

立法會
Legislative Council

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by the Administration)

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**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 Thursday, 7 March 2019, at 10:00 am
in Conference Room 1 of the Legislative Council Complex**

Members present : Hon Vincent CHENG Wing-shun, MH (Chairman)
Hon Tommy CHEUNG Yu-yan, GBS, JP
Hon YIU Si-wing, BBS
Dr Hon KWOK Ka-ki
Dr Hon Fernando CHEUNG Chiu-hung
Hon POON Siu-ping, BBS, MH
Hon Andrew WAN Siu-kin
Hon HO Kai-ming
Hon LUK Chung-hung, JP
Hon AU Nok-hin

Members absent : Hon LEUNG Yiu-chung
Hon Steven HO Chun-yin, BBS
Hon Christopher CHEUNG Wah-fung, SBS, JP
Hon CHU Hoi-dick
Hon Jeremy TAM Man-ho

Public Officers attending : Item I
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

Attendance : Item I
by invitation

Individual

Mr LEUNG Kwok-hung

Individual

Mr WHY

Democratic Alliance for the Betterment and Progress of
Hong Kong

Mr NGAN Man-yu
Deputy Spokesperson

The Hong Kong General Union of Security & Property
Management Industry Employees

Mr CHUNG Man-bun
Chairman

The Hong Kong Federation of Trade Unions

Mr CHAN Siu-wah
Rights & Benefits committee, Vice Chairman

Hong Kong Catering Industry Association

Mr Jonathan LEUNG
Spokesman

Institution of Dining Art

Mr LIN Cheung-kong
Vice-Chairman

Hong Kong Environmental Services, Logistics and
Cleaning Employees Association

Mr CHAN Ting-fung
Committee member of Rights

清潔服務業職工會

Mr WONG Kin-tat
Council member

Association of Restaurant Managers

Mr TAM Siu-sing
Vice-chairman

The Federation of Hong Kong & Kowloon Labour Unions

Mr 陳萬聯應

Liberal Party

Mr Kenneth WONG
Central Committee member

香港民用航空事業職工總會

Mr 陳國師

Hong Kong Confederation of Trade Unions

Mr MUNG Siu-tat
Chief Executive

中西區關注中小微企小組

Mr Karl FUNG
Convenor

Living Wage Alliance

Ms WU Sui-shan
Project Coordinator

Justice Fast Food

Mr 陳子傑

Individual

Mr TO Chun-ho

BU Movement

Miss WONG Nga-man

Hong Kong Catholic Commission for Labour Affairs

Ms LAW Pui-shan
Policy Research Officer

Promoters and Casual Worker Union

Miss Claudia AU
Organizer

Cleaning Workers Union

Miss LEUNG Tsz-yan
Organizer

Hong Kong Women Workers' Association

Ms CHEUNG Po-lai
Organizer

Nepalese Cleaning Workers Concern Group

Miss Rabina Limbu
Organizer

HK Building Management and Security Workers General Union

Mr WONG Kit-yip
Organizing Secretary

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

Staff in attendance : Mr Mark LAM
Assistant Legal Adviser 7

Ms Rita LAI
Senior Council Secretary (2) 1

Ms Kiwi NG
Legislative Assistant (2) 1

Miss Lulu YEUNG
Clerical Assistant (2) 1

I. Meeting with deputations and the Administration

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

2. The Subcommittee received oral representations from 25 deputations/individuals attending the meeting. The major views and concerns expressed by the deputations/individuals are summarized as follows:

- (a) the initial Statutory Minimum Wage ("SMW") rate of \$28 per hour had been set on the low side. As a result, the revised SMW rate remained lagged behind the market level and could not catch up with inflation over the years nor safeguard the grassroots employees' basic livelihood;
- (b) the 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;
- (c) most of the grassroots employees earning the SMW rate were employees engaged by government service contractors ("GSCs"), and these low-paid employees had little bargaining power over their wage level. The SMW rate should be reviewed annually to enable them to have an annual pay rise;

- (d) dissatisfaction at 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; and
- (e) there was a gap of almost three years between data collection for analysis and implementation of the revised SMW rate under the biennial review cycle of the SMW rate. The Administration should seriously consider conducting review of the SMW rate on an annual basis and include the living wage concept in reviewing the SMW rate.

3. Some deputations, on the other hand, expressed the following views:

- (a) there were grave concerns about the impact of knock-on effect on pay hierarchies ("knock-on effect") brought about by the revised SMW rate on business operations of enterprises, in particular the small- and medium-sized enterprises ("SMEs"). Many business operators, in particular those in the labour-intensive catering industry, were facing difficulties in running their businesses due to the substantial increase in labour costs; and
- (b) amidst 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, the SMW rate should be maintained at the current level. It was envisaged that a further increase in the SMW rate would inevitably push up overall wage level and aggravate inflation, which would in turn undermine the purchasing power of workers.

4. Most members shared the strong views of most deputations/individuals that the Administration should seriously consider reviewing the SMW rate on an annual basis.

5. In response to the views and concerns of members and the deputations/individuals attending the meeting, Assistant Commissioner for Labour (Development) made the following points:

- (a) the objective of SMW was to provide a wage floor to protect grassroots employees against excessively low wages, whilst without unduly jeopardizing the labour market flexibility, economic growth and competitiveness or causing significant loss in low-paid jobs. SMW was not intended to be a living wage;
- (b) to review the SMW rate in an objective and balanced manner, the Minimum Wage Commission ("MWC") had adopted an evidence-based approach by conducting comprehensive analyses and assessment of various socio-economic data, and had undertaken extensive and intensive consultations to take full account of the views of various sectors, including the low-paying sectors 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. In parallel, MWC conducted stress tests under four economic scenarios to assess the potential impact of different SMW test levels on employees, enterprises, unemployment rate and inflation. MWC envisaged that the impact of the recommended SMW rate would be manageable for most enterprises;
- (c) 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 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;
- (d) employment earnings of grassroots employees showed sustained improvement since the implementation of SMW. Specifically, 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), outpacing the corresponding increase in the average monthly employment earnings of all full-time employees and was also higher than the cumulative percentage increase in the underlying Composite Consumer Price Index over the same period; and

- (e) GSCs were required to specify the meal time arrangement of their non-skilled employees as per the standard employment contract.

6. Principal Economist of the Office of the Government Economist added that in view of the time gap between the review of the SMW rate and the implementation of the recommended SMW rate, MWC 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. Moreover, 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.

[The Chairman informed members that the meeting would be extended by 15 minutes.]

7. The Administration agreed to relay to MWC the views and concerns expressed by members at the meeting on the review of the SMW rate and related issues.

8. The Chairman put the following motion moved by Mr LUK Chung-hung and seconded by Mr HO Kai-ming to vote:

"本小組委員會要求實施最低工資一年一檢，減少最低工資滯後市場問題，保障低薪工人權益。"

(Translation)

"This Subcommittee calls on reviewing the minimum wage rate on an annual basis in order to address the problem of the minimum wage rate lagging behind the market, so as to protect the rights and benefits of low-paid workers."

The Chairman said that all members present unanimously voted for the motion and declared that the motion was carried.

II. Any other business

9. The Chairman concluded that the Subcommittee had completed scrutiny of the Minimum Wage Ordinance (Amendment of Schedule 3) Notice 2019 and the Employment Ordinance (Amendment of Ninth Schedule) Notice 2019 ("the Two Notices"). Members noted that the Chairman had made a verbal report on the deliberations of the Subcommittee to the House Committee on 1 March 2019, and a written report would be provided to the House Committee accordingly. The deadline for giving notice of amendments, if any, to the two Notices was 13 March 2019.

10. There being no other business, the meeting ended at 12:14 pm.

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 Thursday, 7 March 2019, at 10:00 am
in Conference Room 1 of the Legislative Council Complex**

Time marker	Speaker	Subject(s) / Discussion	Action Required
001257 - 001634	Chairman	Opening remarks	
001635 - 001955	Chairman Mr LEUNG Kwok-hung	Presentation of views	
001956 - 002228	Chairman Mr NGAN Man-yu, Democratic Alliance for the Betterment and Progress of Hong Kong	Presentation of views	
002229 - 002542	Chairman Mr CHAN Siu-wah, The Hong Kong Federation of Trade Unions	Presentation of views [LC Paper No. CB(2)920/18-19(02)]	
002543 - 002840	Chairman Mr Jonathan LEUNG, Hong Kong Catering Industry	Presentation of views [LC Paper No. CB(2)935/18-19(01)]	
002841 - 002959	Chairman Mr LIN Cheung-kong, Institution of Dining Art	Presentation of views [LC Paper No. CB(2)920/18-19(03)]	
003000 - 003318	Chairman Mr WONG Kin-tat, 清潔 服務業職工會	Presentation of views	
003319 - 003620	Chairman Mr TAM Siu-sing, Association of Restaurant Managers	Presentation of views [LC Paper No. CB(2)927/18-19(01)]	
003621 - 003944	Chairman Mr 陳萬聯應, The Federation of Hong Kong & Kowloon Labour Unions	Presentation of views [LC Paper No. CB(2)967/18-19(01)]	

Time marker	Speaker	Subject(s) / Discussion	Action Required
003945 - 004248	Chairman Mr Kenneth WONG, Liberal Party	Presentation of views	
004249 - 004552	Chairman Mr 陳國師, 香港民用航空 事業職工總會	Presentation of views	
004553 - 004926	Chairman Mr MUNG Siu-tat, Hong Kong Confederation of Trade Unions	Presentation of views [LC Paper No. CB(2)967/18-19(02)]	
004927 - 005300	Chairman Mr Karl FUNG, 中西區關 注中小微企小組	Presentation of views	
005301 - 005611	Chairman Miss WU Sui-shan, Living Wage Alliance	Presentation of views [LC Paper No. CB(2)967/18-19(03)]	
005612 - 005935	Chairman Mr 陳子傑, Justice Fast Food	Presentation of views [LC Paper No. CB(2)967/18-19(04)]	
005936 - 010309	Chairman Mr TO Chun-ho	Presentation of views	
010310 - 010624	Chairman Miss WONG Nga-man, BU Movement	Presentation of views	
010625 - 010939	Chairman Ms LAW Pui-shan, Hong Kong Catholic Commission for Labour Affairs	Presentation of views	
010940 - 011304	Chairman Miss Claudia AU, Promoters and Casual Worker Union	Presentation of views [LC Paper No. CB(2)967/18-19(05)]	
011305 - 011626	Chairman Miss LEUNG Tsz-yan, Cleaning Workers Union	Presentation of views [LC Paper No. CB(2)967/18-19(06)]	

Time marker	Speaker	Subject(s) / Discussion	Action Required
011627 - 011906	Chairman Ms CHEUNG Po-lai, Hong Kong Women Workers' Association	Presentation of views	
011907 - 012150	Chairman Miss Rabina Limbu, Nepalese Cleaning Workers Concern Group	Presentation of views [LC Paper No. CB(2)967/18-19(07)]	
012151 - 012457	Chairman Mr WONG Kit-yip, HK Building Management and Security Workers General Union	Presentation of views	
012458 - 012805	Chairman Mr WHY	Presentation of views	
012806 - 013110	Chairman Mr CHUNG Man-bun, The Hong Kong General Union of Security & Property Management Industry Employees	Presentation of views	
013111 - 013434	Chairman Mr CHAN Ting-fung, Hong Kong Environmental Services, Logistics and Cleaning Employees Association	Presentation of views	
013435 - 014440	Chairman Admin	The Administration's consolidated response to the views and concerns expressed by attending deputations and individuals.	
014441 - 014954	Chairman Dr Fernando CHEUNG Admin	<p><i>(Extension of meeting by 15 minutes)</i></p> <p>Dr Fernando CHEUNG's grave dissatisfaction that grassroots employees had to rely on the statutory minimum wage ("SMW") rate adjustment for pay rise every two years under the existing biennial review cycle of the SMW rate.</p> <p>Dr CHEUNG's enquiries and the Administration's response regarding:</p> <p>(a) the objective of SMW in providing a wage floor to protect grassroots employees against excessively low wages; and</p>	

Time marker	Speaker	Subject(s) / Discussion	Action Required
		(b) why it was considered appropriate to maintain the review of the SMW rate at least once every two years.	
014955 - 015604	Chairman Mr Andrew WAN Admin	<p>Mr Andrew WAN echoed the concern about grassroots employees having wage adjustment every two years under the current review cycle of the SMW rate while most of the employees, including civil servants, in Hong Kong enjoyed annual pay adjustment.</p> <p>Mr WAN's query/enquiry and the Administration's response regarding:</p> <p>(a) why the Minimum Wage Commission ("MWC") could not review the SMW rate on an annual basis; and</p> <p>(b) the different objectives of SMW and the Comprehensive Social Security Assistance Scheme.</p>	
015605 - 020146	Chairman Mr AU Nok-hin Admin	<p>The Administration's response to Mr AU Nok-hin's request and concerns that:</p> <p>(a) it would relay to MWC the views and concerns expressed by members at the meeting, including reviewing the SMW rate on an annual basis; and</p> <p>(b) apart from organizing focused consultation meetings with stakeholders of the low-paying sectors, MWC had also conducted a six-week public consultation to collect written and oral submissions to gauge the views of stakeholders and members of the public on the review of the SMW rate.</p>	Admin
020147 - 020733	Chairman Mr HO Kai-ming Admin	<p>Mr HO Kai-ming's concerns and the Administration's response that:</p> <p>(a) the cumulative percentage increase from the initial SMW rate (\$28 per hour) to the latest recommended rate (\$37.5 per hour) was higher than the cumulative percentage increase in the underlying Composite Consumer Price Index in a largely comparable period (i.e. from May 2011 to January 2019, latest available period), indicating that the recommended SMW rate should be able to maintain the</p>	

Time marker	Speaker	Subject(s) / Discussion	Action Required
		<p>purchasing power that the employees enjoyed when SMW was implemented in May 2011; and</p> <p>(b) the Administration would keep in view the wage level of non-skilled employees engaged by government service contractors following the implementation of the improvement measures, which aimed at enhancing the protection of the employment terms and conditions as well as labour benefits of these workers, from April 2019.</p>	
020734 - 021216	Chairman Mr LUK Chung-hung	Mr LUK Chung-hung's disappointment that the Secretary for Labour and Welfare had not attended the meeting. Mr LUK's view that the SMW rate should be reviewed on an annual basis. The impact of knock-on effect on pay hierarchies arising from annual adjustment of the SMW rate on enterprises would be relatively milder when compared with those under a biennial review cycle. Wage increase would also boost consumption and hence the economy.	
021217 - 021635	Chairman Mr POON Siu-ping Admin	<p>Mr POON Siu-ping's view that low-paid employees with wages close to the SMW rate had little bargaining power over their wage level and would have to rely on the SMW adjustment to have a pay rise in every two years.</p> <p>In response to Mr POON's enquiries, the Administration affirmed that updated data had all along been provided to MWC for reviewing the SMW rate. The Administration reiterated the appropriateness of maintaining the existing biennial review cycle.</p>	
021636 - 021727	Chairman Mr LUK Chung-hung	Motion moved by Mr LUK Chung-hung.	
021728 - 021806	Chairman	Completion of the scrutiny work on the Minimum Wage Ordinance (Amendment of Schedule 3) Notice 2019 and Employment Ordinance (Amendment of Ninth Schedule) Notice 2019.	