

立法會
Legislative Council

LC Paper No. CB(2)1742/17-18
(These minutes have been seen
by the Administration)

Ref : CB2/PL/MP

Panel on Manpower

Minutes of meeting
held on Friday, 27 April 2018, at 10:30 am
in Conference Room 3 of the Legislative Council Complex

- Members present** : Hon KWOK Wai-keung, JP (Chairman)
Dr Hon Fernando CHEUNG Chiu-hung (Deputy Chairman)
Hon LEUNG Yiu-chung
Hon WONG Kwok-kin, SBS, JP
Hon Michael TIEN Puk-sun, BBS, JP
Hon Frankie YICK Chi-ming, SBS, JP
Hon YIU Si-wing, BBS
Dr Hon KWOK Ka-ki
Hon POON Siu-ping, BBS, MH
Dr Hon CHIANG Lai-wan, JP
Hon Andrew WAN Siu-kin
Hon CHU Hoi-dick
Hon Jimmy NG Wing-ka, JP
Hon HO Kai-ming
Hon SHIU Ka-fai
Hon SHIU Ka-chun
Dr Hon Pierre CHAN
Hon LUK Chung-hung
Hon Jeremy TAM Man-ho
- Members attending** : Hon Tommy CHEUNG Yu-yan, GBS, JP
Hon AU Nok-hin
- Member absent** : Hon Vincent CHENG Wing-shun, MH

**Public Officers
attending** : Item IV

Mr Jeff LEUNG Wing-yan, JP
Deputy Commissioner for Labour
(Occupational Safety and Health)

Dr Mandy HO Mang-ye, JP
Occupational Health Consultant (1)
Labour Department

Dr WAN Yuen-Kong
Occupational Health Consultant (2)
Labour Department

Mr Simon LI Chi-chung
Assistant Commissioner for Labour
(Employees' Rights & Benefits)

Item V

Mr Caspar TSUI Ying-wai, JP
Under Secretary for Labour & Welfare

Mr Raymond HO Kam-biu
Assistant Commissioner for Labour (Development)

Ms Betty NG Shuk-fong
Chief Labour Officer (Statutory Minimum Wage)
Labour Department

Mr Sam SUM Kai-wah
Senior Labour Officer (Labour Inspection)
Labour Department

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

**Staff in
attendance** : Ms Rita LAI
Senior Council Secretary (2) 1

Miss Lulu YEUNG
Clerical Assistant (2) 1

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I. Confirmation of minutes of previous meeting
(LC Paper No. CB(2)1234/17-18)

The minutes of the meeting held on 26 February 2018 were confirmed.

II. Information paper issued since the last meeting
(LC Paper No. CB(2)1232/17-18(01))

2. Members noted that the Administration's responses to issues raised in the letter dated 7 March 2018 from Dr KWOK Ka-ki concerning employees' exercising trade union rights and the joint letter dated 13 March 2018 from Dr KWOK Ka-ki, Mr Alvin YEUNG, Ms Tanya CHAN and Mr Jeremy TAM regarding regulation of working hours of professional drivers had been issued since the last meeting.

III. Date of next meeting and items for discussion
(LC Paper Nos. CB(2)1249/17-18(01) and (02))

Regular meeting in May 2018

3. Members agreed that the following items proposed by the Administration be discussed at the next regular meeting at 4:30 pm on 15 May 2018:

- (a) Draft talent list; and
- (b) Preliminary idea on abolishing the "offsetting" arrangement under the Mandatory Provident Fund System.

4. Dr CHIANG Lai-wan suggested that the Administration be requested to update the Panel on the work progress of the Commission for the Planning of Human Resources in the context of manpower requirement projection. The Chairman advised that the suggestion would be relayed to the Administration.

5. The Deputy Chairman and Mr HO Kai-ming suggested the Panel to hold a joint meeting with the Panel on Transport to discuss issues relating to regulation of working hours and remuneration package of bus captains of franchised bus companies. The Chairman said that as the Guidelines on Bus Captain Working Hours, Rest Times and Meal Breaks ("the

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Guidelines") were drawn up by the Transport Department ("TD"), the subject fell under the purview of the Panel on Transport.

IV. Occupational disease and occupational health situation in 2017
(LC Paper Nos. CB(2)1176/17-18(01) to (02) and
CB(2)1249/17-18(03) to (05))

6. At the invitation of the Chairman, Deputy Commissioner for Labour (Occupational Safety and Health) ("DC for L (OSH)") briefed members on the occupational diseases and occupational health situation in Hong Kong in 2017, and the related promotion and enforcement work of the Labour Department ("LD"), as detailed in the Administration's paper.

7. Members noted an updated background brief entitled "Occupational diseases and occupational health performance in Hong Kong" prepared by the Legislative Council ("LegCo") Secretariat.

Occupational health clinics

8. Dr Pierre CHAN and Mr SHIU Ka-chun sought information on the establishment of the medical staff in the two occupational health clinics ("OHCs") in Kwun Tong and Fanling. Dr CHAN further asked about the numbers of new cases seeking clinical consultations from the two OHCs as well as the numbers of follow-up inspections to patients' workplaces in 2015, 2016 and 2017.

9. DC for L (OSH) responded that the total number of new cases seeking clinical consultations from the two OHCs was 1 553 in 2017. As regards the establishment of the medical staff in the two OHCs, Occupational Health Consultant (2) of LD ("OHC(2)/LD") advised that there were one consultant doctor, one senior occupational health doctor and seven occupational health doctors providing diagnosis and treatment in these two OHCs, and there were one nursing officer and several registered nurses providing occupational health counselling in each OHC. The Administration was requested to provide the requisite information mentioned in paragraph 8 above in writing after the meeting.

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10. In response to Dr Pierre CHAN's enquiry, OHC(2)/LD said that the time for diagnosing whether a patient was suffering from occupational disease or work-related disease varied, which was subject to a number of

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factors, such as availability of medical and occupational history of the patient.

11. Mr SHIU Ka-chun enquired about the measures taken by LD to monitor the usage of OHCs and the average waiting time for new cases for services of OHCs. DC for L (OSH) said that according to the statistics kept by LD on the usage of OHCs, the average waiting time for new cases at Fanling OHC and Kwun Tong OHC was one week and two weeks respectively in 2017, which was considered acceptable.

12. Acknowledging that OHCs opened on Saturday mornings, Dr Pierre CHAN said that the arrangement could facilitate employees seeking clinical consultations and provide demonstration for other clinics of the Department of Health ("DH") to adopt similar arrangement. He asked about the impact on manpower deployment for adopting such arrangement in OHCs. OHC(2) responded that working hours of staff members who were required to work on Saturdays would be adjusted on weekdays, resulting in no change to the total weekly working hours.

Statistics of occupational diseases

13. Dr KWOK Ka-ki pointed out that although the labour force participation rate in Hong Kong was higher than that in the Netherlands, the confirmed cases of occupational diseases in Hong Kong was lower. He expressed concern whether it was attributable to the Administration's inadequate efforts in raising the awareness of employers and employees on occupational and work-related diseases and the deficiency of the reporting system.

14. Mr SHIU Ka-chun sought information on the number of confirmed cases of occupational diseases among the 11 000 clinical consultations provided by the two OHCs in 2017.

15. DC for L (OSH) responded that medical practitioners were required under the Occupational Safety and Health Ordinance (Cap. 509) ("OSHO") to notify LD of occupational diseases. All employees who suspected their diseases to be work-related could seek clinical consultation services at the two OHCs for diagnosis and treatment. Among the 11 000 clinical consultations at the two OHCs in 2017, there were 28 confirmed cases of occupational diseases and a number of which were confirmed cases of tenosynovitis of the hand or forearm. LD would continue to conduct publicity for duty holders and workers of

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relevant industries to enhance their awareness on prevention of upper limb musculoskeletal diseases.

[The Deputy Chairman took the chair during the temporary absence of the Chairman.]

Sudden death of employees at work

16. Mr HO Kai-ming expressed concern that sudden death of employees caused by overexertion at work was not covered in the list of 52 prescribed occupational diseases in the relevant ordinances. Noting that some neighbouring places had prescribed sudden death at workplace caused by cardiovascular diseases and cerebrovascular diseases as compensable diseases and drawn up relevant guidelines, Mr HO was concerned about the progress of LD's study on the workplace death cases with same causes. He asked when the study findings would be made available and whether the Administration would consider introducing legislation to include workplace death cases in the list of compensable occupational diseases.

17. Mr LEUNG Yiu-chung was concerned that in many cases of sudden death of employees who were caused by overexertion at work, family members of the deceased employees could not receive employees' compensation under the existing labour laws because the death of employees was not caused by work accidents.

18. DC for L (OSH) acknowledged that the causes of sudden death not attributed to work accidents during the course of the employment were complex, and might involve a multitude of factors including personal health condition. It was noted that mechanisms were put in place in Taiwan, Japan and South Korea whereby consideration would be given to non-work-related factors in handling compensation claims of workplace sudden death cases. LD had commissioned the Occupational Safety and Health Council ("OSHC") to conduct a study on employees' sudden death at work, in the hope of understanding the relationship between work situations and the death cases. The study focused on the workplace death cases caused by cardiovascular diseases or cerebrovascular diseases, and sought to understand the possible causes (both work related or non-work related) leading to the sudden death of these employees from different perspectives mainly through interviewing the deceased workers' relatives, employers and colleagues. The study commenced in the first quarter of 2018 and would last till the third quarter of 2020. The

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Administration would make available the study results in due course and would consider the way forward.

[The Chairman resumed the chairmanship.]

Occupational health of professional drivers

19. Mr POON Siu-ping expressed concern about the long working hours of bus captains. Noting that TD had proposed revisions to the Guidelines which were to be observed by franchised bus companies, Mr POON enquired whether consideration would be given to applying the revised Guidelines to non-franchised bus companies as well.

20. The Deputy Chairman called on LD to proactively make reference to the regulations and practices of other overseas cities in respect of rest time arrangement for bus captains and provide advice as appropriate to TD in the review of the Guidelines. The Chairman expressed concern about LD's work in ensuring the occupational health of aged professional drivers.

21. DC for L (OSH) said that LD had been promoting the awareness of employers and employees in various trades and industries, through organizing health talks and seminars as well as distributing educational publications, on rest break arrangements at work to reduce the health risks. In addition, during workplace inspections, LD interviewed the employees, including professional drivers, and verified whether they had been provided with appropriate rest breaks. Specifically, LD conducted a number of visits to large public transport interchanges on employees' occupational safety and health ("OSH") and distributed OSH materials to remind professional drivers to pay attention to OSH. LD had also conducted a total of 120 inspections in respect of OSH of professional drivers of land transportation in the past five years. LD would continue its work in this direction. DC for L (OSH) further advised that LD had analyzed the occupational health problems of professional drivers and found that one of the main potential hazards was related to drivers' living habits. LD would continue to make use of various channels to disseminate to professional drivers the messages of healthy living style.

Mental health illness arising from work pressure

22. Mr SHIU Ka-chun was concerned about the mental health of teachers, nurses and social workers. As revealed from a survey conducted in 2009 on work pressure and emotional health of professional

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social workers in non-governmental organizations, around 50% of the respondent social workers suffered from depression. Mr SHIU enquired about the resources and manpower for providing support services for these practitioners and whether the Administration would consider conducting a survey on the work pressure and emotional distress faced by these practitioners.

23. DC for L (OSH) advised that LD attached great importance to the mental well-being of employees and had published various pamphlets and organized seminars to enhance their knowledge and understanding of work pressure and its management. As a matter of fact, LD, DH and OSHC had collaboratively launched the "Joyful@Healthy Workplace" programme since October 2016. A series of activities were organized to assist employers and employees to create a joyful and healthy working environment and a number of organizations had signed a charter and pledged to establish a healthy and joyful workplace.

Prevention of health hazards due to prolonged standing at work

24. Mr POON Siu-ping expressed disappointment at the Administration's refusal to classify strain of lower limbs as an occupational disease under the relevant OSH legislation, notwithstanding the increasing number of new cases of lower limb illnesses seeking clinical consultations at the two OHCs. Noting that LD was preparing a set of new guidelines to safeguard employees against the health risks of standing at work, Mr POON asked about the progress and the preventive measures to be adopted by employers.

25. Mr SHIU Ka-fai welcomed the provision of guidelines to employers on prevention of health hazards due to prolonged standing at work, having regard to the fact that the work of many employees in the catering and retail industries involved prolonged standing. Mr SHIU asked how the Administration would distribute the pamphlets on the new guidelines when they were ready.

26. DC for L (OSH) responded that in light of the fact that the work of many employees in the retail and catering industries involved prolonged standing, LD augmented promotional visits from the end of 2016 to 2017 to include meetings with the management of major chain corporations of these two industries. During these meetings, LD advised the management to introduce appropriate policies to reduce health risk of employees caused by prolonged standing. The corporations contacted

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had responded positively to LD's promotion, including taking measures to strengthen the protection of employees against the risks of prolonged standing. LD had conducted some 290 inspections to the workplaces of these corporations and would continue to follow up on the work of the corporations in this aspect. In addition, LD also sent letters to more than 400 retail and catering companies to call on the management to take preventive measures to protect OSH of employees whose work involved prolonged standing. DC for L (OSH) advised that to further safeguard employees against the health risks of standing at work, LD was preparing a set of new guidelines. In addition to setting out the possible health hazards which might be caused by standing at work and the preventive measures, the new guidelines would also emphasize that employers had to, so far as reasonably practicable, provide suitable work chairs or chairs for occasional resting at the working locations to the employees who stood at work. It was expected that the final draft of the new guidelines would be ready by mid-2018. Pamphlets on the new guidelines would be sent to stakeholders, in particular those in the catering and retail industries as well as the security service industry for consultation.

27. In response to Mr SHIU Ka-fai's enquiry, DC for L (OSH) said that should there be non-compliant cases of the new guidelines, if sufficient evidence was obtained, LD would consider taking out prosecution against employers concerned under the general duties provisions in OSHO i.e. an employer was required to provide a safe working environment to his employees, so far as reasonably practicable. Mr SHIU called on the Administration to step up its publicity efforts to disseminate the message to employers.

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28. The Deputy Chairman requested the Administration to provide information on the specific measures taken by corporations in the retail and catering industries to protect OSH of employees whose work involved prolonged standing, together with the number of corporations involved and the number of employees benefitted from such measures, and the follow-up actions taken by LD after the meeting.

Occupational health of employees using computers

29. Dr CHIANG Lai-wan was concerned about the occupational health of employees who needed to use computers for an extended period of time at work and enquired about the types of occupational diseases in association with prolonged use of computers.

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30. Occupational Health Consultant (1) of LD ("OHC(1)/LD") responded that there were confirmed cases of tenosynovitis of the hand or forearm due to prolonged use of computers and improper postures. However, it was noteworthy that use of computer was common in many work types and the proper workstation set-up as well as work posture also attributed to the occupational health of the users.

31. Dr CHIANG Lai-wan urged the Administration to work in collaboration with business associations and labour unions in respect of stepping up its publicity efforts in enhancing the awareness of employers and employees on safeguarding occupational health of the aforementioned employees.

32. In response, DC for L (OSH) said that LD would enhance its publicity efforts in safeguarding occupational health of employees who used computers for a prolonged period of time. OHC(1)/LD added that under the Occupational Safety and Health (Display Screen Equipment) Regulation (Cap. 509B) ("the Regulation"), the employer was required to perform a risk assessment of a workstation in the workplace before it was first used by users and make improvements to the working environment as appropriate.

33. The Chairman sought information on the enforcement of the Regulation, including the number of workplace inspections conducted by LD, number of related complaints and improvement measures taken by employers concerned. DC for L (OSH) agreed to provide the information after the meeting.

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Rehabilitation services for injured employees

34. Mr HO Kai-ming said that the existing provisions under the Employees' Compensation Ordinance (Cap. 282) ("ECO") were inadequate for protecting injured employees. For instance, the daily rate of maximum medical expenses reimbursable under ECO i.e. \$300, which had made reference to fee level of public healthcare services, was inadequate for meeting medical expenses charged by the private healthcare sector. Mr HO further said that in addition to making compensation to employees injured at work, the Administration should actively consider introducing legislative amendments to the effect that rehabilitation services should be provided for injured employees to enable them to return to work as early as practicable.

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35. Dr KWOK Ka-Ki was of the view that the provision of rehabilitation services in Hong Kong lagged far behind the international level. Pointing out that some 8 000 employees who sustained work injuries or suffered from occupational diseases had taken sick leave for more than 90 days in 2017, Dr KWOK expressed concern about the long time taken for these employees to recover from work injuries or occupational diseases. He was concerned about the plan and concrete measures taken by the Administration to improve the rehabilitation services so as to facilitate the speedy recovery of the injured employees and their early return to work. The Chairman considered that early referral of injured employees to medical and rehabilitation services, such as physiotherapy and occupational therapy, should be made as early as practicable to facilitate their early recovery from injury.

36. Assistant Commissioner for Labour (Employees' Rights & Benefits) ("AC for L(ERB)") advised that hospitals and clinics under the management of the Hospital Authority ("HA") provided integrated treatment and rehabilitation services, including specialist treatment, physiotherapy and occupational therapy, for employees who sustained work injuries or suffered from occupational diseases prescribed by ECO. In addition, the insurance industry had launched the Voluntary Rehabilitation Programme ("VRP") in 2003 to provide injured employees with an additional channel to receive free rehabilitation services in the private sector through the insurers' arrangements to facilitate their speedy recovery and early return to work under safe circumstances. Participation in VRP would not affect the injured employees' rights and benefits under ECO. DC for L (OSH) added that LD attached great importance to occupational health of employees. LD would meet with deputations on how to improve the existing rehabilitation services for injured employees.

37. Dr KWOK Ka-Ki then sought information on resources and manpower relating to occupational rehabilitation services for injured employees and employees with occupational disease provided by LD, DH, HA and related organizations. DC for L (OSH) said that he did not have the information on hand and would provide it after the meeting.

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38. Dr KWOK Ka-ki, the Deputy Chairman, and Mr HO Kai-ming suggested that the Panel should hold another meeting to receive public views on the rehabilitation services for injured employees as soon as practicable.

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Handling of dispute in work injury compensation claims

39. Dr KWOK Ka-Ki and the Deputy Chairman expressed concern about the extended period of time taken to complete the procedures for medical clearance and work injury assessment for employees' compensation claims, in the event that the employers did not acknowledge the injuries of the employees were work related. As a result, the injured employees would face considerable financial pressure because of having no employees' compensation or income to support their livelihood during the claim period.

40. Mr LEUNG Yiu-chung was concerned that for a work injury compensation case in dispute, injured employees would need to undergo a time-consuming process and face immense pressure during the period of making compensation claims. Mr LEUNG was of the view that LD should be empowered to require the employers concerned to comply with its decision on the work injury compensation claims.

41. Mr HO Kai-ming held the view that LD should play a more proactive role in handling work injury compensation claims to relieve injured employees' pressure in making such claims. Apart from providing conciliation service to employers and employees concerned when the claims were in dispute, consideration could also be given to providing more assistance to injured employees in the process of claiming compensation and rehabilitation services to facilitate their early return to work. Specifically, Mr HO enquired whether LD would adjudicate on disputes between employers and employees in work injury compensation claims.

42. AC for L(ERB) said that for a work injury compensation claim in dispute, LD would scrutinize the case in detail, explain the provisions of ECO to both parties and collect detailed information relating to the work accident. Upon collation of all the relevant information, LD would inform both parties about its views on the likelihood and relevance of the case being a work injury. In handling dispute between employers and employees in work injury compensation claims, the Court's ruling would be the final decision for the unresolved cases. Since May 2016, LD had on a pilot basis introduced enhanced support services for non-fatal cases in dispute in branch offices of the Employees' Compensation Division to facilitate early intervention and timely resolution of differences so as to protect the rights and benefits of employees. Under the enhanced

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support services for cases in dispute, among the 1 706 cases concluded as at the end of 2017, 1 322 cases (i.e. 77%) were resolved.

43. Mr LEUNG Yiu-chung remained concerned that there were many work injury compensation claims in which employers did not acknowledge that the injuries of the employees were work-related, regardless of LD's views on the likelihood and relevance of the cases being work injuries. He maintained the view that LD should be empowered to adjudicate on disputes between employers and employees in work injury compensation claims.

44. Mr Jimmy NG expressed the view that it was imperative that appropriate compensation was afforded to employees who suffered an injury or illness directly related to their work. That said, employers would not be able to provide employees with employees' compensation if the insurance companies concerned held different views on the work injury compensation claims.

Establishment of a central employees' compensation insurance fund

45. The Deputy Chairman held the view that the Administration should seriously consider setting up a central employees' compensation insurance fund to better safeguard the livelihood of the injured employees during their sick leave period. Citing a case in which the employer concerned had come across great difficulties in taking out employees' compensation insurance ("ECI") with insurance companies for his employees who were required to work occasionally only, Mr LEUNG Yiu-chung said that setting up a central employees' compensation fund could address some employers' difficulties in taking out ECI.

46. AC for L(ERB) said that to alleviate the difficulties of individual employers in taking out ECI, the insurance industry had launched the Employees' Compensation Insurance Residual Scheme starting from May 2007. The Scheme operated as the market of last resort for employers who had difficulties in finding ECI cover. Mr LEUNG Yiu-chung and the Chairman, however, considered the Scheme not effective in addressing difficulties encountered by employers in taking out ECI, having regard to the high premiums and possibility of being rejected in some special cases.

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V. Implementation of statutory minimum wage
(LC Paper Nos. CB(2)1249/17-18(06) and (07))

47. At the invitation of the Chairman, Under Secretary for Labour and Welfare ("USLW") briefed members on the implementation of Statutory Minimum Wage ("SMW"), as set out in the Administration's paper.

48. Members noted a background brief entitled "Implementation of statutory minimum wage" prepared by the LegCo Secretariat.

[To allow sufficient time for discussion, the Chairman suggested and members agreed to extend the meeting to 1:00 pm.]

Impact of Statutory Minimum Wage

49. Mr Tommy CHEUNG pointed out that while the implementation of SMW had attracted more people to join the labour market, it had brought about adverse knock-on effect on pay hierarchies in various sectors. Consequently, the number of employees with actual pay rise attributable to the uprating of SMW had eventually been greater than the number of employees earning just the SMW rate. Implementation of SMW had also made it difficult for certain industries with less favourable working conditions, for example, catering industry, to retain or recruit employees.

50. Sharing a similar concern about the problem of manpower shortage in specific industries, including hotel, elderly care services as well as professional drivers arising from the implementation of SMW, Mr YIU Si-wing asked whether consideration would be given to studying the feasibility of importing more labour under the Supplementary Labour Scheme ("SLS") to address the acute recruitment difficulties currently faced by individual service industries. He also expressed concern that previous upratings of SMW had brought about high inflation in the past years. Mr SHIU Ka-fai echoed a similar concern.

51. To address difficulties in staff recruitment and retention in specific sectors arising from the knock-on effect of implementation of SMW, the Chairman held the view that employers should increase the pay of employees so as to attract or retain employees to work in these sectors instead of expanding SLS.

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52. Mr LUK Chung-hung did not subscribe to the view that upward adjustment of the SMW rate had pushed up inflation. In his view, it was largely attributed to the imported inflation and high rental.

53. USLW acknowledged that amidst the low unemployment rate in recent years, labour shortage and recruitment difficulties were encountered in certain sectors. The Administration would continue to closely monitor the manpower supply and demand of different sectors, and adopt multi-pronged measures to address the situation, for example, use of technology in elderly care services. On the premise of safeguarding the employment priority of local workers, the Administration would explore with stakeholders the possibility of increasing imported labour on an appropriate and limited scale.

54. Mr SHIU Ka-fai noted that the percentage of employees earning the prevailing SMW rate of \$34.5 per hour dropped to less than 1% of all employees. He asked about the coverage of the SMW rate when it was first introduced in 2011 and the reasons for the decrease.

55. USLW responded that according to the findings of the Annual Earnings and Hours Survey ("AEHS") in 2011, the percentage of employees earning the initial SMW rate of \$28 per hour was 6.4% (i.e. 180 600 employees) of all employees in May to June 2011. USLW explained that after the implementation of SMW, coupled with the low unemployment rate and a tight labour market, the wage level for various work types had been pushed up. As pointed out in the 2016 Minimum Wage Commission ("MWC") Report, based on experience upon the implementation of SMW, with the knock-on effect on pay hierarchies, the number of employees receiving a pay rise attributable to the uprating of SMW was generally larger than the number of employees earning just the SMW rate.

56. Mr SHIU Ka-fai considered that the decreasing number of employees receiving the SMW rate was an encouraging phenomenon, having regard to the fact that the average monthly employment earnings of low-paid full-time employees rose by a cumulative 55.8% in December 2017 to February 2018 as compared with the pre-SMW period, which had outpaced the 33.2% gain for the average monthly employment earnings of all full-time employees over the same period. Mr SHIU further pointed out that the implementation of SMW had in fact narrowed the wage gap in the pay hierarchies of various trades and industries.

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Enforcement work

57. In respect of the 673 claims relating to SMW handled by LD and the 197 cases involving suspected violation of the Minimum Wage Ordinance (Cap. 608) ("MWO") from the launch of SMW and up to March 2018, Mr POON Siu-ping asked about the breakdown by industries of these cases and the penalties imposed. The Chairman sought information on the number of cases relating to uncompensated overtime work.

58. Assistant Commissioner for Labour (Development) ("AC for L(D)") responded that the overall state of employers' compliance with MWO had been satisfactory. The 673 claims relating to SMW handled by LD were mainly related to shortfall of wages at the SMW rate, termination of employment contracts and change of employment terms, and involved various industries, including community, social and personal services, security or real estate, restaurants and hotels and retail, etc. As regards the 197 cases involving suspected violation of MWO, except for individual cases where investigation was in progress and a small number of cases where the employees subsequently withdrew their complaints, etc., the employees concerned had received SMW or recovered the shortfall of wages. Of them, 162 cases were detected by labour inspectors during workplace inspections and they involved industries of security, retail and elderly care services, etc. There were 35 reported cases from employees of finance and business, wholesale and retail and community, social and personal services, etc. LD had initiated prosecution against non-compliance with MWO for cases with sufficient evidence. The Chairman appealed to the Administration to step up its enforcement work so as to deliver a strong message to employers that non-compliance with MWO could lead to serious consequences. At the request of Mr POON Siu-ping, AC for L(D) agreed to provide the breakdowns by industry in respect of the 673 claims relating to SMW handled by LD and the 197 cases involving suspected violation of MWO in writing after the meeting.

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Review of the Statutory Minimum Wage rate

59. Mr POON Siu-ping expressed concern that the increase of the initial SMW rate of \$28 per hour in 2011 to the revised rate of \$34.5 per hour in 2017 lagged far behind the cumulative inflation. The Administration should take heed of the labour sector's strong concern and review the SMW rate on an annual basis so as to safeguard employees' basic livelihood.

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60. Mr AU Nok-hin pointed out that the cumulative adjustment rate of SMW from \$28 per hour to \$34.5 per hour in 2017 was lower than the inflation rate in 2018 by 2.3%. The correlation of SMW and the Gross Domestic Product per capita had dropped from 21.3% in 2011 to 19.9% in 2017. This showed that employees' purchasing power had been eroding by inflation. Mr AU called on the Administration to critically examine the effectiveness of SMW in protecting low-income employees when conducting review of the SMW rate.

61. USLW responded that the SMW rate of \$34.5 per hour effective from May 2017 represented an increase of 6.2% over the SMW rate of \$32.5 per hour effective from May 2015, overtaking the cumulative increase of underlying Composite Consumer Price Index ("CCPI") and the Consumer Price Index (A) ("CPI(A)") from May 2015 to May 2017 which were 4.2% and 4.6% respectively. The cumulative increase of the SMW rate from \$28 per hour in May 2011 to \$34.5 per hour in May 2017 was 23.2% which was also higher than the cumulative increase of CCPI of 20.4% in the same period.

62. Mr SHIU Ka-chun said that the Administration should resolve the technical difficulties for reviewing the SMW rate on an annual basis by making reference to HA's annual pay adjustment mechanism which was based on changes in CPI(A). He further said that it was inappropriate for the Chairperson of MWC to make open remarks that it was not a common practice to conduct review of minimum wage rate on an annual basis in overseas countries.

63. Mr LEUNG Yiu-chung expressed grave concern that in each review of the SMW rate, MWC had overestimated the number of low-income employees covered under the revised SMW rate. Mr LEUNG also expressed disappointment at the relatively small proportion of workforce earning SMW as compared with the number of employees under the respective minimum wage regimes in the Western and Asian countries. He considered that the primary objective of SMW was to safeguard the livelihood of a specific target of low-income employees. The SMW rate should thus be further increased to enable more grassroots workers to receive higher earnings to meet the rising living cost. Mr LEUNG enquired about the criteria for setting the SMW rate and how the Administration could improve the situation.

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64. Mr Tommy CHEUNG said that in the light of the knock-on effect of implementation of SMW, he did not see the need to set a prescribed target number of employees receiving SMW.

65. The Chairman and Mr HO Kai-ming expressed grave concern about the time gap between data collection for AEHS and implementation of the revised SMW rate under the biennial review of the SMW rate. They pointed out that as the existing SMW rate, which was revised in May 2017 with reference to the wage statistics in 2016, would remain in force until the next revision in 2019, there was indeed a time gap of three years for the next SMW rate revision. They were of the view that the Administration should address the deficiency of the review mechanism. Mr LUK Chung-hung cast doubt about the effectiveness of MWO in safeguarding the livelihood of low-income employees, having regard to the fact that only around 26 700 employees or less than 1% of the total number of employees had their wage adjusted upwards consequent upon the uprating of SMW to \$34.5 per hour in May 2017. He took the view that MWC should take into account the economic growth, pay rise and price level in its future reviews of the SMW rate.

66. Responding to members' concerns and views, USLW reiterated that employment earnings of grassroots employees showed sustained improvement since the implementation of SMW. Notably, the 10th percentile of monthly wages of full-time employees (excluding government employees as well as student interns, work experience students and live-in domestic workers as exempted by MWO) in May to June 2016 and May to June 2017 were 5.9% and 5% higher than the corresponding figures in the previous year respectively. This outpaced the increase of the median monthly wage at 4.1% in the same period of the two years.

67. USLW further advised that MWC was conducting a six-week public consultation to invite views from various sectors of the community, including members of the public and stakeholders, on the review of the SMW rate and would submit to the Chief Executive in Council its next recommendation report on the SMW rate by end-October 2018. When reviewing the SMW rate, MWC would take into consideration a number of factors such as the economic conditions, employers' affordability as well as Hong Kong's competitiveness, etc. In making a recommendation on the SMW rate, MWC would consult various sectors of the community including organizations/representatives of employers and employees, consider submissions received, as well as

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analyze and consider data and information collected from researches or studies. It would be difficult to compress the time needed for the review process. The Administration therefore considered it appropriate to maintain the review of the SMW rate at least once in every two years.

68. AC for L(D) added that the number of employees earning the SMW rate was affected by a number of factors, including the economic situation and labour market conditions. Apart from making reference to the annual statistical data from AEHS, MWC also took into account the more frequently released and more up-to-date indicators reflecting the socio-economic and employment conditions, the latest survey findings and the views of the community in conducting the review of the SMW rate. In recognition of the lead time between the recommendation of the SMW rate and its implementation, MWC had taken into account short-term economic and labour market outlook to conduct scenario testing for forward-looking consideration of the recommended SMW rate. In addition, the Government would provide technical support for MWC as necessary, including projections on the distribution of wages with reference to the more recent statistics on employment earnings collected in other surveys conducted by the Census and Statistics Department.

[The Chairman suggested and members agreed to further extend the meeting to 1:05 pm.]

69. The Chairman and Mr HO Ka-ming noted with concern that most of the employees earning SMW were outsourced workers engaged by government service contractors ("GSCs"). The Chairman called on the Administration to raise the SMW rate for the benefit of the outsourced workers.

70. In response to members' views and concerns, USLW said that the SMW regime was established to provide a wage floor with a view to forestalling excessively low wages, without unduly jeopardizing Hong Kong's labour market flexibility, economic growth and competitiveness or causing significant loss in low-paid jobs. On the protection of outsourced workers, an inter-bureaux/departmental working group had been set up to explore feasible options to improve the government outsourcing system with a view to enhancing the protection of reasonable employment terms and conditions as well as labour benefits for non-skilled employees engaged by GSCs. The working group was proceeding with the review in full gear and targeted to complete the review before the third quarter of 2018.

Action

Motion proposed by Mr HO Kai-ming

71. The Chairman said that Mr HO Kai-ming had indicated his intention to propose a motion under the agenda item, which was tabled at the meeting. Owing to time constraint, members agreed that Mr HO's proposed motion would be proceeded with at the next regular meeting to be held on 15 May 2018 under the item on matters arising.

72. There being no other business, the meeting ended at 1:03 pm.

Council Business Division 2
Legislative Council Secretariat
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