

立法會
Legislative Council

LC Paper No. CB(2)1767/99-00
(These minutes have been seen
by the Administration)

Ref : CB2/PL/MP/1

LegCo Panel on Manpower

Minutes of meeting
held on Thursday, 30 March 2000 at 10:45 am
in the Chamber of the Legislative Council Building

- Members present** :
- Hon LAU Chin-shek, JP (Chairman)
 - Hon LEE Kai-ming, SBS, JP (Deputy Chairman)
 - Hon Kenneth TING Woo-shou, JP
 - Hon James TIEN Pei-chun, JP
 - Hon David CHU Yu-lin
 - Hon HO Sai-chu, SBS, JP
 - Hon Cyd HO Sau-lan
 - Hon Michael HO Mun-ka
 - Hon LEE Cheuk-yan
 - Dr Hon LUI Ming-wah, JP
 - Hon Ronald ARCULLI, JP
 - Hon CHAN Kwok-keung
 - Hon CHAN Yuen-han
 - Hon CHAN Wing-chan
 - Hon LEUNG Yiu-chung
 - Hon SIN Chung-kai
 - Hon YEUNG Yiu-chung
 - Hon Andrew CHENG Kar-foo
 - Hon SZETO Wah
- Member attending** :
- Hon Bernard CHAN
- Member absent** :
- Dr Hon LEONG Che-hung, JP

Public Officers : Item III
attending

Mr Philip K F CHOK, JP
Deputy Secretary for Education and Manpower 1

Ms Michelle LI
Principal Assistant Secretary for Education
and Manpower 1

Miss Erica NG
Principal Assistant Secretary for Education
and Manpower 4

Mr Ivan LEE
Principal Assistant Secretary for Education
and Manpower 5

Mr Alfred W K CHAN, JP
Deputy Commissioner for Labour (Labour Administration)

Item IV

Mr Alfred W K CHAN, JP
Deputy Commissioner for Labour (Labour Administration)

Mrs Clare SIU
Acting Assistant Commissioner for Labour (Labour Relations)

Ms Susie HO
Deputy Secretary for Financial Services

Ms Henden YU
Executive Director (Occupational Retirement Schemes)
Mandatory Provident Fund Schemes Authority

Item V

Mr LAM Kam-kwong
Principal Assistant Secretary for Education
and Manpower 7

Mr William SIU, JP
Assistant Commissioner for Labour
(Occupational Safety) 1

Clerk in : Mrs Sharon TONG

attendance Chief Assistant Secretary (2)1

Staff in attendance : Mr Raymond LAM
Senior Assistant Secretary (2) 5

Action

- I. Confirmation of minutes of meeting held on 24 February 2000 and matters arising**
(LC Paper Nos. CB(2) 1466/99-00, CB(2) 1492/99-00(01) and CB(2)1532/99-00)

The minutes of the meeting held on 24 February 2000 were confirmed.

List of follow-up actions required of the Administration

2. Members noted the list of follow-up actions required of the Administration.
3. Miss Cyd HO expressed concern that a number of items had been in the list for a long time. Principal Assistant Secretary for Education and Manpower 4 (PAS(EM)4) responded that there were difficulties in obtaining the information requested in some of the items and the Administration had verbally informed the Legislative Council (LegCo) Secretariat of such a problem. The Administration was verifying the latest position and would provide a formal response as soon as possible. Deputy Commissioner for Labour (Labour Administration) (DC for L(LA)) added that the Administration was following up the list. Miss Cyd HO requested the Administration to provide a written response on the follow-up actions as soon as possible.

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Study visit to Singapore

4. Members noted that the Ministry of Manpower of the Singapore Government (the Ministry) had been approached regarding the study visit of the LegCo Panel on Manpower (the Panel). The Ministry had advised that it would be able to receive the delegation of the Panel in early May. Members agreed that a visit be made to Singapore to study its training system and manpower development strategy from 7 to 10 May 2000.
5. Members noted that The Legislative Council Commission had agreed in 1997 that for the purpose of budget control, the number of delegates sponsored should, under normal circumstances, be limited to no more than four Members for committees. Members agreed that a meeting of the Panel be scheduled for 5 April 2000 at 2:00pm to consider the membership and leader of the delegation.

Action

II. Date of next meeting and items for discussion
(LC Paper No. CB(2) 1492/99-00(02))

6. Members agreed to discuss the following items at the next regular meeting on 27 April 2000 at 2:30 pm -

- (a) Consultancy review on the Employees Compensation Assistance Scheme; and
- (b) Review of provisions under the Employment Ordinance relating to reinstatement.

Rest time of employees

7. In response to the Chairman, DC for L (LA) said that the Administration's review on the rest time of employees had yet to be completed. The Chairman hoped that the issue would be ready for discussion at the Panel meeting in May 2000.

Equal pay for work of equal value

8. As regards the issue of equal pay for work of equal value, which was proposed by Mr LEE Cheuk-yan at the Panel meeting on 24 February 2000, members noted that the Equal Opportunities Commission had been approached and suggested that the issue be discussed at the Panel meeting in May 2000. Members agreed that the issue be discussed at the Panel meeting on 25 May 2000.

Minimum employment terms for persons engaged in projects or services contracted out by the Government

9. Mr LEE Cheuk-yan expressed concern about the minimum employment terms for persons engaged in projects or services contracted out by the Government. Members agreed that the issue be discussed at the Panel meeting on 25 May 2000.

III. The 2000-01 Budget - Measures to promote employment, training, retraining and continuing education
(LC Paper No. CB(2) 1492/99-00(03))

10. At the invitation of the Chairman, Deputy Secretary for Education and Manpower 1 (DSEM1) briefed members on the Administration's paper. He also informed members of the following -

- (a) a survey conducted in January 2000 indicated that about 90% of participants of the Youth Pre-employment Training (YPT) Programme considered that YPT Programme had increased their self-confidence and interpersonal skills. 87% of the participants considered that YPT

Action

Programme would be of use to them in finding a job in the future; and

- (b) the Administration would carry out a comprehensive review on YPT Programme, including conducting surveys on employers and trainees.

11. Mr CHAN Wing-chan asked about the number of trainees who had been employed by the establishments in which they received attachment training. DC for L(LA) said that more than 2 700 trainees were known to have found work. A three-month "On-the-job Training Scheme" (the Scheme) would be added to YPT Programme to enhance the employment opportunities of trainees. Under the Scheme, the Administration would provide a training subsidy of \$2,000 per trainee per month to employers who were willing to provide on-the-job training to trainees of YPT Programme for a period of three months leading to continued employment with them. He added that the Labour Department (LD) would encourage more employers to participate in the Scheme.

12. Mr CHAN Wing-chan asked about the salary level of trainees who had secured a job. DC for L (LA) said that while he did not have such information on hand, he could recall that the salary level of those engaged in full-time employment was in the region of \$6,000 to \$7,000 per month. There were also a few trainees whose salaries exceeded \$10,000 per month. The salary levels of those employed on a part-time basis were usually lower.

13. In response to the Chairman's question on the reason for the low employment rate of trainees of YPT Programme, DC for L (LA) said that there were different reasons for the low employment rates in different industries. For instance, the low employment rate for the catering industry was due to the long working hours and the large amount of manual work involved. The Chairman requested the Administration to provide a written response on the employment rate of trainees of YPT Programme and the reasons for their low employment rate in different industries.

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14. Mr LEUNG Yiu-chung expressed concern about the low employment rate of more than 750 000 unemployed who were aged over 40 and whose education levels were lower than Secondary 3 standard. He pointed out that the tuition fees of some courses organized by the Employees Retraining Board (ERB) had recently been doubled. He considered this in conflict with the Administration's policy of promoting "life-long learning" and "continued personal development". He asked about the Administration's measures to assist these persons.

15. DSEM1 responded that the Administration was very concerned about the adaptation of persons of lower education standard and aged over 40 in securing a job under the current economic restructuring. He said that the Administration had engaged a consultant to identify training needs both from the perspectives of employers and employees. The Administration would consider the way forward after the completion of the study in August 2000. He assured members that ERB would continue to provide retraining for persons of lower education standard and aged over 30.

Action

He stressed that the increase in tuition fees of courses was applicable to evening courses only and a refund of tuition fee would be made if an applicant was unemployed or earning less than \$6,333 per month. As most of the trainees of evening courses were working adults, it was questionable whether these persons should be subsidized 80% of the retraining costs. He added that the actual amount of increase in tuition fee was very small.

16. Mr LEUNG Yiu-chung expressed concern that there might be inadequate financial resources for implementing measures arising from the consultancy study. DSEM1 responded that the measures to be adopted would depend on the results of the consultancy study. Where necessary, the Education and Manpower Bureau (EMB) would explore the possibility of internal redeployment of resources to provide the necessary financial resources for implementing the measures. He said that many measures introduced by the Task Force on Employment were also financed by redeployment of resources within the Administration.

17. The Chairman said that many Members had stressed, at a recent special meeting of the Finance Committee, the importance of continuity of the proposed new initiatives. DSEM1 responded that ERB had been in continuous operation for some years. As there was a strong demand for retraining, the Administration was looking into the long-term financial arrangements of ERB.

18. Miss CHAN Yuen-han expressed concern about the number of departments and organizations involved in the implementation of the new initiatives. She said that the Administration should examine the use of financial resources by the Vocational Training Council (VTC). YPT Programme should have been provided by VTC, if the latter had been discharging its duties well. She considered that there was an obvious demand for retraining but a lack of funds for ERB. She asked why the Administration needed to wait until the findings of the study were available before determining the way forward.

19. DSEM1 responded that the financial reserves of ERB were currently more than \$500 million. Even after providing for an additional 5% increase in training places, the ERB had estimated that it would spend slightly more than \$300 million in 2000-2001. A financial balance of more than \$100 million would remain as at 1 April 2001. As regards future funding of ERB, EMB was discussing the long term financial arrangements of ERB with the Finance Bureau. As regards the use of fund of VTC, he said that more than 70% of the funds were used on staff salaries and benefits. In view of the recent economic restructuring, VTC had shifted its emphasis of training to generic skills. He added that there were more than 20 000 Secondary 3 and Secondary 5 school leavers in a year. Training courses offered by VTC were insufficient for absorbing all of these school leavers. YPT Programme was thus launched to provide short-term practical training for these persons to increase their employability.

20. Mr LEE Cheuk-yan commented that the Administration's paper had only presented the positive aspects of YPT Programme and failed to report on its weaknesses.

Action

To his knowledge, some participants of YPT Programme had complained that some of the courses were not useful, while some training courses generally considered to be useful had not been offered.

21. Mr HO Sai-chu considered it too early to comment on the success of YPT Programme, as it was not yet completed. He asked whether an employment relationship existed during the period of on-the-job training. DC for L(LA) responded that employers and trainees would be requested to discuss, prior to the commencement of on-the-job training, the salaries and employment conditions. The Labour Department (LD) would follow up the employment situation of the trainees on a monthly basis. It hoped that the trainees would be employed on a permanent basis after the on-the-job training.

22. Mr LEE Cheuk-yan said that a major problem encountered by employees was the lack of time for study. This problem was particularly serious with low skilled workers who had to work very long hours. He asked whether the Administration would consider introducing measures to facilitate the provision of study leave to employees.

23. DSEM1 responded that it was up to an individual to determine how his own time was to be utilized. The Administration could only provide opportunities for individuals to study. Many part-time courses were provided for the working population. Courses offered under "Project Springboard" were also provided in the form of modules. Participants could choose courses which best suited their needs. Mr LEE Cheuk-yan said that the majority of employees engaged in the retail sector had to work from 10 am to 10 pm. He reiterated that the Administration should take steps to facilitate the provision of study leave to employees.

24. Dr LUI Ming-wah said that the quality of graduates of training courses was very important. He expressed concern about the quality of graduates from courses offered by VTC. DSEM1 said that the quality of courses offered by VTC was monitored by the relevant committees under VTC. The employment rate of graduates from training courses of VTC was around 60% to 70%. Dr LUI requested the Administration to provide information on the length of courses provided by VTC, the costs involved and the respective employment rate of graduates.

25. Mr SIN Chung-kai said that there was a strong demand for the Information Technology Assistant Course. He asked whether resources could be redeployed to increase the number of training places offered under the course. DSEM1 responded that a redeployment of resources could be made, if necessary. He said that in view of keen response to the course, additional resources had been earmarked for the provision of 1 000 training places in 2000-01. He expected that the first batch of additional classes would commence in June 2000. The Administration was also exploring the possibility of web-based teaching which would enable more people to undergo training. He had personally inspected the course a few days ago and noted that the major concern was whether too much contents were incorporated in the course. The Administration would review the pilot course. Mr SIN requested the Administration

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Action

to report in June 2000 the employment situation of graduates from the course.

26. Mr YEUNG Yiu-chung expressed concern about the level of tuition fee for courses under the "Project Springboard" programme. He said that with a subsidy of \$60 million for 5 500 places, there would only be a subsidy of about \$10,000 per year for each place. As the programme would be run on a self-financed basis and the cost of a place in Secondary 6 was about \$40,000 per year, he expressed concern that the tuition fee for courses under the programme might be at a very high level. DSEM1 responded that students were required to finish 10 modules to complete the programme. The tuition fee of a module would be about \$2,500 to \$3,000, depending on the duration of each module. The total tuition fee for 10 modules would therefore be about \$25,000 to \$30,000. As students who successfully completed the modules would be reimbursed 30% of the tuition fee, a student would on average be reimbursed \$10,000.

IV. Protection of employees' retirement benefits after the implementation of the Mandatory Provident Fund Scheme
(LC Paper No. CB(2) 1492/99-00(04))

27. At the invitation of the Chairman, Deputy Secretary for Financial Services (DSFS) briefed members on the Administration's paper on the protection of employees' retirement benefits after the implementation of the Mandatory Provident Fund (MPF) System.

28. The Chairman said that there was no mention in the Administration's paper of the recent trend of replacing employment contracts with contract for service in many sectors. DC for L (LA) responded that under the Employment Ordinance (Cap. 57) (EO), an employer was not allowed to make, without the prior consent of the employees, unreasonable variation to the terms of employment contracts including reduction of employees' wages or benefits. An employee could claim for remedies against his employer if the terms of his employment contract had been unreasonably varied without his consent. He added that under the Occupational Retirement Schemes Ordinance (Cap. 426) (ORSO), an employer must obtain the consent of not less than 90 percent of scheme member before he could institute changes to the scheme's rules if such changes would result in detriment to scheme members' accrued benefits or vested interests. LD and the MPF Schemes Authority (MPFA) had set up a liaison group to coordinate work in handling enquiries and complaints from the public concerning the employment benefits of employees arising from the implementation of the MPF System.

29. Referring to paragraph 10 of the Administration's paper, Mr LEE Cheuk-yan expressed concern that there had already been 41 consultations about variation of employment terms arising from anticipated introduction of MPF schemes and one complaint involving the proposed replacement of an existing occupational retirement scheme by a MPF scheme. He asked about the outcome of the 41 consultations made with LD. DC for L(LA) said that as at 25 March 2000, the number of consultations

Action

had reached 57 and there were two complaints involving the proposed replacement of an existing occupational retirement scheme by MPF schemes. He said that no complaint was made after advice was provided to the consultations, while the employers involved in the two complaint cases had subsequently resolved their problems with their employees either directly or through the conciliation of LD.

30. Mr LEUNG Yiu-chung asked about the measures adopted by the Administration to prevent employers from initiating unilateral change of employees' retirement benefits. He considered that the punishment under EO was too light to have a deterrent effect on unilateral change of employment terms by employers. DC for L(LA) reiterated that under EO, an employer should not, without the prior consent of the employees, make unreasonable variation to the terms of employment contracts including reduction of employees' wages or benefits. If the matter could not be settled through the conciliation of LD, the employee could bring the matter to the Labour Tribunal for adjudication. He informed members that an employer who had failed to make provident fund contributions under an existing scheme was prosecuted for illegal deduction of wages. The matter was published in the last issue of Labour Focus, a periodical issued by LD to about 100 000 employers. In the forthcoming issue of the same periodical, employers would be reminded that under EO, an employer was not allowed to make, without the prior consent of his employees, unreasonable variation to the terms of employment contracts including reduction of employees' wages or benefits. LD would prosecute against employers whenever this was necessary. DC for L(LA) added that it was most important that employers should value their employees as assets. An employer who unilaterally changed the employment terms of his employees might face problems in securing the cooperation of all employees in addition to facing prosecution.

31. Mr Bernard CHAN declared interest as a member of the senior management of a service provider of provident fund schemes. He said that he was less concerned about the existing 19 000 occupational retirement schemes, as the employers concerned were mostly large or medium sized establishments. He was more concerned about some 2 million employees of establishments currently without any occupational retirement scheme, such as those working at construction sites. Some of these establishments might currently be evading tax. He added that an employer's choice of maintaining existing occupational retirement schemes or replacing it with a MPF scheme would be a business decision. Employers were unlikely to maintain their existing occupational retirement schemes and MPF schemes at the same time. He considered that it was inappropriate to compare occupational retirement schemes with MPF schemes, as requirements on vesting periods were usually associated with the former.

32. DSFS responded that the Administration was aware of the problem. Industry schemes had thus been introduced for the construction and catering industries. MPFA had received five applications to operate such schemes. The Administration would launch publicity to bring the schemes to the attention of all those eligible for participating in the schemes. The Chairman requested the Administration to provide more detailed information on the operation of the industry schemes.

Action

33. Mr HO Sai-chu asked about the percentage of occupational retirement schemes which had applied for exemption from the MPF System. He said that he could not see any reason why employers would reduce the retirement benefits of employees. He also asked about the measures adopted by the Administration to remind employers to apply for exemption from the MPF System by 3 May 2000.

34. DSFS responded that as at 27 March 2000, 833 out of 11 000 registered retirement benefit schemes eligible for exemption from the MPF System had been submitted for exemption. MPFA had recently sent questionnaires to employers to gather information on their plans regarding application for exemption. Of some 2 000 replies received, 96% of the employers indicated that they had decided on whether to apply for exemption under the MPF System and 73% indicated that they would apply for exemption. MPFA had also contacted the nine major service providers of ORSO scheme and noted that a number of sizable organizations needed time to seek approval from their board of directors before submitting applications for exemption. She envisaged that submission of applications would peak in late April or early May. DSFS pointed out that in about 50% of the existing occupational retirement schemes the employer's contribution was 5%, which was the same as that required under the MPF System. Some employers might also choose not to run two schemes and abolish their existing occupational retirement schemes but simultaneously increase the employers' contribution in their MPF schemes. Thus, the decision not to apply for exemption from the MPF System might not necessarily imply that the retirement benefit of employees would be reduced. She added that employees could also make enquiries to their employers regarding their plans in respect of the existing ORSO schemes.

35. Mr CHAN Kwok-keung asked why application for exemption from the MPF System was required for about one-third of existing retirement benefit schemes in which the terms for employees were better than that under the MPF System. He queried why exemption of these schemes could not be made automatically. Executive Director (Occupational Retirement Schemes) of MPFA responded that certain conditions had to be satisfied before exemption from the MPF System could be granted. It was therefore necessary for the relevant documents to be submitted to MPFA for determining whether exemption should be granted. Mr LEE Kai-ming said that occupational retirement schemes registered under ORSO might not necessarily comply with the requirements under MPF Ordinance. Registration for exemption was therefore necessary. He added that the requirement for application to be made for exemption was laid down for the protection of employees.

36. Miss CHAN Yuen-han said that to her knowledge, the Kowloon-Canton Railway Corporation was inviting its employees to indicate their views on a new retirement benefits scheme which was less favourable to employees than the existing scheme but more favourable than a MPF scheme. However, KCRC had imposed the condition that if the proposed scheme was not supported, both the existing scheme and the proposed scheme might be abolished, which implied that the only option left would

Action

be a MPF scheme. Staff members therefore had no choice but to vote for the proposed scheme. She asked whether the imposing of such a condition was consistent with the spirit of voting. DC for L(LA) responded that LD was not in a position to comment on cases which were still under development. He stressed that LD was very concerned about such incidents and hoped that dialogue would be maintained between employers and employees. He added that in the conciliation of any labour dispute, LD would adopt a neutral stance. It would not comment on which party was right or wrong. If any party was found to be in breach of the law, prosecution would be made against the offender.

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37. The Chairman said that members were very concerned about the success of the MPF Scheme. He requested the Administration to look into the problems raised by members, especially unilateral reduction of employees' occupational retirement benefits or replacement of employment contract with contract for service, and put in place measures to deal with the problems.

38. Referring to Appendix II of the Administration's paper, Miss CHAN Yuen-han suggested that MPFA should incorporate a question in its questionnaire to employers to ask about the plans of employers who would not apply for exemption from the MPF System.

V. Factories and Industrial Undertakings (Safety Officers and Safety Supervisors) (Amendment) Regulation
(LC Paper No. CB(2) 1492/99-00(05))

39. At the invitation of the Chairman, Principal Assistant Secretary for Education and Manpower 7 (PAS(EM)7) briefed members on the Administration's proposals under the Factories and Industrial Undertakings (Safety Officers and Safety Supervisors) (Amendment) Regulation (the Amendment Regulation).

40. Mr CHAN Wing-chan asked whether at present registration of safety officers needed to be revalidated once every four years. PAS(EM)7 said that the requirement for revalidation would be a new one. To qualify for the revalidation, a Registered Safety Officer (RSO) had to complete not less than 100 hours of continuing professional development programmes in occupational safety and health in the four years preceding his application. This would ensure that RSOs keep themselves abreast with the latest development in the field of occupational safety and health.

41. Mr CHAN Wing-chan asked how the discretionary power of Commissioner for Labour (C for L) as referred to in paragraph 6(b) of the Administration's paper would be exercised. Assistant Commissioner for Labour (Occupational Safety) 1 said that in exercising his discretionary power, C for L would consider factors such as risks of the trade, the safety record of the industrial undertaking in question, records of prosecution and whether there had been suspension notice issued.

Action

42. There being no other business, the meeting ended at 12:40 pm.

Legislative Council Secretariat

20 April 2000