

立法會
Legislative Council

LC Paper No. CB(2)2351/11-12
(These minutes have been seen
by the Administration)

Ref : CB2/PL/MP

Panel on Manpower

Minutes of meeting
held on Thursday, 12 April 2012, at 4:30 pm
in Conference Room 1 of the Legislative Council Complex

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 Frederick FUNG Kin-kee, SBS, JP
Hon WONG Kwok-hing, MH
Hon Andrew LEUNG Kwan-yuen, GBS, 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

Member absent : Hon Tommy CHEUNG Yu-yan, SBS, JP

Public Officers attending : Item IV

Mr David LEUNG, JP
Deputy Commissioner for Labour
(Occupational Safety and Health)

Dr Raymond LEUNG Lai-man, JP
Occupational Health Consultant (1)
Labour Department

Dr Mandy HO Mang-ye, JP
Occupational Health Consultant (2)
Labour Department

Item V

Ms Agnes LO Kit-mui
Assistant Commissioner for Census and
Statistics (General)

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

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

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

Clerk in attendance : Ms Alice LEUNG
Chief Council Secretary (2) 1

Staff in attendance : Miss Josephine SO
Senior Council Secretary (2) 7

Ms Kiwi NG
Legislative Assistant (2) 1

Action

I. Confirmation of minutes of previous meeting
(LC Paper No. CB(2)1591/11-12)

The minutes of the meeting held on 16 February 2012 were confirmed.

Action

II. Information paper(s) issued since the last meeting

2. Members noted that no information paper had been issued since the last meeting.

III. Date of next meeting and items for discussion

(LC Paper Nos. CB(2)1593/11-12(01) and (02))

Regular meeting on Thursday, 17 May 2012, at 2:30 pm

3. The Chairman reminded members that at the last Panel meeting on 15 March 2012, members had agreed that the issue of Government's policy relating to the outsourcing of service contracts, together with the review of Standard Employment Contract for non-skilled workers for use by contractors of government outsourced service contracts, should be discussed at the meeting in May 2012.

4. Members noted that the Administration proposed to discuss the item "Measures to improve the safety performance in the construction sector" at the next regular meeting.

5. The Deputy Chairman said that at the Panel meeting on 20 January 2012 and in the context of discussing the Administration's review and proposed adjustment of the levels of compensation under the Employees' Compensation Ordinance (Cap. 282) ("ECO"), the Pneumoconiosis and Mesothelioma (Compensation) Ordinance (Cap. 360) ("PMCO") and the Occupational Deafness (Compensation) Ordinance (Cap. 469) ("ODCO"), the Administration was requested to take the matter back to and consult the relevant fund boards and the Labour Advisory Board ("LAB") on members' suggestion to further increase the compensation levels of different items under the proposal, including the amount of funeral expenses reimbursable under ECO and PMCO. She hoped that the Administration would update members on the latest progress that it had made in this regard at the next regular meeting.

6. Members agreed to the suggestion of the Deputy Chairman to include the item "Progress update on the review of the levels of compensation under the Employees' Compensation Ordinance, the Pneumoconiosis and Mesothelioma (Compensation) Ordinance and the Occupational Deafness (Compensation) Ordinance" in the agenda for the next regular meeting on 17 May 2012. Members also agreed to discuss at the meeting the items in paragraphs 3 and 4 above.

Action

IV. A review of occupational diseases in Hong Kong in 2011
(LC Paper Nos. CB(2)1569/11-12(01) and CB(2)1593/11-12(03))

7. Members noted a submission from the Association for the Rights of Industrial Accident Victims expressing views on the subject which was tabled at the meeting.

(Post-meeting note: The submission was issued to members vide LC Paper No. CB(2)1670/11-12 on 13 April 2012.)

8. Deputy Commissioner for Labour (Occupational Safety and Health) ("DC for L (OSH)") briefed members on the situation of occupational diseases in Hong Kong in 2011 and the recent initiatives adopted by the Labour Department ("LD") in promoting occupational health and enforcing relevant occupational safety and health laws, as set out in the Administration's paper.

List of compensable occupational diseases in the Second Schedule to the Employees' Compensation Ordinance

9. The Deputy Chairman said that despite the repeated requests of some workers' unions, the Administration took no heed to public views to include in the list of compensable occupational diseases in the Second Schedule to ECO work-related diseases commonly found among employees in certain occupations. She enquired whether the Administration had any plan to conduct a comprehensive review on the list of compensable occupational diseases in the Second Schedule to ECO to examine whether its scope and coverage should be expanded in the light of the latest changes in the situation of occupational diseases in Hong Kong.

10. In response, DC for L (OSH) advised that the Administration reviewed the list of compensable occupational diseases from time to time and had updated the list in the light of international development. Since 1991, there had been four amendments to the list, which resulted in the addition of 13 new occupational diseases and expansion of the coverage of three occupational diseases. In April 2010, ODCO was also amended to extend the coverage of compensation to employees suffering from monaural hearing loss and those who had been compensated but their hearing loss had worsened over the years.

11. As regards the suggestion of prescribing work-related diseases commonly found among employees in certain occupations, such as

Action

musculoskeletal disorders, as occupational diseases, DC for L (OSH) advised that Hong Kong followed international practices and would make reference to the criteria adopted by the International Labour Organization in determining whether a disease should be prescribed as an occupational disease for employees' compensation. One of the criteria was whether a causal relationship between the disease and the occupation could be reasonably presumed or established in individual cases. It should be noted that at present, ECO had prescribed six musculoskeletal diseases (including tenosynovitis of the hand or forearm) as occupational diseases, since epidemiological evidence revealed that these diseases had strong and significant relationship with specific occupations. Regarding other musculoskeletal disorders, such as back pain, shoulder-neck pain and osteoarthritis of knee, DC for L (OSH) said that they were attributed to the interaction of multiple risk factors and there was no conclusive evidence to prove that they were caused by specific occupations. As these disorders did not satisfy the criteria for prescribing as occupational diseases, they were classified as work-related diseases instead.

12. The Deputy Chairman expressed strong dissatisfaction with the Administration's response. She considered that the Administration should not use "international standards" as an excuse to preclude the prescription of diseases commonly found among employees in the catering or the cleansing industries, such as varicose veins and muscle strain, as an occupational disease. Echoing her view, the Chairman called on the Administration to review the list of compensable occupational diseases to see whether its scope and coverage should be expanded in the light of the latest trend of occupational safety and health and the real situation of occupational diseases in Hong Kong. In his view, the Administration should consider adopting less stringent criteria and lowering the threshold for prescribing a disease, such as musculoskeletal disorders, as occupational disease in order to enhance the protection for employees.

Occupational safety and health of cleansing workers

13. The Deputy Chairman noted that LD had conducted 28 900 inspections targetting workplaces with a higher risk of heat stroke, such as construction sites and outdoor cleansing workplaces, during the summer of 2011. In respect of occupational safety and health of cleansing workers, she asked whether the Administration had, apart from inspection, any concrete measures to enhance employers' and employees' awareness of occupational safety and health.

Action

14. DC for L (OSH) and Occupational Health Consultant (1) of LD ("OHC(1)") responded that -

- (a) LD had conducted a total of 28 900 inspections during the summer of 2011 targetting workplaces with a higher risk of heat stroke, including construction sites, outdoor cleansing workplaces, container terminals/yards and cargo handling areas;
- (b) work injuries and accidents at cleansing workplaces were mainly related to the use of chemicals by cleansing workers. With a view to reducing the accident toll in cleansing work, LD had enhanced the safety awareness of cleansing workers regarding safe use of chemicals through enforcement and education and would continue to do so;
- (c) following a case in which a cleansing worker was killed in an explosion caused by incorrectly mixing cleansing agents, LD had launched in 2011 special enforcement campaigns targetting cleansing workplaces, in which more than 300 inspections were conducted, 140-odd warnings and six improvement notices issued, and four prosecutions instituted. Among these four prosecutions, three were related to violation of chemical safety requirements;
- (d) to prevent accidents involving the use of chemicals by cleansing workers, LD, during its inspections to workplaces, urged cleansing contractors to comply with relevant legislation and take suitable measures so as to ensure the safety of workers. These measures included providing relevant information, clear instructions, appropriate training and supervision to employees to ensure their safety in using chemicals, and affixing correct and clear labels on chemical containers so that cleansing workers would clearly recognize and understand their contents; and
- (e) on the education front, LD and the Occupational Safety and Health Council ("OSHC") jointly organized promotional activities with relevant employers' associations, trade unions and property management companies. LD, in collaboration with the Civil Service Bureau, also organized a seminar for government departments which had procured outsourced cleansing services. In addition, LD organized tailor-made

Action

occupational health talks for employers and employees from the cleansing industry, which covered safe use of chemicals, to enhance their understanding of the hazards of using chemicals and the associated safety measures.

15. Dr PAN Pey-chyou asked whether industrial accidents caused by incorrectly mixing chemicals and involving cleansing workers were classified as "gas poisoning" for the purpose of compiling statistics relating to occupational diseases.

16. DC for L (OSH) and OHC(1) responded that the figures in the column of "gas poisoning" captured the numbers of confirmed cases of occupational diseases caused by gas poisoning and they normally did not reflect industrial accidents caused by incorrectly mixing chemicals. In 2011, there was one fatal accident involving cleansing workers' exposure to and inhaling of toxic chemical fumes caused by incorrect mixing of cleansing agents. This particular accident was included in the statistics of gas poisoning cases. Appreciating members' concern about work injuries caused by improper use of chemicals by cleansing workers, DC for L (OSH) undertook to provide the number of industrial accidents caused by improper use of chemicals occurred in the past three years and the number of employees involved in such accidents after the meeting.

Admin

Tenosynovitis of the hand or forearm

17. Mr IP Wai-ming noted with concern that in 2011, there were 70 confirmed cases of tenosynovitis of the hand or forearm, representing a 45% increase over the figure of 48 in 2010. He enquired whether the Administration had statistics on the distribution of these cases by occupation, and whether it had analyzed the cause for the sharp increase in the number of cases of tenosynovitis of the hand or forearm in the reporting year.

18. DC for L (OSH) replied that tenosynovitis was a traumatic inflammatory disease of tendons and the associated tendon sheaths as a result of prolonged and repetitive movements or excessive force exerted by the hand and forearm. In 2011, a total of 70 cases were confirmed. The disease was most commonly reported in service personnel such as cooks, manual workers employed in construction sites, as well as clerical and office personnel such as typists and secretaries. To raise employees' awareness about tenosynovitis, LD had produced several leaflets such as "Do you know Tenosynovitis" and "Occupational Disease Casebook - Tenosynovitis" for reference of both employers and employees.

Action

Information and advice regarding proper working posture, back care and simple stretching exercises at workplaces were provided in the leaflets. LD would continue to enhance its promotion and publicity work in this regard.

Work-related musculoskeletal disorders

Admin

19. Referring to paragraph 14 of the Administration's paper, Mr IP Wai-ming sought detailed information about the 342 inspections conducted by LD to offices, catering workplaces as well as work sites for loading and unloading operations in the airport and a breakdown by types of work involved. Noting that 75 warnings and two improvement notices were issued in relation to irregularities in musculoskeletal disorder prevention, he asked the Administration to provide the details of the irregularities identified.

Heat stroke at work

20. Mr IP Wai-ming expressed concern about the risk of heat stroke to cleansing workers working in aircraft cabins under very hot weather. As there was virtually no ventilation after passengers got off the planes, the temperature inside the cabins could be very high in the summer. He enquired whether airline operators had been reminded to provide adequate ventilation for cleansing workers performing duties inside the aircraft cabins, and whether LD had stepped up workplace inspections to cabins in the parking apron.

21. DC for L (OSH) responded that LD had conveyed to cleansing contractors about the ventilation problem in aircraft cabins. Remedial measures, such as switching on the air conditioning system, opening the cabin doors and using blowers to enhance the ventilation inside the cabin, had subsequently been taken to improve the working environment. DC for L (OSH) further said that LD also provided recommendations to the airport ground handling service operators and the Hong Kong Airport Authority on heat stroke preventive measures. He added that LD would conduct a field test on the effectiveness of cooling vests for workers of certain occupations working in hot environment. Airport ground handling service workers would be included in the field test.

22. Expressing concern about the risk of heat stroke to workers undertaking outdoor work (e.g. the steel bar benders), Mr LEUNG Yiu-chung asked, apart from the enforcement actions and publicity/educational activities set out in the Administration's paper, whether and what measures

Action

would be put in place to protect employees at work under very hot weather. He further asked whether franchised bus companies had plans to phase out all non-air-conditioned buses within 2012.

23. In response, DC for L (OSH) made the following points -

- (a) in the past few years, LD had liaised from time to time with different sectors engaged in outdoor work to promote measures for the prevention of heat stroke at work to employers and employees, so as to safeguard the occupational safety and health of workers;
- (b) for the construction industry, LD promoted prevention of heat stroke among construction workers in collaboration with the Construction Industry Council, relevant employers' associations and trade unions, through distributing guidelines on preventive measures as well as risk assessment checklists, and conducting promotional visits to work sites. With LD's coordination, the Hong Kong Construction Association ("HKCA"), together with some contractors, launched a pilot scheme in the summer of 2011 at some construction sites to adjust workers' rest and meal breaks to reduce the risk of heat stroke at work in hot weather. The Administration would conduct a review, jointly with HKCA, on employers' and workers' acceptance of the pilot scheme; and
- (c) it was the Administration's understanding that the franchised bus company concerned had plans to replace all buses without air-conditioning before the coming summer season. At present, only 24 such buses were still in service. The bus company needed to consult the respective District Councils prior to the replacement of these remaining non-air-conditioned buses.

24. The Chairman said that to his knowledge, trade unions in the construction industry generally considered that to prevent construction workers from suffering heat stroke at work, the working hours of workers on construction sites should be shorter during the summer months. Noting that the Administration and HKCA would commence a review shortly on the pilot scheme implemented at construction sites which allowed workers to work at flexi hours, he requested the Administration to revert to the Panel once there was new development on the issue.

Action

Tuberculosis

25. Dr PAN Pey-chyou expressed concern about the increase in the number of confirmed cases of tuberculosis in workers having close and frequent contacts with a source of infection by reason of their employment, such as those employed in the medical treatment or nursing of persons suffering from the disease. Enquiring whether the 17 confirmed cases recorded in 2011 involved mainly medical and healthcare personnel, he sought information on measures taken by the Administration to safeguard occupational safety and health of medical and healthcare personnel.

26. OHC(1) responded that healthcare institutions, including Hospital Authority ("HA") hospitals, private hospitals and residential care homes for the elderly, attached great importance to minimizing the number of medical and healthcare personnel from contracting tuberculosis in the workplace. LD had organized activities to educate healthcare personnel working in healthcare institutions on precautionary measures against tuberculosis and would continue to do so. LD also conducted inspections to hospitals, clinics and elderly homes to ensure that infection control measures were in place, e.g. the ventilation of these workplaces was adequate and the staff were provided with adequate personal protective equipment.

Other issues

27. The Deputy Chairman considered that the Administration should explore measures to help workers suffering from occupational diseases rehabilitate and rejoin the labour market.

28. In response, DC for L (OSH) advised that LD had, in collaboration with the insurance industry, launched the Voluntary Rehabilitation Programme ("VRP") to provide injured employees with an additional channel to receive free and timely medical and rehabilitation services in the private sector to facilitate speedier recovery and employees' early return to work. Participation of injured employees in VRP was entirely voluntary and their statutory entitlements would not be affected.

29. The Chairman and Mr IP Wai-ming recalled that when the Panel discussed the proposal to launch VRP, some members had expressed worry that the rehabilitation service providers appointed by insurers might not be able to give an objective assessment on injured employees, as they might protect the interests of insurers. As a result, the level of statutory entitlement of injured employees might be adversely affected. To avoid

Action

any possible conflict of interest, there was a suggestion that the provision of rehabilitation services should not be handled by insurers, and insurers should instead consider providing financial assistance to HA for strengthening its rehabilitation services for injured employees. They asked whether the Administration had followed up on this suggestion of members.

30. DC for L (OSH) said that he did not have information on hand and would check out with the relevant bureau/departments for more details and information. The Chairman said that the Panel might follow up on the issue in future.

31. In response to Mr LEUNG Yiu-chung's enquiry as to whether consideration would be given to providing people suffering from occupational deafness with compensation for pain arising from deafness, like the one under PMCO, DC for L (OSH) undertook to relay Mr LEUNG's view to the Labour and Welfare Bureau for consideration.

32. The Chairman asked about the number of patients attending and seeking consultation at the two Occupational Health Clinics ("OHCs") of LD in 2011. He also asked about the number and percentage of those suffering from diseases or injuries related and unrelated to work by industry, occupation and type of disease. In his view, the Administration should make use of the information to analyze the common health problems associated with different types of work and make recommendations on practical measures for preventing such diseases or injuries.

33. In reply to the Chairman's request for information on diseases or injuries by types of works, DC for L (OSH) said that the two OHCs provided treatment for employees who were diagnosed with occupational diseases or suspected of suffering from diseases related to work. Among the patients who sought consultation service at OHCs in 2011, a high proportion of them suffered from work-related musculoskeletal disorders and tenosynovitis of the hand or forearm such as trigger finger, tennis elbow and golfer's elbow, etc. These diseases were common among clerical personnel, services and sales personnel, catering workers and cleansing workers. Highlighting the criteria for prescribing occupational diseases, DC for L (OSH) explained that work-related leg or musculoskeletal disorders (other than those six diseases that had already been prescribed as occupational diseases), such as varicose veins and plantar fasciitis, were commonly found in the general population and not limited to workers engaged in specific occupations. As there was no

Action

conclusive evidence to prove that these diseases were caused by certain specified occupations, they could not be prescribed as occupational diseases but classified as work-related diseases.

34. On the question of preventive measures adopted by the Administration in promoting the occupational safety and health awareness of employers and employees in the retail and catering industries, OHC(1) advised that in 2011, LD had collaborated with OSHC, the relevant employers' associations and trade unions to promote measures for preventing work-related leg disorders, such as varicose veins and plantar fasciitis, among workers of the two industries. The activities included showing promotional videos on mobile advertising media, paying promotional visits to retail stores and restaurants by occupational safety and health ambassadors, distributing educational pamphlets and promotional souvenirs, and inviting the Hong Kong Podiatrists Association and the Physical Fitness Association of Hong Kong to design a set of workplace exercises specifically for workers of the two industries, which was promoted through seminars and exercise workshops.

35. The Chairman queried the effectiveness of LD's initiatives/measures for promoting improvement of occupational health, given the fact that the guidelines issued by LD on occupational safety and health were only advisory in nature and LD could not take any enforcement actions against employers' non-compliance with the guidelines. His view was echoed by Mr LEUNG Kwok-hung.

36. In response, DC for L (OSH) stressed that LD safeguarded occupational safety and health of the working population by adopting the three-pronged strategy of legislation and enforcement, publicity and promotion, as well as education and training. To ensure that occupational health requirements under the Factories and Industrial Undertakings Ordinance (Cap. 59) and the Occupational Safety and Health Ordinance (Cap. 509) ("OSHO") were complied with, LD staff conducted surprise inspections to different workplaces regularly and take enforcement actions against irregularities identified. Citing two complaint cases concerning the working environment and rest time of the staff of the telebet centres of the Hong Kong Jockey Club and the unsafe work practices of bus captains of Long Win Bus Company Limited, DC for L (OSH) said that employees were encouraged to report cases of non-compliance with the statutory requirements to LD for follow-up. LD would take enforcement actions if situations so warranted, as OSHO provided that employers had a general duty to ensure, so far as reasonably practicable, the safety and health of their employees at work.

Action

37. In response to Mr LEUNG Kwok-hung's enquiry, DC for L (OSH) advised that LD conducted surprise and planned inspections to different workplaces regularly and took enforcement actions against irregularities identified. Where breaches of the law or imminent risks were identified, LD would take immediate enforcement actions, including institution of prosecutions and issuance of suspension and improvement notices.

Admin

38. At the suggestion of Mr LEUNG Kwok-hung, the Chairman requested the Administration to provide statistics on warnings made, improvement notices issued and prosecutions instituted in 2011 due to employers' failure to ensure their employees' safety and health at work. He requested that detailed information, including further breakdowns of those statistics by industry, the nature of offences involved as well as the level of penalty imposed (if any), should be provided.

V. Major findings of the 2011 Annual Earnings and Hours Survey
(2011 Report on Annual Earnings and Hours Survey, LC Paper Nos. CB(2)1483/11-12(01) and CB(2)1593/11-12(04))

39. With the aid of powerpoint presentation, Assistant Commissioner for Census and Statistics (General) ("AC/C&S") presented the major findings in the 2011 Report ("the Report") on Annual Earnings and Hours Survey ("AEHS").

(Post-meeting note: The softcopy of the powerpoint presentation materials was issued to members vide LC Paper No. CB(2)1671/11-12(01) on 12 April 2012.)

40. The Deputy Chairman said that while in general, lower-paid employees (such as those working in the estate management, security and cleaning services industry) were observed to enjoy a pay rise in May-June 2011 when compared with the second quarter of 2010, she was dismayed to find that this particular group of workers had to work long hours, with a median of 54 working hours per week. In her view, members should continue to strive for the implementation of standard working hours in Hong Kong.

41. The Deputy Chairman further said that the statistics compiled from the Census and Statistics Department ("C&SD")'s 2011 AEHS provided one of the essential inputs for analyses relating to the review of the statutory minimum wage ("SMW") rate. She suggested that a special meeting should be arranged to receive deputations' views on the review of

Action

the SMW rate. To her knowledge, the Minimum Wage Commission ("MWC") had just commenced a public consultation exercise on the review of the initial SMW rate. She suggested that invitation should also be extended to MWC to attend the meeting to listen to the views of the deputations. Members agreed to her suggestion.

42. The Chairman asked the Clerk to liaise with members and the Administration after the meeting to fix the date of the special meeting.

(Post-meeting note: The special meeting for discussion of the item and receiving views from deputations on "Review of statutory minimum wage rate" was scheduled for 12 May 2012 at 9:00 am. Notice of meeting was issued to members vide LC Paper No. CB(2)1762/11-12 on 20 April 2012.)

43. The Deputy Chairman noted that wages in the Report referred to "wages" as defined in the Employment Ordinance (Cap. 57) ("EO") which covered, in addition to basic wage and other guaranteed allowances, overtime allowance paid to an employee in the wage period. Pointing out that there were very often fluctuations in the overtime allowance of an employee during different wage periods and overtime payment might sometimes be made in the following wage period, she expressed concern about the accuracy of the reported data relating to employees' monthly wages in May-June 2011.

44. In response, AC/C&S explained that -

- (a) starting from 2011, the method for computing hourly wage had taken into account the definitions of hours worked and wages payable under the Minimum Wage Ordinance (Cap. 608) ("MWO"). Data on overtime allowances were collected in such a way that the definitions under MWO were followed as far as possible; and
- (b) while the circumstances and factors mentioned by the Deputy Chairman might constitute variations in the data presented in the Report, the extent should be insignificant given the fact that overtime allowances only accounted for a relatively small percentage of the wages of employees.

45. Mr CHAN Kin-por noted that the 90th percentile monthly wage in May-June 2011 was \$34,400, representing a 14.5% increase over the corresponding figure in the second quarter of 2010. He enquired about the

Action

reason for the sharp increase in the wage levels of employees of the high-income groups.

46. In response, AC/C&S explained that the definition of wages published in the Report followed the definition as adopted in EO, covering basic wage, commission and guaranteed allowances paid to an employee in the wage period. It was noteworthy that the increase in wages for persons engaged in the financing and insurance sector, accounting for a large proportion of the high-income earners, was largely attributed to the buoyant financial market activities in 2011 that led to an increase in their commission.

47. Mr CHAN Kin-por said that there was concern that some small and medium sized enterprises having difficulties in coping with the SMW-induced cost increases might need to close down their operations. He asked about the measures adopted by the Administration to address the concern of the enterprises.

48. Principal Economist, Financial Secretary's Office ("PE/FSO") responded that to assess the impact of SMW on enterprises on their wage bills, sensitivity tests in various aspects under different SMW test levels would be conducted. MWC had commenced an eight-week public consultation and provided information on the potential impact of different SMW test levels on its website for public reference. MWC would undertake detailed analyses and conduct impact assessment based on wage distribution data and findings of other surveys, and consider views from various sectors in the course of consultation, before arriving at its recommendation on the appropriate SMW rate.

49. In reply to Mr CHAN Kin-por's further enquiry, PE/FSO said that MWC noted the situation of employees with and without paid rest day(s) and/or paid meal break(s). MWC would make reference to and deliberate on relevant statistical data as revealed from the 2011 AEHS during its study of the SMW rate.

50. The Chairman pointed out that MWC had provided on its website some preliminary views on the study of the SMW rate, including views on the basket of indicators, supplementary statistical data, other relevant considerations and impact assessment. There was a table summarizing the distribution of employees with and without paid rest days and/or paid meal breaks as analyzed by sector.

Action

51. Mr LEUNG Kwok-hung recalled that members had been advised that, because of the displacement effect arising from SMW, it might result in the loss of about 40 000 low-paid jobs. However, the prediction was proved to be untrue. Casting doubt on the displacement assertion and the validity of the results of the sensitivity tests, Mr LEUNG enquired whether the implementation of SMW had led to a series of chain reactions or ripple effects.

52. PE/FSO made the following points -

- (a) MWC adopted an evidence-based approach to review and recommend the appropriate level of the SMW rate;
- (b) in determining the initial SMW rate, the Provisional Minimum Wage Commission ("PMWC") had conducted sensitivity tests in various aspects, namely knock-on effect on the pay hierarchy, reduction in guaranteed year-end payment/bonus, reduction in meal benefits in kind, and impact on profit conditions after depreciation, with a view to assessing the impact of SMW on both the employers and employees. MWC would continue to perform impact assessment when reviewing the SMW rate;
- (c) MWC had provided on its website some preliminary views on the study of the SMW rate. As stated in its preliminary views, MWC would make reference to, among others, a basket of indicators that reflected the socio-economic conditions after the implementation of SMW. Based on the basket of indicators that PMWC had referred to when recommending the initial SMW rate, MWC had enhanced the basket with new indicators, covering four areas including (i) general economic conditions; (ii) labour market conditions; (iii) competitiveness; and (iv) social inclusion;
- (d) to facilitate understanding about the potential impacts of various SMW test levels and the ability of enterprises to cope with the possible impact of the SMW rate, MWC had also made available supplementary statistical data on its website for public access; and
- (e) to gauge the views and concerns on the preliminary impact of the implementation of the initial SMW rate, MWC had conducted consultation meetings with over 100 stakeholder

Action

groups in the fourth quarter of 2011. A summary of views collected at these consultation meetings was also available on the website of MWC. These views as well as further views from stakeholders and interested parties would be taken into consideration when reviewing the SMW rate.

53. In response to Mr LEUNG Kwok-hung, the Chairman said that according to the Report of PMWC published in October 2010, the estimates on the number of employees potentially to be laid off were derived based on the feedbacks from stakeholders that at most 30% of the additional wage bills would be absorbed by downsizing. Based on this assumption, PMWC estimated that the number of employees potentially to be laid off would be around 18 900 at SMW test level of \$24 if enterprises chose to absorb 30% of additional wage bills through downsizing. Under the SMW test level of \$33 and the same assumption that 30% of the additional wage bills would be mitigated through downsizing, the estimated job loss would increase to 81 000.

54. PE/FSO stressed that as the Report of PMWC explained, the assumption used (i.e. at most 30% of the additional wage bills would be absorbed by downsizing) was based on views collected through consultation and did not represent the position taken by PMWC. Instead, during PMWC's deliberations, it had considered a vast array of possible strategies that might be adopted by enterprises. PE/FSO further advised that due to the lack of empirical evidence, the dynamic effects of higher wage levels on labour demand and supply, and the stimulus of higher economic growth on the pace of job creation and labour force participation were not taken into account in the last exercise of PMWC. With SMW already in place, MWC would assess the potential impacts of different SMW test levels based on the latest statistical data available.

55. Mr LEUNG Kwok-hung suggested that the Administration should commission a tertiary institution to conduct a "tracking study" on employers and employees, so as to monitor the empirical magnitude of knock-on effects after the implementation of SMW. In doing so, due consideration could be given in this regard in future reviews of the SMW rate.

56. In response, AC/C&S and Assistant Commissioner for Labour (Development) ("AC for L (D)") advised that -

- (a) a large scale "tracking study" would entail not only manpower and resource implications on the Government but also longer time lag in the availability of results; and

Action

- (b) the Administration had commissioned a consultancy study targeting on employees working in the catering and the retail sectors, for the purpose of assessing the impact of the implementation of SMW on these two selected sectors including its effect on pay hierarchies and the likely magnitude of knock-on effects. To ensure the objectivity of the study, a sample of about 1 000 business undertakings was selected using a scientific method for the survey. Findings of the study were expected to be available around mid-2012 and could provide relevant statistics for reference of MWC.

57. Mr LEUNG Kwok-hung stressed that given the importance of the matter, the Administration should seriously consider conducting a comprehensive, long-term tracking study to assess the impact of SMW on various aspects.

58. Expressing concern over the long working hours of employees engaged in elementary occupations, such as those working in elderly homes, the catering or the estate management, security and cleaning services industries, Dr PAN Pey-chyou asked whether the Administration, in conducting the policy study on standard working hours, would take into account findings as revealed from the 2011 AEHS. He also asked about the causes leading to the problem of long working hours of employees in Hong Kong, and whether the Administration had studied overseas experience with a view to addressing the problems identified.

59. AC/C&S, AC for L (D) and PE/FSO responded that -

- (a) the Administration was conducting the policy study on standard working hours. The study would look into the systems and experiences of other places in implementing standard working hours or regulating working hours. It was expected to be completed by mid-2012, after which the findings of the study would be reported to the Panel;
- (b) C&SD had assisted in compiling statistics on the current working hour situation of the labour force and various sectors of Hong Kong. Data collected included those relating to contractual working hours and overtime work revealed in the 2011 AEHS;
- (c) the definition of hours worked in the 2011 AEHS covered only contractual/agreed working hours and overtime hours

Action

worked at the direction of employers. C&SD would also make use of relevant data collected through the General Household Survey ("GHS") to facilitate an in-depth and objective analysis; and

- (d) similar to the study carried out on SMW, the Administration would conduct a series of scenario studies to assess the impact of implementing standard working hours on enterprises' cost competitiveness, the labour market and the economy as a whole.

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

60. In response to the Chairman, PE/FSO advised that both C&SD and the Economic Analysis and Business Facilitation Unit under the Financial Secretary's Office were assisting LD in conducting the Administration's policy study on standard working hours and reference had been made to overseas experiences in implementing standard working hours. Issues examined included the objective of regulating working hours, whether or not a ceiling should be imposed on the number of working hours, the legislative process, the statutory requirements on standard working hours and the implementation details. As regards the standard unit adopted for comparison, the weekly working hours of employees were used in many overseas countries.

61. In reply to Mr IP Wai-ming's enquiry, PE/FSO said that in carrying out the policy study on standard working hours, the Administration had analyzed the operating characteristics of enterprises by sector. Generally speaking, the total number of hours worked by an employee in a wage period could be broken down into the following components -

- (a) the number of contractual working hours;
- (b) the number of overtime hours worked at the direction of employers, with payment of overtime allowance in monetary terms;
- (c) the number of overtime hours worked at the direction of employers, with compensation in the form of time off in lieu; and
- (d) the number of overtime hours worked without any compensation.

Action

62. The Chairman said that Mr Tommy CHEUNG had written to him, advising that he was not able to attend the meeting as he was out of town. Referring members to Mr CHEUNG's letter tabled at the meeting, the Chairman said that Mr CHEUNG had raised several questions in his letter, seeking the Administration's response. He invited the Administration to answer Mr CHEUNG's questions.

63. On the question of the actual increase in wage levels of employees in the catering industry after the implementation of SMW, AC/C&S advised that the median monthly wage of employees in the catering industry (e.g. those working in restaurants) in May-June 2011 was 12.5% higher than the median in the second quarter of 2010. Discounting the 5.4% increase in the Consumer Price Index ("CPI") in the corresponding period, the increase in real terms was about 7%.

64. Regarding the estimated period of time through which the chain reactions or ripple effects of SMW would sustain, PE/FSO advised that the labour market had tightened up in 2011, due to the buoyant demand for labour along with the economic upturn. Meanwhile, the seasonally adjusted unemployment rate was 3.4% in the first quarter of 2012. This would have direct impact on the wages and incomes across all segments of the workforce.

65. As regards the question relating to the impact of ripple effects caused by SMW on employees in the catering industry, PE/FSO reiterated that the Administration had commissioned a consultancy study targetting on the catering and the retail sectors, for the purpose of assessing the impact of the implementation of SMW on pay hierarchies and the likely magnitude of knock-on effects. More detailed information would be available when the consultancy study was completed.

66. On Mr Tommy CHEUNG's last question concerning the estimated increase of 2.9% in total wage bill for catering establishments, AC/C&S stressed that the estimation of the increases in the total wage bill under various SMW test levels was made based on data obtained from the 2009 AEHS. The impact assessment then constructed was based on a set of scenarios and assumptions. She pointed out that between 2009 and 2011, the increase in monthly wage bill for employers in the catering industry was significant, at around 20%. It should, however, be noted that during this period, CPI and the total number of employees in the sector had risen by about 8% and 5% respectively, thus contributing to about 13% increase in the wage bill. Moreover, other factors such as changes in the

Action

composition of employees in terms of occupation, qualification and experience of the employees might also affect the movement of monthly wage bill over time.

67. Mr LEUNG Kwok-hung considered that the issues of the implementation of SMW and standard working hours were interlinked. Should the SMW rate be set at \$33 per hour, a large number of employees would be able to earn a higher income and hence work less hours. In his view, in determining the SMW rate, the Administration should take into account whether the wages for the low-income groups were pitched at levels adequate to maintain a decent living.

68. In response, AC for L (D) explained that the policy objective of SMW was to provide a wage floor to prevent employees from receiving excessively low wages, but not a living wage being sufficient to cover family expenses of all employees which varied greatly. In making its recommendation on the SMW rate, MWC would strike an appropriate balance between the objectives of forestalling excessively low wages and minimizing the loss of low-paid jobs, while sustaining Hong Kong's economic growth and competitiveness.

69. The Chairman expressed deep concern about the time lag between C&SD's data collection/analyses, MWC's deliberation of the SMW rate and the implementation of the new SMW rate. He enquired whether the time required for the compilation of statistics from the AEHS could be compressed, so that the findings of AEHS could be released earlier, thereby advancing the implementation of future SMW rate.

70. In response, AC/C&S explained that although data collection of the 2011 AEHS started one month later when compared to the 2010 AEHS due to the change in the survey reference period from April-June to May-June and there was a need to compile an additional set of statistics for 2011 based on a method close to the one used in 2010 to facilitate comparison with the 2010 figures, the release date of findings of the 2011 AEHS fell behind that of the 2010 AEHS by only one to two weeks. AC/C&S further advised that given the large scale of AEHS, with a sample size of about 10 000 business undertakings and 60 000 employees, considerable time was required to collect the statistical data. C&SD normally required eight months for completion of data collection, compilation and analysis, which was comparable with that of overseas countries such as the United Kingdom and Australia. Noting members' concern about the time lag issue, the Administration would strive to further speed up the process. AC/C&S added that apart from the wage

Action

statistics from the AEHS, MWC would take into account a basket of indicators, supplementary statistical data and other relevant considerations when studying the SMW rate.

71. The Chairman said that to his knowledge, the United Kingdom had developed a scientific method to quantify the impact of the time lag issue and to make adjustment to their SMW rates accordingly.

72. There being no other business, the meeting ended at 6:51 pm.

Council Business Division 2
Legislative Council Secretariat
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