

立法會
Legislative Council

LC Paper No. CB(2)1352/18-19
(These minutes have been seen
by the Administration)

Ref : CB2/SS/7/18

Subcommittee on
Minimum Wage Ordinance (Amendment of Schedule 3) Notice 2019 and
Employment Ordinance (Amendment of Ninth Schedule) Notice 2019

Minutes of meeting
held on Tuesday, 26 February 2019, at 10:45 am
in Conference Room 2 of the Legislative Council Complex

Members present : Hon Vincent CHENG Wing-shun, MH (Chairman)
Hon LEUNG Yiu-chung
Hon Tommy CHEUNG Yu-yan, GBS, JP
Hon Steven HO Chun-yin, BBS
Hon YIU Si-wing, BBS
Dr Hon KWOK Ka-ki
Hon Christopher CHEUNG Wah-fung, SBS, JP
Dr Hon Fernando CHEUNG Chiu-hung
Hon POON Siu-ping, BBS, MH
Hon Andrew WAN Siu-kin
Hon CHU Hoi-dick
Hon HO Kai-ming
Hon LUK Chung-hung, JP
Hon Jeremy TAM Man-ho
Hon AU Nok-hin

Public Officers attending : Item II
Mr Raymond HO Kam-biu
Assistant Commissioner for Labour (Development)

Mr Desmond HOU Ka-chun
Principal Economist, Office of the Government Economist

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

Miss Celia HO Wai-kwan
Government Counsel
Department of Justice

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

Staff in attendance : Miss Linda CHAN
Assistant Legal Adviser 11

Ms Rita LAI
Senior Council Secretary (2) 1

Ms Kiwi NG
Legislative Assistant (2) 1

I. Election of Chairman

Mr Vincent CHENG was elected Chairman of the Subcommittee.

2. Members agreed to accept the application for late membership by Mr Andrew WAN.

II. Meeting with the Administration

3. The Subcommittee deliberated (index of proceedings attached at **Annex**).

4. Members noted that as agreed at the House Committee meeting on 15 February 2019, to allow more time for the Subcommittee to study the Minimum Wage Ordinance (Amendment of Schedule 3) Notice 2019 and the Employment Ordinance (Amendment of Ninth Schedule) Notice 2019 ("the Two Notices"), the Chairman of the House Committee had moved a motion at the Council meeting of 20 February 2019 to extend the scrutiny period of the Two Notices to the Council meeting of 20 March 2019.

5. The Administration agreed to relay the suggestion of including the living wage concept in reviewing the Statutory Minimum Wage rate to the Minimum Wage Commission for reference.

III. Any other business

6. Members agreed that the next meeting of the Subcommittee would be held on 7 March 2019 at 10:00 am to receive public views on the Two Notices.

7. There being no other business, the meeting ended at 12:00 noon.

Council Business Division 2
Legislative Council Secretariat
2 May 2019

**Proceedings of meeting of the Subcommittee on
Minimum Wage Ordinance (Amendment of Schedule 3) Notice 2019 and
Employment Ordinance (Amendment of Ninth Schedule) Notice 2019
held on Tuesday, 26 February 2019, at 10:45 am
in Conference Room 2 of the Legislative Council Complex**

Time marker	Speaker	Subject(s) / Discussion	Action Required
000425 - 000638	Mr LEUNG Yiu-chung Mr Steven HO Mr YIU Si-wing Mr Vincent CHENG	Election of Chairman	
000639 - 000723	Chairman	Acceptance of Mr Andrew WAN's application for late membership.	
000724 - 001334	Chairman Admin	Briefing by the Administration on the Minimum Wage Ordinance (Amendment of Schedule 3) Notice 2019 and Employment Ordinance (Amendment of Ninth Schedule) Notice 2019 ("the Two Notices").	
001335 - 002019	Chairman Mr YIU Si-wing Admin	<p>Mr YIU Si-wing's concerns/views regarding the following:</p> <p>(a) how the Minimum Wage Commission ("MWC") came up with the recommended Statutory Minimum Wage ("SMW") rate and whether the relevant formula would apply in the next review; and</p> <p>(b) the knock-on effect on pay hierarchies ("knock-on effect") of the recommended SMW rate of \$37.5 per hour and its impact on business operation of the enterprises, in particular the small- and medium-sized enterprises ("SMEs").</p> <p>The Administration's response that:</p> <p>(a) to review the SMW rate in an objective and balanced manner, MWC had adopted an evidence-based approach by conducting comprehensive analyses and assessment of various socio-economic data, and had undertaken extensive and intensive consultation to take full account of the views of various sectors, including the low-paying sectors ("LPS") and SMEs. Apart from conducting comprehensive analyses of relevant data and information of various sources, MWC also made reference to the Array of Indicators to grasp the socio-economic and employment conditions and the impact of SMW since its implementation.</p>	

Time marker	Speaker	Subject(s) / Discussion	Action Required
		<p>In parallel, MWC conducted stress tests under four economic scenarios to assess the potential impact of different SMW test levels on employees, enterprises, the unemployment rate and inflation; and</p> <p>(b) MWC estimated that the total wage bill would increase by about \$800 million to \$930 million or approximately 0.1%, having taken into account the impact of knock-on effect. The experience gained from previous SMW upratings suggested that the knock-on effect was more pronounced in certain sectors. For some more labour-intensive LPS such as security and cleaning services, the additional wage bills as a percentage of the total wage bills would be larger.</p>	
002020 - 002557	Chairman Mr POON Siu-ping Admin	<p>Mr POON Siu-ping's disappointment at the recommended SMW rate of \$37.5 per hour. Mr POON made the following concerns/enquiries:</p> <p>(a) the substantial reduction in the number of employees who would be covered under the recommended SMW rate when compared with the coverage of the initial SMW rate;</p> <p>(b) whether the Administration would consider conducting review of the SMW rate on an annual basis so as to catch up with inflation; and</p> <p>(c) the assessment on the knock-on effect of the recommended SMW rate.</p> <p>The Administration's response that</p> <p>(a) the objective of establishing the SMW regime under the Minimum Wage Ordinance (Cap. 608) ("MWO") was to provide a wage floor with a view to forestalling excessively low wages of employees, whilst without unduly jeopardizing the labour market flexibility, economic growth and competitiveness or causing significant loss in low-paid jobs. The actual wage rate of individual employees would be subject to a number of factors, including the economic situation and labour market conditions; and</p> <p>(b) the existing review mechanism for the SMW rate, comprising data analysis, public consultation, impact assessment as well as deliberations by MWC, was already under a very</p>	

Time marker	Speaker	Subject(s) / Discussion	Action Required
		<p>tight timeframe and there was not much room for further compressing the existing work schedule. SMW had been operating smoothly alongside sustained improvements to the employment earnings of low-paid employees since its implementation. The Administration therefore considered it appropriate to maintain the review of the SMW rate at least once every two years.</p>	
002558 - 003322	Chairman Dr KWOK Ka-ki Admin	<p>Dr KWOK Ka-ki's grave dissatisfaction at the recommended SMW rate which, in his view, was unable to support employees' basic livelihood. Dr KWOK urged the Administration to review the SMW rate on an annual basis and to include the living wage concept in setting the SMW rate.</p> <p>The Administration's response that:</p> <p>(a) the revised monetary cap of \$15,300 under the Employment Ordinance (Cap. 57) from May 2019 would require employers to record the total number of hours worked by the relevant employees in a wage period. It would facilitate the checking of compliance with the new SMW rate;</p> <p>(b) the suggestion of including the concept of a "living wage" in setting the SMW rate was noted by MWC during the public consultation on the review of the SMW rate. It was however noteworthy that SMW was not intended to be a living wage. The Administration reiterated the objective of establishing the SMW regime and that the actual wage rate of individual employees would be subject to a number of factors, including the economic situation and labour market conditions;</p> <p>(c) employment earnings of grassroots employees showed sustained improvement since the implementation of SMW. In particular, by October-December 2018, the average monthly employment earnings of full-time employees within the lowest decile group (excluding government employees and live-in domestic workers) had increased by a cumulative 59.4% over the quarter before the implementation of SMW (i.e. February-April 2011), and had exceeded the corresponding figures for all full-time employees and the cumulative inflation in the corresponding period; and</p>	

Time marker	Speaker	Subject(s) / Discussion	Action Required
		<p>(d) given the aforementioned considerations, it was considered appropriate to maintain the existing arrangement of reviewing the SMW rate at least once every two years.</p> <p>Dr KWOK Ka-ki's suggestion of receiving public views on the Two Notices.</p>	
003323 - 004002	Chairman Mr LEUNG Yiu-chung Admin	<p>Mr LEUNG Yiu-chung advised that given that low-paid employees with wages close to the SMW rate had little bargaining power over their wage level, it was unfair and unreasonable to conduct the review of the SMW rate only once every two years. In addition, the monthly earnings of these low-paid employees were lower than the 2019-2020 income limit for the public rental housing, i.e. \$11,830 for 1-person household. Such employment earnings could hardly support their basic needs. Mr LEUNG further asked whether MWC would consider setting the SMW rate in a bid to protect a specific number of low-income employees.</p> <p>The Administration explained that MWC's crude estimate of employees involved before the implementation of the recommended SMW rate was conceptually different from the number of employees earning the SMW rate after the implementation of the recommended SMW rate.</p>	
004003 - 004517	Chairman Mr Andrew WAN Admin	<p>Mr Andrew WAN's concern about the low level of the recommended SMW rate. His view was that it was attributable to the initial SMW rate of \$28 per hour which had been set on the low side and it could not catch up with inflation over the years.</p> <p>Responding to Mr WAN's enquiries on the adjustment cycle of the SMW rate, the Administration reiterated that having regard to the tight timeframe of conducting review of the SMW rate on an annual basis and the smooth operation of SMW thus far, it was considered appropriate to maintain the frequency of the review of the SMW rate at least once in every two years. Nonetheless, it would relay the suggestion of including the living wage concept in reviewing the SMW rate to MWC for reference.</p> <p>Mr WAN's support of receiving public views on the two Notices.</p>	Admin

Time marker	Speaker	Subject(s) / Discussion	Action Required
004518 - 005024	Chairman Mr LUK Chung-hung	<p>Mr LUK Chung-hung advised that the labour unions grudgingly accepted the recommended SMW rate and made the following views:</p> <ul style="list-style-type: none"> (a) reference should be made to overseas practice in setting the SMW rate with an objective to cover a specific number of low-income employees, say, 10% of the total workforce; (b) the typical monthly wage implied by the SMW rate should not be lower than the level of the Comprehensive Social Security Assistance so as to maintain the incentive of low-paid employees to work and earn reasonable wages to improve their living; and (c) the Administration should seriously consider conducting review of the SMW rate on an annual basis and substantially adjusting the SMW rate upwards so as to address the problem of the SMW rate lagging behind the market and the overall growth of employees' earnings over the years. The Hong Kong Federation of Trade Unions suggested that the SMW rate should be set at 60% of the median hourly wage of employees in Hong Kong in 2018, i.e. \$42.5 per hour. <p>Mr LUK's support of receiving public views on the two Notices.</p>	
005025 - 005604	Chairman Mr Christopher CHEUNG Admin	<p>Mr Christopher CHEUNG's support of the SMW rate. Mr CHEUNG's concerns/enquiries as follows:</p> <ul style="list-style-type: none"> (a) whether MWC, in recommending the SMW rate, had taken into account the slackening economy of Hong Kong and the external challenges on trade and investment activities brought about by the continued trade friction between the Mainland and the United States; and (b) whether assessment had been conducted on the impact of increase in staff costs after the SMW uprating on business operation of SMEs as well as the overall economy of Hong Kong. <p>The Administration's response that in recommending the SMW rate in the current round, MWC had fully considered the downside risks to the global economy amidst the escalating trade friction between the</p>	

Time marker	Speaker	Subject(s) / Discussion	Action Required
		<p>Mainland and the United States and the impact on Hong Kong economy. Stress tests had been conducted under four economic scenarios to assess the potential impact of different SMW test levels on employees, enterprises, the unemployment rate and inflation.</p> <p>Mr CHEUNG's enquiry and the Administration's explanation regarding the objective, criteria and process for reviewing the SMW rate.</p>	
005605 - 010148	Chairman Mr HO Kai-ming Admin	<p>Mr HO Kai-ming's criticism of the Administration's refusal to review the SMW rate on an annual basis. As a result, the SMW rate seriously lagged behind the market level and could not safeguard the grassroots workers' basic livelihood.</p> <p>Mr HO's grave concern about the following:</p> <ul style="list-style-type: none"> (a) there was nearly a gap of three years between the data collection for analysis and the implementation of the revised SMW rate under the biennial review of the SMW rate; and (b) most of the grassroots workers earning the SMW rate were indeed employees engaged by government service contractors ("GSCs"). <p>The Administration's advice that in view of the time gap between the review of the SMW rate and the implementation of the recommended SMW rate, MWC had endeavoured to conduct a forward-looking estimation. MWC 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.</p> <p>Mr HO's support of receiving public views on the two Notices.</p>	
010149 - 010708	Chairman Mr Jeremy TAM Admin	<p>Mr Jeremy TAM's grave concern about a recent media report on a cleaning worker taking meal inside a public toilet where he worked. His enquiry about whether MWC had considered the inclusion of paid meal breaks in computing employees' working hours during the review of the SMW rate.</p> <p>The Administration's response that MWC noted various views and concerns about mandatory</p>	

Time marker	Speaker	Subject(s) / Discussion	Action Required
		<p>provision of paid meal breaks or not during the public consultation on the review of the SMW rate. The question of whether the meal breaks were paid or unpaid was a matter of employment terms to be agreed between employers and employees. If a meal break fell under the circumstances of hours worked in MWO or was agreed by the employer and the employee as hours worked, it would be included in the computation of employment earnings.</p>	
010709 - 010838	<p>Chairman Mr Andrew WAN Admin</p>	<p>Mr Andrew WAN called on the Administration to study how to improve the occupational health and safety for non-skilled employees engaged by GSCs and to provide clear guidelines as appropriate.</p> <p>The Administration's advice that it would follow up with the relevant procuring department on the abovementioned case as appropriate.</p>	
010839 - 011219	<p>Chairman Mr LUK Chung-hung Admin</p>	<p>Mr LUK Chung-hung appealed to the Administration to enhance the employment terms and working conditions of non-skilled employees engaged by GSCs.</p> <p>The Administration's advice that the Government's improvement measures, which aimed at enhancing the protection of the employment terms and conditions as well as labour benefits of non-skilled employees engaged by GSCs, would be implemented from April 2019.</p>	
011220 - 011332	<p>Chairman Admin</p>	<p>Examination of the provisions of the two Notices.</p> <p>Members raised no objection to the two Notices.</p>	
011333 - 011919	<p>Chairman Admin Mr Andrew WAN Clerk Mr LUK Chung-hung</p>	<p>Arrangement of another meeting to receive public views on the Two Notices.</p>	