

立法會
Legislative Council

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Finance Committee of the Legislative Council

**Minutes of the 8th meeting
held at the Legislative Council Chamber
on Friday, 26 March 2004, at 2:30 pm**

Members present:

Dr Hon Philip WONG Yu-hong, GBS (Chairman)
Hon NG Leung-sing, JP (Deputy Chairman)
Hon Kenneth TING Woo-shou, JP
Hon James TIEN Pei-chun, GBS, JP
Dr Hon David CHU Yu-lin, JP
Hon Cyd HO Sau-lan
Ir Dr Hon Raymond HO Chung-tai, JP
Hon LEE Cheuk-yan
Hon Martin LEE Chu-ming, SC, JP
Dr Hon David LI Kwok-po, GBS, JP
Hon Fred LI Wah-ming, JP
Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
Hon James TO Kun-sun
Hon CHEUNG Man-kwong
Hon CHAN Kwok-keung, JP
Hon CHAN Yuen-han, JP
Hon Bernard CHAN, JP
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP
Hon LEUNG Yiu-chung
Hon SIN Chung-kai
Hon Andrew WONG Wang-fat, JP
Hon WONG Yung-kan
Hon Jasper TSANG Yok-sing, GBS, JP
Hon Howard YOUNG, SBS, JP

Dr Hon YEUNG Sum
Hon LAU Chin-shek, JP
Hon LAU Kong-wah, JP
Hon Ambrose LAU Hon-chuen, GBS, JP
Hon Emily LAU Wai-hing, JP
Hon CHOY So-yuk
Hon Andrew CHENG Kar-foo
Hon SZETO Wah
Hon Timothy FOK Tsun-ting, SBS, JP
Dr Hon LAW Chi-kwong, JP
Hon TAM Yiu-chung, GBS, JP
Dr Hon TANG Siu-tong, JP
Hon Abraham SHEK Lai-him, JP
Hon LI Fung-ying, JP
Hon Henry WU King-cheong, BBS, JP
Hon Tommy CHEUNG Yu-yan, JP
Hon Michael MAK Kwok-fung
Hon LEUNG Fu-wah, MH, JP
Dr Hon LO Wing-lok, JP
Hon WONG Sing-chi
Hon Frederick FUNG Kin-kee
Hon IP Kwok-him, JP
Hon Audrey EU Yuet-mee, SC, JP

Members absent:

Hon Albert HO Chun-yan
Dr Hon Eric LI Ka-cheung, GBS, JP
Dr Hon LUI Ming-wah, JP
Hon Margaret NG
Hon HUI Cheung-ching, JP
Hon CHAN Kam-lam, JP
Hon YEUNG Yiu-chung, BBS
Hon LAU Wong-fat, GBS, JP
Hon Miriam LAU Kin-yea, JP
Hon Albert CHAN Wai-yip
Hon LAU Ping-cheung
Hon MA Fung-kwok, JP

Public officers attending:

Mr Frederick MA Si-hang, JP	Secretary for Financial Services and the Treasury
Mr Alan LAI Nin, GBS, JP	Permanent Secretary for Financial Services and the Treasury (Treasury)
Miss Elizabeth TSE, JP	Deputy Secretary for Financial Services and the Treasury (Treasury) 1
Mr K K LAM	Principal Executive Officer (General), Financial Services and the Treasury Bureau (Treasury)
Mrs Carrie YAU, JP	Permanent Secretary for Health, Welfare and Food
Mr Eddy CHAN, JP	Deputy Secretary for Health, Welfare and Food (Food and Environmental Hygiene)
Miss Vivian KO	Principal Assistant Secretary for Health, Welfare and Food (Food and Environmental Hygiene)
Mr LAU Sin-pang, JP	Acting Deputy Director of Agriculture, Fisheries and Conservation
Mr LAI Ching-wai	Assistant Director of Agriculture, Fisheries and Conservation (Inspection and Quarantine)
Mr Donald TONG	Deputy Director of Food and Environmental Hygiene (Administration and Development)
Ms Rhonda LO	Assistant Director of Food and Environmental Hygiene (Operations)3

Clerk in attendance:

Ms Pauline NG	Assistant Secretary General 1
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Staff in attendance:

Miss Becky YU	Chief Council Secretary (1)1
Mrs Mary TANG	Senior Council Secretary (1)2
Ms Caris CHAN	Senior Legislative Assistant 1
Mr Frankie WOO	Legislative Assistant 2

Item No. 1 - FCR(2003-04)67

**HEAD 22 – AGRICULTURE, FISHERIES AND CONSERVATION
DEPARTMENT**

◆ Subhead 700 General other non-recurrent

New Item “Ex-gratia payment to live poultry operators affected by outbreak of avian influenza in the region”

Mr Fred LI, Chairman of the Panel on Food Safety and Environmental Hygiene, said that the Panel had not discussed the proposal at length as any measures to relieve the financial difficulties faced by the poultry operators should be implemented as soon as possible. He welcomed the Administration’s positive response to the Panels’ view on the lifting of the requirement for cessation of business for 30 consecutive days in granting the full rental waiver for live poultry wholesalers and retailers operating in the wholesale and retail markets under the management of the Agriculture and Fisheries, and Conservation Department (AFCD) and the Food and Environmental Hygiene Department (FEHD). He asked if such an arrangement would also apply to operators in markets of the Housing Authority (HA) or the Housing Society, including those which had been contracted out to property management agents (PMAs). The Deputy Secretary for Health, Welfare and Food (Food and Environmental Hygiene) (DSHWF(FEH)) said that the Administration had relayed the proposal to the Housing Department which would consult HA on the extension of the same package to operators in HA markets. As far as the Administration was aware, HA had agreed to follow suit.

2. Mr LEUNG Fu-wah expressed grave concern that the proposed provision of ex-gratia payment (EGP) was only applicable to live poultry operators and not to the workers direct. He pointed out that when a similar compensation package was offered in 2001 when there was an outbreak of avian influenza, not many operators had duly discharged their legal responsibilities to pay their workers under the Employment Ordinance (Cap. 57) (EO). He enquired about the measures to be put in place to ensure adequate protection for workers during the period from which imports of live poultry from the Mainland was suspended (the suspension period). His views were shared by Ms Emily LAU.

3. DSHWF(FEH) said that in 2001, retailers were given an extra EGP equivalent to two months’ rental if no labour claims had been lodged or the claims had been resolved within a specified period. Only 14 cases of labour disputes required arbitration. There were also no calls for a review of the EGP package ever since. In the present proposal, the Administration had revised the package by retaining 20% of EGP until the operators had discharged their responsibilities towards their employees. The Permanent Secretary for Health, Welfare and Food (PSHWF) stressed that the Labour Department would provide every assistance in resolving labour claims arising from the EGP package, but it would not interfere with the employer-employee relationship lest this would set a precedent for future EGP cases.

4. Mr LEUNG Fu-wah pointed out that the poultry trade was unique in that workers employed in the slaughtering and sale of chickens were mainly casual workers who would not wish to lodge any labour claims as this might jeopardize their future employment. He raised serious doubt on the extent of relief available to the workers under the present arrangement in view of the limitation of protection for casual workers under EO. In response to PSHWF's remark on the need to prove the employee-employer relationship under EO, Ms LI Fung-ying pointed out that the casual workers in the poultry trade usually had no written contract with their employers. In the absence of compensation, these temporary workers would not have any other means to support their living during the suspension period. She considered it necessary for the Administration to take further steps to ensure that employers would duly discharge their responsibilities towards their employees. PSHWF said that much time and effort had been spent in identifying effective measures to ensure that operators would discharge their legal responsibilities for their workers and it was concluded that the proposed retention of 20% of EGP was the best option. She added that if the Administration were to provide EGP to the workers direct, evidence of employment would have to be produced to support the claims.

5. Mr LEE Cheuk-yan opined that more should be done to ensure that operators would fulfil their obligations to their workers. For example, the Administration could require operators to furnish contact details of their workers to enable a spot check to be made to confirm whether compensation had been paid. PSHWF said that while the Administration would endeavour to ensure that operators would fulfil their obligations to their workers in light of past experience, she hoped that members would appreciate the practical difficulties in doing so having regard to the mobility of the casual workers in the trade.

6. Mr Tommy CHEUNG said that he was not aware of any problems about employers not fulfilling their obligations to their employees during the last outbreak in 2001. Miss CHAN Yuen-han however confirmed that she had received such complaints from workers in 2001. She opined that the Administration should be more pragmatic in devising means to help the affected workers. It should not rely on employers to pay compensation to their workers. Quoting the example of the retraining scheme for out-of-job workers during the outbreak of Severe Acute Respiratory Syndrome (SARS) in 2003, Ms CHAN stressed that the workers received a monthly allowance of \$4,000 under the Skill Upgrading Scheme. Similar arrangement had also been made for out-of-job workers of the ivory trade years ago. This arrangement provided direct assistance to the workers. Miss CHAN cautioned that Members of the Hong Kong Federation of Trade Unions might not support the proposal if no undertaking was made by the Administration regarding assistance to workers of the poultry trade.

7. PSHWF explained that skills enhancement to facilitate affected workers to find alternate employment required careful planning with other Government organizations, such as with the Education and Manpower Bureau. Assistance from the Employees Retraining Board on the provision of retraining would be sought as and when necessary subject to the availability of resources. As the Chairman of the Employees Retraining Board, Mr TAM Yiu-chung said that the Board would render support for such programme if requested. However, he was not aware of any request from the Administration for providing retraining to workers of the poultry trade.

8. Mr LEUNG Fu-wah said that he would not support the funding proposal in the absence of guidelines on compensation for workers. He reiterated his disappointment at the absence of any mechanism, such as the design of a form to put down the workers' information, to facilitate the checking of the discharge of legal responsibilities by the operators. It was already known that some operators had indicated that they had no intention to pay the casual workers since no work was carried out during the suspension period. He was also disappointed that no representatives from the Labour Department attended the meeting to explain workers' rights and entitlements. PSHWF said that it was hoped that the proposed EGP package would benefit both operators and workers of the poultry trade to tide over the financial difficulties during the suspension period. The amount of EGP to be awarded by the operators to workers would be proportionate to the level of services rendered.

9. While indicating support for the proposal, Ms Emily LAU stressed the need to ensure compliance with health and safety requirements before resuming imports of live poultry. She further enquired about the basis upon which the level of compensation was arrived at. DSHWF(FEH) explained that the EGP package was based on the one offered in 2001 and was meant to be a one-off EGP to alleviate the financial difficulties faced by poultry operators. Retailers operating in wet markets managed by FEHD would be granted three months' rental waiver in addition to EGP of \$30,000 per stall while those operating in private buildings would be offered a total of \$60,000 per licence. He pointed out that the situation in 2001 was very much different from now because the outbreak at that time occurred in Hong Kong where chickens had to be slaughtered. As such, statutory compensation based on the number of chickens slaughtered was offered in addition to EGP. Given that the present case did not involve an outbreak in Hong Kong but only suspension of importation of live poultry from the Mainland, and that chickens reared in local farms were still available for sale during the suspension period, it was considered appropriate to offer an one-off EGP package, regardless of the length of suspension period, to alleviate the financial hardship of poultry operators.

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10. While supporting the funding proposal, Mr Tommy CHEUNG expressed concern about the compensation arrangement for poultry operators in HA markets managed by PMAs. He considered it necessary that measures should be put in place to ensure that EGP and rental waiver would be fairly distributed among the operators. Mr LEE Cheuk-yan shared the concern that operators in HA markets managed by PMAs would not be able to obtain their fair share of compensation from the management companies as revealed in a recent press report that stall operators in HA markets managed by PMAs were not able to benefit from the rent waivers during the outbreak of SARS in 2003. In response, PSHWF agreed to work out with the Permanent Secretary for Housing, Planning and Lands a fair and equitable arrangement for poultry operators. Miss CHAN Yuen-han said that the matter would need to be followed up. At members' request, the Administration undertook to provide a paper on the arrangement for poultry operators operating in HA markets managed by PMAs.

11. Mr Fred LI noted with concern that the proposed compensation package did not cover stall operators of Bird Garden whose business was seriously affected by the recent outbreak of avian influenza in the neighbouring countries. Mr WONG Yung-kan echoed that the Announcement of Public Interest on the need to keep away from birds and live poultry had impact on the business of stall operators in the Bird Garden. He therefore considered it necessary that the proposed compensation package should be extended to cover these operators. His concern was shared by Miss CHAN Yuen-han. In response, DSHWF(FEH) said that the proposed EGP package aimed to provide relief to the poultry trade which was directly affected by the suspension of import of live poultry from the Mainland. As the operators in the Bird Garden could still sell birds from their present stock and bird feeds in addition to other commodities during the suspension period, the impact of the suspension on their business was not as direct as that of the poultry trade. As such, it might not be justified to provide EGP to operators in the Bird Garden.

12. In response to Mr WONG Yung-kan's question on the resumption of import of live poultry from the Mainland, PSHWF said that the import of live chickens from the Mainland would be resumed in an orderly manner if the conditions had stabilized and all safety requirements were met. Meanwhile, close liaison would be maintained with the Mainland authorities to ensure compliance with stringent health standards by chicken farms in Guangdong.

13. Mr WONG Yung-kan remarked that this was not the first outbreak of avian influenza and the Administration should be able to turn this challenge into opportunities. Instead of just providing cash compensation, it should take this opportunity to provide training for the poultry trade during the suspension period to broaden their knowledge on hygienic practices in the rearing and handling of live poultry. It was only through educating members of the trade that the poultry trade could become sustainable. The acting Deputy Director of Agriculture, Fisheries

and Conservation said that AFCD had been providing technical support to poultry farmers in Hong Kong with a view to assisting them in improving the hygienic conditions of their farms.

14. The Chairman put FCR(2003-04)67 to the vote. 30 members voted for the proposal, five voted against. The individual results were as follows:

For :

Mr Kenneth TING Woo-shou
Dr David CHU Yu-lin
Mr LEE Cheuk-yan
Dr David LI Kwok-po
Mr James TO Kun-sun
Mr SIN Chung-kai
Mr WONG Yung-kan
Dr Hon YEUNG Sum
Mr LAU Kong-wah
Mr SZETO Wah
Dr LAW Chi-kwong
Mr Henry WU King-cheong
Mr Michael MAK Kwok-fung
Mr WONG Sing-chi
Mr IP Kwok-him
(30 members)

Mr James TIEN Pei-chun
Ms Cyd HO Sau-lan
Mr Martin LEE Chu-ming
Mr Fred LI Wah-ming
Mrs Sophie LEUNG LAU Yau-fun
Mr Andrew WONG Wang-fat
Mr Howard YOUNG
Mr LAU Chin-shek
Ms Emily LAU Wai-hing
Mr Timothy FOK Tsun-ting
Dr TANG Siu-tong
Mr Tommy CHEUNG Yu-yan
Dr LO Wing-lok
Mr Frederick FUNG Kin-kee
Ms Audrey EU Yuet-mee

Against :

Mr CHAN Kwok-keung
Mr TAM Yiu-chung
Mr LEUNG Fu-wah
(5 members)

Miss CHAN Yuen-han
Ms LI Fung-ying

15. The Committee approved the proposal.

16. The meeting was adjourned at 3:30 pm.

Legislative Council Secretariat

18 May 2004