

立法會
Legislative Council

LC Paper No. CB(2)1581/06-07
(These minutes have been seen
by the Administration)

Ref : CB2/PL/MP/1

Panel on Manpower

Minutes of meeting
held on Thursday, 15 March 2007, at 2:30 pm
in Conference Room A of the Legislative Council Building

- Members present** : Hon LAU Chin-shek, JP (Chairman)
Hon KWONG Chi-kin (Deputy Chairman)
Hon LEE Cheuk-yan
Hon CHAN Yuen-han, JP
Hon LEUNG Yiu-chung
Hon Andrew CHENG Kar-foo
Hon LI Fung-ying, BBS, JP
Hon Tommy CHEUNG Yu-yan, JP
Hon WONG Kwok-hing, MH
Hon Andrew LEUNG Kwan-yuen, SBS, JP
Hon LEUNG Kwok-hung
- Member attending** : Hon Bernard CHAN, GBS, JP
- Members absent** : Hon Jasper TSANG Yok-sing, GBS, JP
Hon Frederick FUNG Kin-kee, SBS, JP
Hon Alan LEONG Kah-kit, SC
- Public Officers attending** : Item III

Mr CHEUNG Kin-chung, Matthew, JP
Permanent Secretary for Economic Development and
Labour (Labour)

Mrs DO PANG Wai-yee
Assistant Commissioner for Labour (Policy Support and
Strategic Planning)

Miss CHANG Kar-wai, Carrie
Senior Administrative Officer (Policy Support)
Labour Department

Item IV

Mr CHEUNG Kin-chung, Matthew, JP
Permanent Secretary for Economic Development and
Labour (Labour)

Mr Fred TING, JP
Deputy Commissioner for Labour (Occupational Safety
and Health)

Dr WAN Yuen-kong
Acting Occupational Health Consultant (1)
Labour Department

Dr Mandy HO Mang-yee
Occupational Health Consultant (2)
Labour Department

Item V

Mr CHEUNG Kin-chung, Matthew, JP
Permanent Secretary for Economic Development and
Labour (Labour)

Mr NG Ka-kwong, Stanley
Assistant Commissioner for Labour (Employees' Rights
and Benefits)

Mr CHEUNG Wan-ching, Clement, JP
Commissioner of Insurance
Office of the Commissioner of Insurance

Mr CHENG Kwok-ping
Chairman
Provisional Employees' Compensation Insurance
Residual Scheme Bureau Board

Mr Peter TAM
Chief Executive
Hong Kong Federation of Insurers

Ms LAU Pik-yiu, Femia
Senior Labour Officer (Employees' Compensation)
Labour Department

Mr Sheng YU
Managing Director
S. Yu & Partners Limited

Mr Fred CHOI
Actuarial Manager
S. Yu & Partners Limited

Clerk in attendance : Mrs Sharon TONG
Chief Council Secretary (2) 1

Staff in attendance : Miss Josephine SO
Council Secretary (2) 1

Miss Helen DIN
Legislative Assistant (2) 1

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I. Confirmation of minutes of previous meeting
(LC Paper No. CB(2)1274/06-07)

The minutes of the meeting held on 18 January 2007 were confirmed.

II. Date of next meeting and items for discussion
(LC Paper Nos. CB(2)1273/06-07(01)-(02) and CB(2)1342/06-07(01))

Meeting on 19 April 2007

2. Members agreed that the following items be discussed at the next meeting to be held on 19 April 2007 from 2:30 pm to 5:30 pm -

- (a) Proposal for introduction of legislation for a minimum wage and related preparatory work;

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- (b) Progress report on measures taken by the Labour Department to combat illegal employment; and
- (c) Construction of a new campus for Vocational Training Council at Tiu Keng Leng, Tseung Kwan O.

Regarding the item referred to in paragraph 2(a) above, the Chairman referred members to a letter dated 13 March 2007 from Mr LEE Cheuk-yan tabled at the meeting, suggesting that deputations be invited to give views on the subject at the three regular meetings to be held between April and June 2007. The Chairman said that he would discuss with the Administration the arrangement for the item after the meeting.

(Post-meeting note : After discussing with the Administration, the Chairman directed that the item referred to in paragraph 2(a) above would focus on special arrangement on minimum wage for different categories of people. Deputations would be invited to give views on the subject. Members have been informed of the arrangements on 21 March 2007 vide LC Paper No. CB(2)1391/06-07. Mr LEE Cheuk-yan's letter was circulated to members vide LC Paper No. CB(2)1342/06-07(01) on 16 March 2007.)

Items for discussion at future meetings

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3. Mr WONG Kwok-hing noted with concern whether the Hong Kong Observatory's plan to implement changes to the Tropical Cyclone Warning System from the coming tropical cyclone season would have impact on employees' work arrangements in times of typhoons. He suggested that the issue be discussed by the Panel. The Chairman requested the Administration to provide more information on this aspect before deciding whether the issue should be discussed by the Panel at a future meeting.

4. Mr LEE Cheuk-yan suggested that as the summer was coming soon, the Panel should discuss at its meeting in April or May 2007 the occupational safety and health measures and the work arrangements for workers engaged in outdoor work under extreme temperatures. He was of the view that when outdoor temperature was too high, workers engaged in outdoor work should discontinue their work to avoid adverse effect on health. Permanent Secretary for Economic Development and Labour (Labour) (PSL) proposed that the issue be referred to the Committee on Occupational Safety and Health of the Labour Advisory Board (LAB) for consideration first. Mr LEE agreed with the Administration's proposal and indicated that he would pass on his views and suggestions to the Labour Department (LD) for consideration by the said Committee.

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III. Progress of Wage Protection Movement and the proposal for introduction of legislation for a minimum wage and related issues

(LC Paper Nos. CB(2)1273/06-07(03), CB(2)1304/06-07(01) and CB(2)1342/06-07(01) & (02))

5. PSL briefed members on the Administration's two papers, namely "Wage level used under the Wage Protection Movement for cleaning workers and security guards" and "Preparatory work for introducing a statutory minimum wage for the cleansing and guarding services sectors if the Wage Protection Movement fails to yield satisfactory results".

6. Mr LEE Cheuk-yan expressed disappointment that the Administration had not provided in its papers the information he requested at previous meetings, such as the name, nature and number of enterprises participating in WPM, and the number of cleaners and security guards employed by them. He doubted the effectiveness of WPM in appealing for support of large corporations and major property management companies, and questioned whether this had caused difficulty to the Administration in compiling a list of participants.

7. PSL said that at previous meetings of the Panel, the Administration was asked to provide detailed information about the participating entities. As such, LD had to collect further information from enterprises/organisations participating in WPM. Meanwhile, LD was consolidating, verifying and analysing the data received thus far. PSL assured members that there was no question of the Administration withholding information about the participating entities, and the relevant information would be made available to members when ready, probably by the end of April 2007. In addition, LD would upload the participation list on its webpage. PSL added that as at 15 March 2007, a total of 874 enterprises/organisations from a wide cross-section of the business community had already pledged their support for WPM.

8. Mr WONG Kwok-hing and Miss CHAN Yuen-han expressed dissatisfaction that there was no mention in the Administration's papers about the mid-term review to be conducted in October 2007. They requested the Administration to provide details of the mid-term review at the next meeting, while speeding up the preparatory work for the introduction of minimum wage legislation.

9. PSL said that the purpose of the mid-term review was to gauge the progress of WPM. That said, to ensure that no time would be lost in putting in place a statutory minimum wage should WPM fail to yield satisfactory results after two years of implementation, the Administration had proposed a plan for the preparatory work to be undertaken for introducing a statutory minimum wage for the cleansing and guarding services sectors. If members accepted the

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proposed work plan, the Administration would, between now and October 2008, take forward the preparatory work as set out in paragraph 4 of the Administration's paper (LC Paper No. CB(2)1304/06-07(01)). Members would be kept informed of the developments at future meetings of the Panel.

10. Miss CHAN Yuen-han recalled that at an earlier meeting with the Election Committee, the Chief Executive (CE) had pledged to proceed with the introduction of legislation for a minimum wage, in the light of the results of the mid-term review to be conducted in October 2007. Miss CHAN was of the view that as WPM was doomed to fail, and to align with the CE's pledge, the Administration should start drafting a bill on minimum wage without further delay. In addition, it should provide members with a comprehensive action plan and more detailed information on the progress of WPM.

11. PSL stressed that the Administration was sincere in taking forward the preparatory work for putting in place a statutory minimum wage before the final review of WPM to be conducted in October 2008, as evidenced by its provision of a roadmap for introducing legislation. However, the preparatory work must not detract from the Administration's overall efforts in pressing ahead with WPM over the next 20 months. Nor should this pre-empt the outcome of the final review. He said that sufficient time should be allowed for WPM to be fully tested and employers to join WPM voluntarily.

12. Mr Andrew LEUNG said that to his knowledge, many employers and the Federation of Hong Kong Industries were in support of the Administration's proposal to adopt a voluntary compliance approach through the launch of WPM to achieve wage protection for workers in the cleansing and guarding services sectors, instead of resorting to legislation. Mr LEUNG further said that WPM could not work without the full collaboration of all parties concerned, including employers and employees. While agreeing that sufficient time should be allowed for WPM to prove that the purpose could be achieved without legislation, he considered that it would be premature to conclude that WPM was doomed to fail. Mr LEUNG hoped that the Administration would continue to strenuously promote WPM and closely monitor its progress in the next 20 months.

13. PSL responded that LD had been making every effort to promote WPM in the past few months with a view to enlisting the support of enterprises, employers and owners corporations. To this end, LD planned to write again (together with publicity leaflets and posters on WPM) to members of major chambers of commerce and employer groups to solicit their support. PSL added that the Administration believed that WPM could bring about a positive culture change, as evidenced by the fact that a considerable number of employers had agreed to increase the wage level of their cleaner and security guard vacancies posted through LD after persuasion. So far, the number of vacancies which immediately benefited from WPM came to about 1 400.

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14. Mr LEUNG Kwok-hung said that there were at present 400 000-odd low-income people in the territory. The Administration should address the issue of working poverty by putting in place legislation for a minimum wage as it was the only effective measure to protect the low-income group and to alleviate the problem of working poverty. He expressed disappointment that the Administration had dragged its feet for a long time over the issue of legislating for a minimum wage, although this had been a frequently-visited issue in the past 10 years. He strongly urged the Administration to start drafting a bill on minimum wage, regardless of the outcome of the mid-term or overall review.

15. Ms LI Fung-ying enquired how the Administration would evaluate and what performance indicators would be adopted for assessing the overall effectiveness of WPM. She hoped that the details of the evaluation system could be made available for consideration by the Panel at the next meeting.

16. PSL replied that LAB, which was responsible for monitoring WPM, would convene a meeting in about two or three weeks' time to discuss the criteria and mechanism to be adopted for assessing the effectiveness of WPM. LAB would be advised to consider applying both quantitative and qualitative performance indicators (such as the participation rate, the resultant increase in wage level and the impact of wage requirement on vacancies posted through LD) in conducting the overall review. The Administration hoped to revert to the Panel in the second quarter of the year, when details of the assessment criteria and mechanism became available.

17. Mr LEUNG Yiu-chung said that the labour sector remained of the view that WPM was a tactic to delay legislating for a minimum wage as the Administration would only consider the need for legislation in October 2008, pending the outcome of the review. To demonstrate its sincerity and determination in protecting the low-income group, the Administration should provide a clear and detailed blueprint setting out the scope, timetable and performance indicators to be adopted for reviewing WPM.

18. PSL reiterated that the Administration had no intention of procrastinating and was sincere in tackling the problems faced by the low-income group. This was evidenced by the Administration's initiative to take forward the preparatory work for a statutory minimum wage for the cleansing and guarding services sectors before the final review of WPM. PSL reiterated that details of the assessment criteria and mechanism would be provided to members in the second quarter of 2007 when available.

19. Mr LEE Cheuk-yan said that to his knowledge, even the Social Welfare Department, in rendering assistance to unemployed Comprehensive Social Security Assistance (CSSA) recipients in seeking employment, dared not apply

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the prevailing average market rates as stipulated in the Census and Statistics Department's Quarterly Report of Wage and Payroll Statistics. In expressing doubt about the effectiveness of WPM, he urged for an early introduction of a bill on minimum wage, and hoped that scrutiny of the bill could be completed within the current term of the Legislative Council.

20. PSL advised that the Administration was aware of the situation and would study whether, and if so, what special measures should be introduced for the vulnerable groups (such as youths without working experience, people with disabilities, recipients of CSSA etc).

21. Miss CHAN Yuen-han moved a motion on the criteria for reviewing WPM and early introduction of minimum wage legislation. Mr LEE Cheuk-yan proposed amendment to the motion. The wording of the motion moved by Miss CHAN Yuen-han, as amended by Mr LEE Cheuk-yan was as follows -

"自「工資保障運動」推行至今，參與公司、相關組織甚少，受惠工人人數有限，本委員會促請政府於 2007 年對「運動」作中期檢討時，以受惠工人人數、工資是否符合「運動」要求等作準則，決定「運動」成效是否不彰，並因應中期檢討的結果，即時提交條例草案予立法會展開立法工作，以及在本屆立法會會期內完成立法。"

(Translation)

"That in view of the small number of participating enterprises and relevant organisations and the limited number of workers benefited from the scheme since the launch of the Wage Protection Movement (WPM), this Panel urges the Government, when conducting the mid-term review of WPM in 2007, to determine whether WPM fails to yield satisfactory results based on such criteria, among others, the number of workers benefited from the scheme and whether the wages have met the requirement under WPM and, in the light of the results of the mid-term review, to proceed with the legislative work by introducing a bill to the Legislative Council and to complete the legislative process within the current term of the Legislative Council."

22. The Chairman put the motion to vote. Seven members voted in favour of the motion, and no member voted against it. The Chairman declared that the motion was carried.

IV. A Review of Occupational Diseases in Hong Kong in 2006
(LC Paper No. CB(2)1273/06-07(04))

23. PSL and Acting Occupational Health Consultant (1) (Atg OHC(1)/LD) briefed members on the position of confirmed occupational diseases in 2006,

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and the activities undertaken by the Occupational Health Service (OHS) of LD in promoting occupational health, as set out in the Administration's paper.

24. Mr LEE Cheuk-yan welcomed the establishment of a new occupational health clinic in Fanling, in addition to the Kwun Tong Occupational Health Clinic. He, however, noted that in 2006, only 264 out of a total of 11 420 consultations provided by the two clinics were confirmed as occupational diseases. Mr LEE asked about the nature of those cases not classified as occupational diseases.

25. PSL responded that in 2006, a total of 2 588 patients sought consultation at the two occupational health clinics of LD. Of these, 230 (8.9%) suffered from diseases or injuries caused by work, 2 026 (78.3%) from diseases related to or aggravated by work, and 332 (12.8%) from diseases or injuries unrelated to work.

26. Mr LEE Cheuk-yan also noted that OHS had, during the year, conducted 321 and 701 inspections respectively to office workplaces and catering establishments, which had resulted in a high rate (20% to 30%) of warning letters/improvement notices issued as well as prosecutions taken out. He enquired about the measures taken/to be taken by the Administration to address the problem of non-compliance with safety standards.

27. PSL responded that the Administration had been adopting a multi-pronged approach to enhance the safety awareness of employers and employees in various industries through publicity and education. The Administration would step up workplace inspections to ensure that employers and workers were mindful of safety and health at work.

28. Ms LI Fung-ying expressed concern about the rise in the number of confirmed occupational disease cases in 2006, particularly in respect of silicosis, as compared with the past few years, and asked about the reasons for the rise. Ms LI enquired whether the Administration had analysed the causes and the profiles of the patients diagnosed as suffering from occupational diseases, by age, occupations and type of work engaged etc. She considered that such information would be useful reference to the Government in the formulation of new or enhanced measures to improve safety and health at work for various industries. Ms LI recalled that at the Council meeting on 22 November 2006, a Member had, in the light of the fact that the number of mesothelioma cases had been on the rise in recent years, requested the Administration to review whether mesothelioma should be prescribed as occupational disease. She hoped that the findings of the study could be made available to members.

29. In response, PSL and Atg OHC(1)/LD made the following points -

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- (a) mesothelioma was caused by the inhalation of asbestos dust which could also lead to fibrosis of the lungs. A mesothelioma sufferer with lung fibrosis could claim compensation under the Pneumoconiosis (Compensation) Ordinance. To assist mesothelioma sufferers without lung fibrosis, the Government had since 2005 helped these workers or their family members apply to the Brewin Trust Fund for a grant of HK\$350,000 per case;
- (b) the Administration was undertaking a study to consider whether mesothelioma should be designated as a statutory compensable occupational disease, including the feasibility of extending the Pneumoconiosis (Compensation) Ordinance to cover mesothelioma. Upon completion of the study, members would be consulted on the findings; and
- (c) despite the increase in the number of silicosis cases in 2006, it was important to note that the number of such cases had in fact fallen notably over the past two decades. The increase in 2006 was largely due to year-on-year fluctuation in the figure, as the number of cases in the year was largely consistent with the average yearly figure in the past 10 years. It was also worth noting that the latent period of silicosis was as long as 10 to 20 years, and all these cases were due to exposure to silica dust many years ago. Among the 109 confirmed cases, most of them were construction workers and many had been employed previously in hand-dug caisson work where they had been exposed to an extremely high level of silica dust. Nevertheless, it was expected that with the use of hand-dug caisson having been restricted by the Buildings Department (BD) since 1995, the number of silicosis cases would continue to be on a decreasing trend in general, marked by occasional fluctuations, in the years to come.

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30. Ms LI Fung-ying requested the Administration to provide the following information –

- (a) a concrete timetable for completing the study as referred to in paragraph 29(b); and
- (b) a breakdown, by age, occupation and type of work engaged, on the patients diagnosed as suffering from silicosis caused by work in 2006.

31. Mr WONG Kwok-hing noted that in 2006, the number of confirmed asbestosis cases was seven. They represented a three-fold increase, as

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compared with two cases in 2005. He asked about the reasons for such a marked increase. Referring to the paper provided by the Administration on penalties imposed by the court on occupational safety and health offences (LC Paper No. CB(2)1324/06-07(01)), Mr WONG expressed concern about obstruction in passages in supermarkets and asked whether the government departments concerned had carried out inspections to ascertain if the passages and fire escapes in supermarkets complied with the requirements of the Occupational Safety and Health Ordinance (OSHO) and, if so, the respective numbers of inspections made and prosecutions instituted.

32. Atg OHC(1)/LD said that the increase in 2006 in the number of asbestosis cases was largely due to year-on-year fluctuation as in the case of silicosis, given that the causes for these two occupational diseases were similar and the latent period of asbestosis could be as long as 10 to 20 years. Despite the increase in the number of asbestosis cases in 2006, it was expected that the potential threats to health posed by this disease to the working population would become less prominent, since the following measures had been put in place -

- (a) the Factories and Industrial Undertakings (Asbestos) Regulation had set out the requirements on safety and health aspects of asbestos work; and
- (b) OHS of LD would strictly enforce the legal requirements, and had been organising and participating in a range of promotional and educational activities on prevention of occupational diseases, including asbestosis.

33. Regarding issues relating to obstruction in passages in supermarkets, PSL and Deputy Commissioner for Labour (Occupational Safety and Health) said that -

- (a) the Administration shared members' concern about the excessive stacking of goods (which might cause obstruction to fire escapes) by supermarkets, and was aware of the need to address health hazards at such outlets. To ensure employees' safety and health at work, Occupational Safety Officers of LD, upon receipt of complaints from Mr WONG Kwok-hing, had inspected supermarkets in Wong Tai Sin and Tsz Wan Shan during the Lunar New Year last month;
- (b) whilst the object of OSHO was to ensure the safety and health of people at work, public safety in supermarkets was under the purview of the Fire Services Department and BD. These two Departments administered and enforced the relevant provisions in respect of means of escapes in case of emergency; and

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- (c) to ensure that risks to employees' safety and health in supermarkets were properly managed, LD had regularly conducted inspections to supermarkets in the past few years. Statistics relating to inspection and prosecution of supermarkets would be provided after the meeting.

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34. Mr LEUNG Yiu-chung noted from the statistics that there was a general improvement in the number of confirmed occupational diseases cases in 2006. He asked whether the Administration would consider introducing further improvement measures to eradicate all possible threats to employees' health brought about by occupational diseases.

35. PSL and Atg OHC(1)/LD responded that the Administration had been making great efforts in ensuring/promoting safety and health at work through legislation, enforcement, promotion and training, and would continue to do so in the years to come. In addition to workplace inspections and regulatory actions, LD would organise promotional programmes and training courses to improve safety awareness of the workforce. Occupational health talks and roving exhibitions would also be staged in community halls and other public places.

V. Progress report on the implementation of the Employees' Compensation Insurance Residual Scheme
(LC Paper Nos. CB(2)1273/06-07(05) and CB(2)1082/06-07(01))

36. PSL and Commissioner of Insurance highlighted the background to and rationale for setting up the Employees' Compensation Insurance Residual Scheme (the Scheme) as detailed in the Administration's paper (LC Paper No. CB(2)1273/06-07(05)). PSL added that notwithstanding that the Hong Kong Federation of Insurers (HKFI) planned to bring the Scheme into operation by 1 May 2007, the Government would continue to explore the feasibility and desirability of establishing a central employees' compensation insurance (ECI) scheme in Hong Kong, to help improve the existing ECI system. He commended HKFI for taking the initiative in devising the Scheme to meet the needs of employers and employees.

37. Mr CHENG Kwok-ping briefed members on the proposed structure and the implementation details of the Scheme, as set out in the progress report from HKFI which was annexed to the Administration's paper.

38. Mr WONG Kwok-hing referred members to the submission dated 14 March 2007 from the Hong Kong Federation of Trade Unions (HKFTU), and said that HKFTU had been calling for the establishment of a central ECI scheme for a long time. He pointed out that although the Scheme sought to solve the problems of non-availability of insurance cover and escalating

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premium faced by high-risk occupation groups, the premium benchmark rates of some of the 19 High-Risk Groups (HRGs) worked out by the independent actuary, e.g. demolition work, gondola worker/window cleaner, tunnelling and steeplejacks, were too high with reference to payroll paid by employers. He expressed concern that there was a possibility that workers would be forced to become self-employed if employers intended to evade the statutory responsibility to take out ECI because of high premium required.

(Post-meeting note : The submission, tabled at the meeting, was issued to members vide LC Paper No. CB(2)1342/06-07(03) on 16 March 2007.)

39. In response, PSL and Mr CHENG Kwok-ping made the following points -

- (a) the insurance industry would implement the Scheme and conduct a mid-term review of the Scheme one year after its implementation and a comprehensive review after operating it for two years. The Administration would continue with its study on the feasibility of a central ECI scheme;
- (b) in parallel with the implementation of the Scheme from 1 May 2007, the Administration would continue with other improvement initiatives including supporting the promotion of occupational safety and health, facilitating the early rehabilitation of injured workers and mediation of work injury claims;
- (c) it was worth noting that the Scheme proposed by HKFI sought to address the availability, affordability, accessibility and transparency issues in the ECI market. The benchmark premium rates for 19 identified HRGs were worked out by an independent actuary. In developing the premium benchmark rates, the actuary would take into account risk type, current market rate and past claim experience, and a premium discount and loading mechanism would be in place to adjust the rates to be offered with regard to risk factors. The premium rating system would be made transparent to the public. A proper mechanism would be put in place to prevent insurers quoting rates which were way above the benchmark; and
- (d) like any ECI cover, the premium level could always be lowered accordingly to reflect favourable experience of claims as a result of proper risks mitigation.

40. Mr WONG Kwok-hing said that to his knowledge, there were a total of 380 000 self-employed persons in Hong Kong. These people, however, could

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not enjoy protection under the existing ECI system as they were unable to take out ECI cover. He asked whether the proposed Scheme could provide coverage for self-employed persons.

41. Mr CHENG Kwok-ping responded that the Scheme would provide the insurance coverage required under the Employees' Compensation Ordinance (ECO) and thus would cover causal and part-time workers but not self-employed persons. Against this background, self-employed persons could consider taking out personal accident policy. Nevertheless, the insurance sector was willing to study how insurance coverage could be provided for them.

42. Ms LI Fung-ying said that it was absolutely essential that the premium rates set for different HRGs under the Scheme should meet the basic criteria of affordability, as it would have significant impact on many self-employed persons or contractors. To her knowledge, many employers undertaking installation, maintenance, inspection and repair of household appliances and air-conditioning works had complained about higher than expected premium in taking out ECI cover for their employees. She hoped that viable measures could be developed to address the problem.

43. Mr CHENG Kwok-ping stressed that the benchmark rates were meant to provide a reference for calculating premiums. A discount or loading could always be applied to adjust the rates to be offered with regard to risk factors such as the safety performance of and preventive measures adopted by employers. In providing ECI cover, the relevant rates, calculated on actuarial basis, would have to be made transparent to the employers. The employers could then compare the rates quoted by insurers with the prevailing market rates. He added that the premium rates of the Scheme were set to reflect the basic cost for running the Scheme with only a minimal level of administrative cost included.

44. PSL supplemented that the objective of the Scheme was to act as a market of last resort to assist employers who had difficulties in acquiring ECI cover. Its primary aim was therefore protecting employees instead of making profits.

45. Mr LEE Cheuk-yan said that he was in support of setting up a central ECI scheme, as all parties concerned would benefit from better protection under such a scheme. To address the concern about protection for self-employed persons, part-time and casual workers, the Administration should review the existing policy so as to ensure self-employed persons were covered by ECO. Mr LEUNG Kwok-hung echoed Mr LEE's view. Regarding the eligibility criteria for joining the Scheme, Mr LEE asked about the rationale for setting a premium margin of 30% over the corresponding premium benchmark rates of the relevant HRGs specified by the Scheme.

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46. Mr CHENG Kwok-ping responded that the premium benchmark rates of 19 HRGs were worked out by the independent actuary, having regard to factors such as risk type and the current market rate. He stressed that by introducing the discount and loading mechanism, the Scheme helped promote good practices in occupational and safety measures, as it provided incentives for employers to reduce risks at work.

47. Mr LEUNG Yiu-chung asked about -

- (a) the criteria and mechanism for measuring the effectiveness of the Scheme;
- (b) the measures to address the problems associated with false self-employment in that employees who were forced to become self-employed would not be covered by any ECI; and
- (c) the measures to be adopted to deter the malpractice of employers suppressing the wages of their employees so as to avoid high premium.

48. PSL and Mr CHENG Kwok-ping responded that -

- (a) the overall effectiveness of the Scheme would be reviewed two years after the Scheme came into operation. The Advisory Committee of the Scheme would work out the assessment criteria and mechanism; and
- (b) in situation where an employer was suspected of having forced his/her employees to become self-employed as a means to evade the responsibility of taking out ECI, the court would consider and decide whether an employer-employee relationship existed based on the facts of the case, including who was in possession of production tools, who was responsible for the supply of production material, and whether uniform was required in carrying out the duties etc. If the court ruled that it was a false self-employment, the aggrieved employees would be fully protected under ECO and compensation should be paid, as and where appropriate.

49. Mr LEUNG Kwok-hung shared Mr LEUNG Yiu-chung's concern that unscrupulous employers might suppress the wages of their employees to avoid high premium. He held the view that legislating for a minimum wage was the only effective measure to solve the problem.

50. Mr WONG Kwok-hing expressed concern whether self-employed persons, e.g. caddies and couriers, were sufficiently protected under the

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existing legislative framework in terms of employees' compensation. He considered that the Administration should review and make improvements to the labour laws to enhance the protection for these people or alternatively, HKFI should consider offering other insurance plans for self-employed workers.

VI. Any other business

51. As this was the last Panel meeting which PSL attended before his retirement, the Deputy Chairman proposed and members supported to record a vote of thanks to PSL for his contributions in protecting labour interests over the years.

52. There being no other business, the meeting ended at 5:05 pm.

Council Business Division 2
Legislative Council Secretariat
17 April 2007