable time lag between data collection and availability of statistics, the Provisional Minimum Wage Commission had already taken into account relevant indicators with more up-to-date data sources, especially with regard to business operating conditions, the latest wage trend, the latest inflation and economic forecasts; and
- (b) MWO had clearly specified that the Minimum Wage Commission should make a report on the SMW rate at least once every two years. While the SMW rate would be determined in accordance with the evidence-based principle, C&SD would undertake an AEHS to collect the related information. This would facilitate a review of the SMW rate, when supported by relevant data and when there was a need for it.

47. Responding to Mr LEUNG Kwok-hung's enquiry on whether the Administration would evaluate the positive effect of SMW in generating employment opportunities apart from assessing the effect of displacement, PE/FSO replied in the affirmative and advised that the impact assessment would include a measurement of the effect of SMW in job creation and job losses.

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48. Mr IP Wai-ming noted that data items collected from the 2010 AEHS included breakdowns of wage components, hours of work, employment characteristics and demographic information of individual employees except live-in domestic workers and employees in the Government. He sought clarification on whether employees under government outsourced service contracts were included in the survey, and the definition of "hours worked" in the 2010 AEHS.

49. In response, AC/C&S advised that -

- (a) the survey covered 2 793 000 employees in Hong Kong, including employees of contractors of government outsourced service contracts but excluding live-in domestic workers and government employees; and
- (b) "hours worked" was the sum of the working hours in accordance with the contract of employment, or with the agreement or at the direction of the employer plus overtime hours worked at the direction of employers.

50. Dr PAN Pey-chyou noted that in the second quarter of 2010, the 75th percentile weekly working hours of Hong Kong employees was 49.6, representing an increase of 0.6 hour as compared to 2009. He asked about the occupations of those employees who needed to work longer hours in 2010.

51. In response, AC/C&S explained that results of the 2010 AEHS were subject to sampling and non-sampling errors. The estimates contained in the Report were based on information obtained from a particular sample, which was one of many samples that could be selected using the same sampling design. The slight increase of 0.6 hour in 2010 might be due to sampling error and might not be statistically significant.

52. Responding to Mr IP Wai-ming's and Dr PAN Pey-chyou's enquiry about the Administration's study on the subject of standard working hours, AC for L(D) said that CE had already stated in his 2010-2011 Policy Address that LD would embark on a policy study on working hours in Hong Kong. Against this background, LD had commissioned C&SD and the Economic Analysis and Business Facilitation Unit to collect the data required and provide support on data analysis for the study.

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53. Mr CHAN Kin-por expressed reservations about the accuracy of the reported data concerning the weekly working hours of employees. He said that it was his understanding that a vast majority of employees at the managerial level were required to bring work home given the heavy workload. He asked whether overtime hours were taken into account. Mr CHAN further said that in the insurance sector, many people were working in the capacity of agents, who were in fact self-employed. He asked whether they were covered in the 2010 AEHS.

54. In reply, AC/C&S reiterated that -

- (a) "hours worked" was the sum of the contractual/agreed working hours plus overtime hours worked at the direction of employers; and
- (b) self-employed insurance agents were not covered in the survey.

55. The Chairman said that he was glad to note that employees at the lower end of the hourly wage distribution, especially those at the 5th and 10th percentiles, had got a salary increase of 3.8% and 3.9% in 2010 when compared with 2009. He surmised that the increase was partly due to the anticipated implementation of SMW in May 2011 and its chain effect on wages.

56. There being no other business, the meeting ended at 5:23 pm.

Council Business Division 2
Legislative Council Secretariat
4 May 2011