

**立法會**  
**Legislative Council**

LC Paper No. CB(2)1994/17-18  
(These minutes have been seen by  
the Administration)

Ref : CB2/BC/3/17

**Bills Committee on Employment (Amendment) Bill 2018**

**Minutes of meeting**  
**held on Wednesday, 25 July 2018, at 9:00 am**  
**in Conference Room 3 of the Legislative Council Complex**

- Members present** : Hon WONG Ting-kwong, GBS, JP (Chairman)  
Hon Kenneth LEUNG (Deputy Chairman)  
Hon LEUNG Yiu-chung  
Hon WONG Kwok-kin, SBS, JP  
Hon YIU Si-wing, BBS  
Hon KWOK Wai-keung, JP  
Dr Hon Fernando CHEUNG Chiu-hung  
Hon IP Kin-yuen  
Dr Hon Elizabeth QUAT, BBS, JP  
Hon POON Siu-ping, BBS, MH  
Hon HO Kai-ming  
Hon Holden CHOW Ho-ding  
Hon SHIU Ka-fai  
Hon CHEUNG Kwok-kwan, JP  
Hon LUK Chung-hung, JP  
Hon Gary FAN Kwok-wai
- Members absent** : Dr Hon KWOK Ka-ki  
Dr Hon Helena WONG Pik-wan  
Hon SHIU Ka-chun  
Hon HUI Chi-fung  
Hon Tony TSE Wai-chuen, BBS

**Public Officers  
attending** : Item I

Ms Melody LUK, JP  
Assistant Commissioner for Labour (Labour Relations)

Mr Raymond LIANG  
Chief Labour Officer (Labour Relations)  
Labour Department

Miss Annie CHAN  
Senior Labour Officer (Labour Relations)  
Labour Department

Mr Vincent FUNG  
Government Counsel  
Department of Justice

**Clerk in  
attendance** : Miss Betty MA  
Chief Council Secretary (2) 1

**Staff in  
attendance** : Mr Alvin CHUI  
Assistant Legal Adviser 3

Ms Rita LAI  
Senior Council Secretary (2) 1

Miss Lulu YEUNG  
Clerical Assistant (2) 1

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**I. Meeting with the Administration**

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

Draft amendments proposed by members

2. Members noted the draft amendments to the Employment (Amendment) Bill 2018 ("the Bill") proposed respectively by Mr HO Kai-ming, Mr LEUNG Yiu-chung, Dr Fernando CHEUNG, Mr Gary FAN, Mr HUI Chi-fung and Dr Helena WONG.

Mr HO Kai-ming, Mr LEUNG Yiu-chung, Dr Fernando CHEUNG and Mr Gary FAN proposed that their respective draft amendments be adopted as the proposed amendments of the Bills Committee. As there were divided views among members, votes were taken on the proposals. The Chairman claimed division of the proposals.

3. The Chairman put to vote the proposal of adopting the amendments relating to increasing the duration of statutory paternity leave ("PL") to seven days proposed by Mr LEUNG Yiu-chung, Dr Fernando CHEUNG and Mr Gary FAN as the proposed amendments of the Bills Committee.

The following members voted in favour of the proposal:

Mr LEUNG Yiu-chung, Mr Kenneth LEUNG, Dr Fernando CHEUNG, Mr IP Kin-yuen and Mr Gary FAN.  
(five members)

The following members voted against the proposal:

Mr WONG Kwok-kin, Mr YIU Si-wing, Mr KWOK Wai-keung, Dr Elizabeth QUAT, Mr POON Siu-ping, Mr HO Kai-ming, Mr Holden CHOW, Mr SHIU Ka-fai, Mr CHEUNG Kwok-kwan and Mr LUK Chung-hung.  
(10 members)

The Chairman declared that five members voted for and 10 members voted against the proposal. He declared that the proposal was negated.

4. The Chairman put to vote the proposal of adopting Mr Gary FAN's proposed amendments relating to increasing the PL pay rate to full pay as the proposed amendments of the Bills Committee.

The following members voted in favour of the proposal:

Mr LEUNG Yiu-chung, Mr Kenneth LEUNG, Dr Fernando CHEUNG, Mr IP Kin-yuen and Mr Gary FAN.  
(five members)

The following members voted against the proposal:

Mr WONG Kwok-kin, Mr YIU Si-wing, Mr KWOK Wai-keung, Dr Elizabeth QUAT, Mr POON Siu-ping, Mr HO Kai-ming, Mr Holden CHOW, Mr SHIU Ka-fai, Mr CHEUNG Kwok-kwan and Mr LUK Chung-hung.

(10 members)

The Chairman declared that five members voted for and 10 members voted against the proposal. He declared that the proposal was negated.

5. The Chairman put to vote the proposal of adopting Mr HO Kai-ming's proposed amendments relating to imposing a statutory obligation on the Government to review the PL days once in every year after the commencement of the enacted Ordinance as the proposed amendments of the Bills Committee.

The following members voted in favour of the proposal:

Mr LEUNG Yiu-chung, Mr WONG Kwok-kin, Mr KWOK Wai-keung, Dr Fernando CHEUNG, Mr IP Kin-yuen, Mr HO Kai-ming, Mr LUK Chung-hung and Mr Gary FAN.

(eight members)

The following members voted against the proposal:

Mr YIU Si-wing, Dr Elizabeth QUAT, Mr POON Siu-ping, Mr Holden CHOW, Mr SHIU Ka-fai and Mr CHEUNG Kwok-kwan.

(six members)

Mr Kenneth LEUNG abstained from voting.

The Chairman declared that eight members voted for and six members voted against the proposal and one member abstained from voting. The Chairman declared that the proposal was carried. He would move the proposed amendments on behalf of the Bills Committee.

Members agreed that the draft proposed amendments of the Bills Committee would be circulated to members for consideration.

Follow-up action

6. The Administration was requested to provide:
  - (a) the proposed amendments to the Bill to rectify the discrepancy between the Chinese and English versions of the proposed section 15E(2)(b)(i) in clause 3 of the Bill; and
  - (b) detailed response to issues raised by members at the meeting.

Members agreed that the Administration's response to the above issues would be circulated to members for consideration.

**II. Any other business**

7. The Chairman said that pending the Administration's provision of its response to outstanding issues, the Bills Committee had completed the scrutiny of the Bill. He would report the deliberations of the Bills Committee to the House Committee on 5 October 2018. The Administration would advise on the proposed date for resumption of the Second Reading debate on the Bill in due course.
8. There being no other business, the meeting ended at 10:11 am.

**Proceedings of meeting of the Bills Committee on  
Employment (Amendment) Bill 2018  
held on Wednesday, 25 July 2018, at 9:00 am  
in Conference Room 3 of the Legislative Council Complex**

<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s) / Discussion</b>	<b>Action Required</b>
000000 - 000750	Chairman	Opening remarks	
000751 - 000946	Chairman ALA3 Admin	In response to Assistant Legal Adviser 3 ("ALA3")'s enquiry about the discrepancy between the Chinese and English version of the proposed section 15E(2)(b)(i) in clause 3 of the Employment (Amendment) Bill 2018 ("the Bill"), the Administration advised that it would propose an amendment to the Bill to rectify the discrepancy.	<b>Admin</b>
000947 - 001139	Chairman	The Chairman's advice that the purpose of the meeting was to consider individual members' proposed amendments to the Bill.	
001140 - 001319	Chairman Mr HO Kai-ming	Briefing by Mr HO Kai-ming on his proposed amendments to the Bill (LC Paper No. CB(2)1879/17-18(02)).  Mr HO added that it was the ultimate aim of the Hong Kong Federation of Trade Unions to call for the extension of the duration of statutory paternity leave ("PL") to at least seven days. To further enhance the PL benefits, he would propose an amendment to the Bill to the effect that the Administration should review the PL days in one year's time after the coming into operation of the enacted Ordinance.	
001320 - 001540	Chairman Mr LEUNG Yiu-chung	Briefing by Mr LEUNG Yiu-chung on his proposed amendments to the Bill (LC Paper No. CB(2)1879/17-18(03)).  Mr LEUNG's view that the additional staff cost of increasing statutory PL to seven days would be minimal given that the PL pay was pitched at four-fifths of the employee's average daily wages and the actual number of male employees taking PL would be small because of the low fertility rate.	

<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s) / Discussion</b>	<b>Action Required</b>
001541 - 001753	Chairman Dr Fernando CHEUNG	<p>Briefing by Dr Fernando CHEUNG on his proposed amendments to the Bill (LC Paper No. CB(2)1879/17-18(04)).</p> <p>Dr CHEUNG's view that the duration of statutory PL should be further extended to 14 days.</p>	
001754 - 002054	Chairman Mr Gary FAN	<p>Briefing by Mr Gary FAN on his proposed amendments to the Bill (LC Paper No. CB(2)1879/17-18(05)).</p> <p>Mr FAN's view that the additional cost impact of seven-day statutory PL per annum represented only an insignificant proportion to the total staff cost per annum. Having regard to the huge fiscal reserve, the Government could afford to provide subsidy to employers to cover the additional staff cost arising from employees taking two more days of PL. The statutory PL entitlements of employees in the private sector should align with those of government employees.</p>	
002055 - 002311	Chairman Admin	<p>The Chairman's advice that Mr HUI Chi-fung and Dr Helena WONG, who were not present at the meeting, had proposed draft amendments to the Bill (LC Paper Nos. CB(2)1879/17-18(06) and (07) respectively).</p> <p>The Administration's consolidated response to the proposed amendments from individual members was provided in LC Paper No. CB(2)1879/17-18(01) and tabled at the meeting. The Administration stressed that in formulating the proposed Bill, the Administration had already taken into account the views of employees, the affordability of employers (including small and medium enterprises) to an increase in the duration of PL, and the operation of PL since its inception in 2015. The Bill was a hard-earned consensus between labour and business sectors as represented by Labour Advisory Board. Moreover, the purpose of the Bill did not include changing the calculation of the rate of PL pay. The Government had in fact been reviewing the labour legislation from time to time in light of socio-economic development in Hong Kong. It was not necessary to add such a clause in the Bill.</p>	

<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s) / Discussion</b>	<b>Action Required</b>
002312 - 003400	Chairman ALA3	<p>ALA3's advice that the admissibility of a proposed amendment to a bill was a matter to be decided by the President of Legislative Council ("LegCo") including whether it was in compliance with Rule 57(4) and (6) of the Rules of Procedure ("RoP"). In considering whether a proposed amendment to a bill was relevant to the subject matter of the bill under Rule 57(4)(a) of RoP, the President would take into account the long title, the Explanatory Memorandum and the provisions of the bill, the LegCo Brief on the bill and other relevant factors. In considering whether a proposed amendment to a bill had a charging effect under Rule 57(6) of RoP, the President would take into account, among others, whether the proposed amendment would create a new function, or to impose a new legal duty on the Government and that the discharge of such function or duty would incur public expenditure in respect of which no provision of public money had been made under the existing law or, in the case of an original bill, it was beyond what was envisaged in the bill.</p> <p>ALA3's further advice on the legal and drafting aspects of the draft amendments proposed by Mr HO Kai-ming, Mr LEUNG Yiu-chung, Dr Fernando CHEUNG, Mr Gary FAN, Mr HUI Chi-fung and Dr Helena WONG.</p>	
003401 - 003603	Chairman Dr Fernando CHEUNG Admin	In response to Dr Fernando CHEUNG's enquiries, the Administration advised that due to complexity of the issue, more time was required to study the above advice of ALA3 and the amendments proposed by members to the Bill and consult the Department of Justice as appropriate before providing its full response on the legal and drafting aspects of the proposed amendments.	
003604 - 005256	Chairman ALA3 Mr YIU Si-wing Deputy Chairman Mr HO Kai-ming Mr LEUNG Yiu-chung Dr Fernando CHEUNG Mr Gary FAN	<p>Proposals of Mr HO Kai-ming, Mr LEUNG Yiu-chung, Dr Fernando CHEUNG and Mr Gary FAN for adoption of their respective proposed amendments to the Bill as the proposed amendments of the Bills Committee.</p> <p>Discussion on the voting arrangements on members' proposals to adopt their proposed amendments to the Bill as the proposed amendments of the Bills Committee.</p>	

<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s) / Discussion</b>	<b>Action Required</b>
005257 - 005512	Chairman	Voting on the proposal of adopting the amendments relating to increasing the duration of statutory PL to seven days proposed by Mr LEUNG Yiu-chung, Dr Fernando CHEUNG and Mr Gary FAN as the proposed amendments of the Bills Committee.	
005513 - 005615	Chairman	Voting on the proposal of adopting Mr Gary FAN's proposed amendments relating to increasing the PL pay rate to full pay as the proposed amendments of the Bills Committee.	
005616 - 010451	Chairman Mr POON Siu-ping ALA3 Dr Fernando CHEUNG Mr YIU Si-wing Deputy Chairman	<p>Voting on the proposal of adopting Mr HO Kai-ming's proposed amendments regarding imposing a statutory obligation on the Government to review the PL days once in every year after the commencement of the enacted Ordinance as the proposed amendments of the Bills Committee.</p> <p>Members noted that ALA3 would assist in drafting the proposed amendments to be moved by the Bills Committee, which would be circulated to members for consideration in due course.</p> <p>The Chairman's advice that individual members might consider proposing other amendments to the Bill under their own names.</p>	<b>ALA3</b>
010452 - 010536	Chairman Admin	The Administration's advice that it would propose an amendment to the Bill to address the discrepancy between the Chinese and English versions of the proposed section 15E(2)(b)(i). It would also provide detailed responses to issues raised by members at the meeting. Members agreed that the Administration's response to the above outstanding issues would be circulated to members for consideration.	<b>Admin</b>
010537 - 010738	Chairman	<p>Legislative timetable.</p> <p>Clarification of the voting result on the proposal of adopting Mr HO Kai-ming's proposed amendments as the proposed amendments of the Bills Committee.</p>	
010739 - 011048	Chairman	Suspension of the meeting for five minutes.	

<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s) / Discussion</b>	<b>Action Required</b>
011049 - 011531	Chairman Mr HO Kai-ming Dr Fernando CHEUNG	<p>The Chairman's affirmation of the result of the voting on the proposal of adopting Mr HO Kai-ming's proposed amendments as the proposed amendments of the Bills Committee.</p> <p>Mr HO's clarification of the object of his proposed amendments relating to imposing a statutory obligation on the Government to review the PL days once in every year after the commencement of the enacted Ordinance.</p> <p>Closing remarks.</p>	

Council Business Division 2  
Legislative Council Secretariat  
10 September 2018