

立法會
Legislative Council

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Finance Committee of the Legislative Council

Minutes of the 82nd meeting
held at Conference Room 1 of the Legislative Council Complex
on Friday, 8 July 2016, at 3:00 pm

Members present:

Hon CHAN Kin-por, BBS, JP (Chairman)
Hon CHAN Kam-lam, GBS, JP (Deputy Chairman)
Hon Albert HO Chun-yan
Hon LEE Cheuk-yan
Hon James TO Kun-sun
Hon LEUNG Yiu-chung
Hon TAM Yiu-chung, GBM, GBS, JP
Hon Abraham SHEK Lai-him, GBS, JP
Hon Tommy CHEUNG Yu-yan, GBS, JP
Hon Frederick FUNG Kin-kee, SBS, JP
Hon Vincent FANG Kang, GBS, JP
Hon WONG Kwok-hing, BBS, MH
Prof Hon Joseph LEE Kok-long, SBS, JP, PhD, RN
Hon Jeffrey LAM Kin-fung, GBS, JP
Hon Andrew LEUNG Kwan-yuen, GBS, JP
Hon WONG Ting-kwong, SBS, JP
Hon Cyd HO Sau-lan, JP
Hon Starry LEE Wai-king, SBS, JP
Dr Hon LAM Tai-fai, SBS, JP
Hon CHAN Hak-kan, BBS, JP
Dr Hon Priscilla LEUNG Mei-fun, SBS, JP
Dr Hon LEUNG Ka-lau
Hon WONG Kwok-kin, SBS, JP
Hon IP Kwok-him, GBS, JP
Hon Mrs Regina IP LAU Suk-yee, GBS, JP

Hon Paul TSE Wai-chun, JP
Hon Alan LEONG Kah-kit, SC
Hon LEUNG Kwok-hung
Hon Albert CHAN Wai-yip
Hon WONG Yuk-man
Hon Claudia MO
Hon Michael TIEN Puk-sun, BBS, JP
Hon James TIEN Pei-chun, GBS, JP
Hon NG Leung-sing, SBS, JP
Hon Steven HO Chun-yin, BBS
Hon WU Chi-wai, MH
Hon YIU Si-wing, BBS
Hon Gary FAN Kwok-wai
Hon MA Fung-kwok, SBS, JP
Hon CHAN Chi-chuen
Dr Hon Kenneth CHAN Ka-lok
Hon CHAN Yuen-han, SBS, JP
Dr Hon KWOK Ka-ki
Hon Dennis KWOK
Hon Christopher CHEUNG Wah-fung, SBS, JP
Dr Hon Fernando CHEUNG Chiu-hung
Hon SIN Chung-kai, SBS, JP
Dr Hon Helena WONG Pik-wan
Hon IP Kin-yuen
Hon Martin LIAO Cheung-kong, SBS, JP
Dr Hon CHIANG Lai-wan, JP
Ir Dr Hon LO Wai-kwok, SBS, MH, JP
Hon CHUNG Kwok-pan
Hon Christopher CHUNG Shu-kun, BBS, MH, JP
Hon Tony TSE Wai-chuen, BBS
Hon Alvin YEUNG Ngok-kiu

Members absent:

Dr Hon LAU Wong-fat, GBM, GBS, JP
Hon Emily LAU Wai-hing, JP
Hon CHEUNG Kwok-che
Hon Frankie YICK Chi-ming, JP
Hon Charles Peter MOK, JP
Hon CHAN Han-pan, JP
Hon LEUNG Che-cheung, BBS, MH, JP
Hon Kenneth LEUNG

Hon Alice MAK Mei-kuen, BBS, JP
Hon KWOK Wai-keung
Dr Hon Elizabeth QUAT, JP
Hon POON Siu-ping, BBS, MH
Hon TANG Ka-piu, JP

Public officers attending:

Ms Elizabeth TSE Man-yee, JP	Permanent Secretary for Financial Services and the Treasury (Treasury)
Ms Esther LEUNG, JP	Deputy Secretary for Financial Services and the Treasury (Treasury) ¹
Mr Alfred ZHI Jian-hong	Principal Executive Officer (General), Financial Services and the Treasury Bureau (The Treasury Branch)
Miss Annie TAM Kam-lan, JP	Permanent Secretary for Labour and Welfare
Mr Donald TONG Chi-keung, JP	Commissioner for Labour
Ms Queenie WONG Ting-chi	Assistant Commissioner for Labour (Policy Support)

Clerk in attendance:

Ms Anita SIT	Assistant Secretary General 1
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Staff in attendance:

Mr Derek LO	Chief Council Secretary (1) ⁵
Mr Keith WONG	Council Secretary (1) ⁵
Mr Raymond SZETO	Council Secretary (1) ⁶
Mr Frankie WOO	Senior Legislative Assistant (1) ³
Miss Yannes HO	Legislative Assistant (1) ⁶

Action

**Item No. 1 – FCR(2016-17)65
RECOMMENDATIONS OF THE ESTABLISHMENT
SUBCOMMITTEE MADE ON 21 AND 27 JUNE 2016**

The Chairman advised that this item sought approval of the Finance Committee ("FC") of the recommendations of the Establishment Subcommittee ("ESC") made at its meetings held on 21 and 27 June 2016, i.e. the recommendations in EC(2016-17)12 and 14. No request for separate voting on the recommendations at the FC meeting was made by members.

2. There being no questions from members, the Chairman put the item to vote. The Chairman was of the view that the item was supported by a majority of the members voting and declared that the item was approved by the Committee.

**Item No. 2 – FCR(2016-17)66
RECOMMENDATIONS OF THE PUBLIC WORKS SUBCOMMITTEE
MADE ON 29 JUNE 2016**

3. The Chairman advised that this item sought FC's approval of the recommendations of the Public Works Subcommittee made at its meeting held on 29 June 2016, i.e. the recommendations in PWSC(2016-17)32 and 36. No request for separate voting on the recommendations at the FC meeting was made by members. The Chairman declared that he was a paid adviser of Munich Reinsurance Company.

4. There being no questions from members, the Chairman put the item to vote. The Chairman was of the view that the item was supported by a majority of the members voting and declared that the item was approved by the Committee.

Item No. 3 – FCR(2016-17)60

**RECOMMENDATION OF THE ESTABLISHMENT SUBCOMMITTEE
MADE ON 8 JUNE 2016**

EC(2016-17)9

HEAD 90 – LABOUR DEPARTMENT

Subhead 000 – Operational expenses

5. The Chairman advised that this item sought FC's approval of the recommendation of ESC made at its meeting held on 8 June 2016, i.e. the recommendation in EC(2016-17)9 in relation to the creation of one supernumerary post of Chief Labour Officer ("CLO") (D1) in the Labour Department ("LD") up to 31 March 2021 to assist the Standard Working Hours Committee ("SWHC") in completing its remaining work and follow up on the working hours policy directions and the related work. The aforesaid proposal had been discussed by ESC at its meetings held on 6 and 8 June 2016 and a supplementary information paper had been provided by the Administration after the meeting. A request for separate voting on the recommendation at the FC meeting was made by members.

Justifications for re-creating the proposed post for a period of five years

6. Mr CHAN Chi-chuen expressed opposition to the Administration's proposal of re-creating the proposed post for a period of five years. In his view, the post should first be re-created for a period of two or three years. Upon completion of SWHC's second-stage consultation and submission of its report to the Administration, consideration could be made as to whether the supernumerary post was to be extended or made permanent having regard to the working hours policy directions recommended in the report.

7. Mr WU Chi-wai said that while supporting the formulation of a standard working hours policy, the Democratic Party found it unjustifiable for the Administration to propose the re-creation of the proposed post for a period as long as five years before the working hours policy directions were finalized.

8. Permanent Secretary for Labour and Welfare ("PSLW") responded that the proposed supernumerary post would head the Working Hours Policy Division ("WHPD") of LD to give an all-out support to the second-stage consultation exercise and the preparation of the SWHC report at a later stage. Currently, SWHC planned to submit its report to the Government in the end of November 2016. Upon receiving the SWHC report, WHPD would take up a massive amount of work in following up the recommendations made in the report, including collection and analysis of information; as well as continuous communication with stakeholders, in order to facilitate the Government in formulating a working hours policy and an implementation timetable. She stressed that, irrespective of what the recommendations on working hours policy were to be put forth by SWHC, WHPD would still be required to undertake a large amount of follow-up initiatives in the next five years. Hence, there was a practical need to re-create a supernumerary post of CLO for a period of approximately five years up to 31 March 2021.

9. Mr Abraham SHEK acknowledged the aforesaid explanation made by the Administration and expressed support for the proposal of re-creating the supernumerary post for a period of five years with a view to providing manpower to follow up the formulation and implementation of a standard working hours policy.

10. Dr CHIANG Lai-wan enquired about the impacts on the formulation of a standard working hours policy if the proposed post could not be re-created. In response, PSLW advised that without the re-creation of the proposed supernumerary post, one of the two existing Senior Labour Officers (Working Hours Policy) of WHPD had to act as the administrative head of WHPD and serve as the Interim Secretary to SWHC. Such arrangement was extremely unsatisfactory as it would inevitably weaken the secretariat support to SWHC. She stressed that, having regard to the complexity of the work required to be undertaken by WHPD, there was a pressing need to re-create the CLO post to lead WHPD.

11. Dr CHIANG Lai-wan acknowledged the complexity of formulating a standard working hours policy. She supported the proposal of re-creating the proposed post for a period of five years with a view to further taking forward the formulation of a working hours policy.

Legislating for standard working hours

12. Mr LEE Cheuk-yan criticized the Administration for not having any stance on the issue of legislating for standard working hours. He pointed out that a majority of employers and employees expressed support for legislating for standard working hours in the first-stage consultation. He queried that the second-stage consultation exercise was only a tactic to delay the formulation of standard working hours. He said that if legislating for standard working hours was to be taken forward, the Labour Party would support the proposal of re-creating the proposed post, but not otherwise.

13. Dr Fernando CHEUNG advised that over 100 countries around the world had enacted legislation on standard working hours. He pointed out that Hong Kong was a city with the longest working hours in the whole world and the Administration should aim at legislating for standard working hours. He queried that the purpose of re-creating the proposed post for a period of five years was to delay the formulation of standard working hours. Expressing a similar concern, Dr KWOK Ka-ki requested the Administration to legislate for standard working hours and introduce a bill within a year on the regulation of standard working hours to the Legislative Council ("LegCo") for deliberation.

14. PSLW responded that the Administration did not adopt a delaying tactic on the implementation of a working hours policy. She explained that the first-stage consultation exercise of SWHC aimed to canvass the general view of the public on the subject of working hours while the second-stage consultation exercise was launched to facilitate further discussion on the four working hours policy directions under exploration and to collect views. During the consultation exercise, SWHC would not exclude views and proposals other than those four directions. The post to be re-created would actively follow up the work in relation to the working hours policy directions recommended by SWHC and work out the implementation of such policy. She reiterated that any approach to implement the working hours policy, including introducing legislation, would not be ruled out at this stage. The Administration would duly provide an implementation timetable of the working hours policy to the relevant Panels of LegCo.

15. Mr WU Chi-wai enquired about the reasons why the four policy directions of the second-stage consultation were not based on the findings of the first-stage consultation, i.e. a legislative approach to implement a policy to regulate working hours of employees.

16. PSLW clarified that among the four working hours policy directions of the second-stage consultation, there were the "big frame" (i.e. a legislative approach to mandatorily require employers and employees to enter into written employment contracts, which shall include the specified working hours terms, such as overtime compensation arrangement) and the "small frame" (i.e. on the premise of the "big frame", exploring whether there was a need for other suitable measures (e.g. legislating for a working hours standard and an overtime pay rate, etc.) to further protect grassroots employees with lower income, lower skills and less bargaining power). Findings of the first-stage consultation had been fully taken into consideration when the public was consulted on the four working hours policy directions.

17. Dr Fernando CHEUNG noted that one of the proposed policy directions of the second-stage consultation was not to implement the "big frame" nor "small frame" but recommend implementing other policies/measures pertaining to working hours (e.g. formulating voluntary guidelines according to the needs of individual sectors). Dr CHEUNG pointed out that the aforesaid policy direction was contradictory to the recommendation made in the findings of the first-stage consultation, i.e. a legislative approach to implement a policy to regulate working hours of employees. He was of the opinion that such policy direction should be removed from the second-stage consultation.

18. In response, PSLW advised that the purpose of such direction was to make clear that SWHC would consider views and proposals other than the "big frame" and "small frame", and the possibility that proponents of other proposals might suggest implementing their proposals through introducing legislation could not be ruled out at this stage. She considered that there was no contradiction between SWHC's recommendations and the findings of the first-stage consultation.

19. Miss CHAN Yuen-han advised that as the Administration tended to deal with the issue of standard working hours by way of "contractual working hours" under the "big frame" instead of enacting legislation on standard working hours, members belonging to the Hong Kong Federation of Trade Unions would not support the proposal of re-creating the supernumerary post.

20. Mr LEUNG Kwok-hung criticized the Administration for its failure to honour the Chief Executive's pledge in his election manifesto in respect of legislating for standard working hours, and for replacing "standard working hours" with "contractual working hours". He was of the view that legislating for standard working hours should be completed within the tenure of the current Government.

Motion to adjourn the discussion on FCR(2016-17)60

21. At 4:12 pm, Mr CHAN Chi-chuen moved, without notice, a motion under paragraph 39 of the Finance Committee Procedure ("FCP") to adjourn the discussion on FCR(2016-17)60.

22. The Chairman thereupon proposed the question on the motion to adjourn the discussion on FCR(2016-17)60. He directed that each member, when speaking on the question, might speak once for not more than three minutes.

23. Mr CHAN Chi-chuen introduced his motion. He reiterated that the proposed post should first be re-created for a period of two or three years. Upon submission of the SWHC report to the Government, consideration would be made as to whether the duration of such post had to be extended having regard to SWHC's recommendations on the working hours policy directions. Dr Fernando CHEUNG, Mr LEUNG Kwok-hung, Dr KWOK Ka-ki, Mr Albert CHAN and Mr LEUNG Yiu-chung spoke in support of the motion. Mr WU Chi-wai advised that members belonging to the Democratic Party supported the motion. The Deputy Chairman spoke against the motion.

24. At the invitation of the Chairman, PSLW reiterated the Administration's stance. She pointed out that having taken the service needs into full consideration, the Administration proposed in a responsible manner the re-creation of the proposed supernumerary post of CLO for a period of around five years with immediate effect upon FC's approval up to 31 March 2021 to head WHPD under LD in actively working on the subject of a working hours policy.

25. Mr CHAN Chi-chuen spoke in reply in respect of his motion. The Chairman then put Mr CHAN's motion to vote. At the request of members, the Chairman ordered a division and the division bell was rung for five minutes. The Chairman announced that 15 members voted in favour of, and 18 members voted against the motion. The votes of individual members were as follows –

For:

Mr LEUNG Yiu-chung
Mr Alan LEONG Kah-kit
Mr Albert CHAN Wai-yip
Ms Claudia MO
Mr CHAN Chi-chuen
Mr Dennis KWOK
Mr SIN Chung-kai
Mr Alvin YEUNG Ngok-kiu
(15 members)

Mr Frederick FUNG Kin-kee
Mr LEUNG Kwok-hung
Mr WONG Yuk-man
Mr WU Chi-wai
Dr Kenneth CHAN Ka-lok
Dr Fernando CHEUNG Chiu-hung
Dr Helena WONG Pik-wan

Against:

Mr CHAN Kam-lam
Mr Abraham SHEK Lai-him
Mr WONG Ting-kwong
Mr CHAN Hak-kan
Mr James TIEN Pei-chun
Mr Steven HO Chun-yin
Mr MA Fung-kwok
Dr CHIANG Lai-wan
Mr Christopher CHUNG Shu-kun
(18 members)

Mr TAM Yiu-chung
Mr Andrew LEUNG Kwan-yuen
Ms Starry LEE Wai-king
Mr IP Kwok-him
Mr NG Leung-sing
Mr YIU Si-wing
Mr Christopher CHEUNG Wah-fung
Mr Dr LO Wai-kwok
Mr Tony TSE Wai-chuen

26. The Chairman declared that Mr CHAN Chi-chuen's motion was negatived.

27. The meeting continued with the deliberation of agenda item FCR(2016-17)60.

Motion to adjourn further proceedings of the Committee

28. At 4:45 pm, Dr Fernando CHEUNG moved, without notice, a motion under paragraph 39 of the FCP that further proceedings of the Committee be then adjourned. The Chairman proposed the question that the meeting be then adjourned. He directed that each member, when speaking on the question, might speak once for not more than three minutes.

29. Dr Fernando CHEUNG introduced his motion. He concurred with Mr CHAN Chi-chuen's proposal of shortening the duration of the post to be re-created to two or three years and reviewing the future staffing arrangement after the working hours policy directions were finalized. In addition, Dr CHEUNG urged the Administration to remove the fourth policy direction proposed (i.e. not to implement the "big frame" nor "small frame", but recommend implementing other policies/measures pertaining to working hours (e.g. formulating voluntary guidelines according to the needs of individual sectors)) in the second-stage consultation. He considered that such policy direction meant to deal with the working hours issue by a non-legislative approach, which was regressive and unacceptable. Mr Albert CHAN, Mr CHAN Chi-chuen, Mr LEUNG Kwok-hung and Mr LEUNG Yiu-chung spoke in support of the motion. The Deputy Chairman spoke against the motion.

30. At 5:00 pm, the Chairman declared that the meeting be adjourned.

31. The meeting was adjourned at 5:00 pm.

Legislative Council Secretariat
20 September 2016