

**立法會**  
**Legislative Council**

LC Paper No. CB(2)1330/09-10  
(These minutes have been seen by  
the Administration)

Ref : CB2/BC/10/08

**Bills Committee on Employment (Amendment) Bill 2009**

**Minutes of meeting**  
**held on Monday, 29 March 2010, at 2:30 pm**  
**in the Chamber of the Legislative Council Building**

- Members present** : Hon WONG Ting-kwong, BBS, JP (Chairman)  
Hon LEE Cheuk-yan  
Hon LEUNG Yiu-chung  
Hon Tommy CHEUNG Yu-yan, SBS, JP  
Hon WONG Kwok-hing, MH  
Hon Andrew LEUNG Kwan-yuen, SBS, JP  
Hon Ronny TONG Ka-wah, SC  
Dr Hon LAM Tai-fai, BBS, JP  
Hon WONG Sing-chi  
Hon IP Kwok-him, GBS, JP  
Hon Paul TSE Wai-chun
- Members absent** : Hon LI Fung-ying, BBS, JP  
Hon Jeffrey LAM Kin-fung, SBS, JP  
Hon Cyd HO Sau-lan  
Hon IP Wai-ming, MH
- Public Officers attending** : Mr Byron NG, JP  
Assistant Commissioner for Labour (Labour Relations)
- Mr Ernest IP  
Chief Labour Officer (Labour Relations)  
Labour Department
- Miss Bonny WONG  
Senior Labour Officer (Labour Relations) 1  
Labour Department

Miss Betty CHEUNG  
Senior Assistant Law Draftsman  
Department of Justice

Miss Emma WONG  
Senior Government Counsel  
Department of Justice

**Clerk in attendance** : Mr Raymond LAM  
Chief Council Secretary (2) 1

**Staff in attendance** : Ms Clara TAM  
Assistant Legal Adviser 9

Mrs Eleanor CHOW  
Senior Council Secretary (2) 4

Mr Ian CHOW  
Council Secretary (2) 1

Ms Kiwi NG  
Legislative Assistant (2) 1

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## **I. Meeting with the Administration**

The Bills Committee deliberated (index of proceedings attached at **Annex**) and completed examination of the draft Committee Stage amendments proposed by the Administration.

2. The Bills Committee requested the Administration to review the implementation of the Bill one year after commencement, including the Commissioner for Labour's consent for prosecution and other procedural requirements, and report to the Panel on Manpower.

## **II. Any other business**

3. The Chairman concluded that the Bills Committee had completed the scrutiny of the Bill.

4. The Administration informed the Bills Committee that it intended to resume Second Reading debate on the Bill at the Council meeting on 28 April 2010. Members noted that if the Bill would resume its Second Reading debate at the Council meeting on 28 April 2010, the deadline for giving notice of amendment to the Bill would be 19 April 2010. Members

agreed that the Bills Committee would make a report on its deliberations on the Bill to the House Committee at its meeting on 16 April 2010.

5. The meeting ended at 3:00 pm.

Council Business Division 2  
Legislative Council Secretariat  
16 April 2010

**Proceedings of meeting of the  
Bills Committee on  
Employment (Amendment) Bill 2009  
on Monday, 29 March 2010, at 2:30 pm  
in the Chamber of the Legislative Council Building**

<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action Required</b>
000000 - 000240	Chairman	Opening remarks	
000241 - 001129	Chairman Admin	Briefing by the Administration on the proposed Committee Stage amendments to the Bill ("CSAs") (LC Paper No. CB(2)1155/09-10(01))	
001130 - 001517	Chairman Hon WONG Kwok-hing Admin	<p>Views of Hon WONG Kwok-hing that he supported the proposed section 43S(1) and (2) in the Bill on the understanding that -</p> <p>(a) the Labour Department ("LD") would spare no effort in investigating complaints against employers defaulting payment of awards of the Labour Tribunal ("LT") and the Minor Employment Claims Adjudication Board ("MECAB"); and</p> <p>(b) where there was sufficient evidence to support a charge under the new offence, LD would initiate prosecution by laying summonses against the defaulting employer</p> <p>Undertaking by the Administration to review the implementation of the Bill and revert to the Panel on Manpower one year after commencement</p>	Admin to follow up
001518 - 002042	Chairman Hon LEE Cheuk-yan Admin	<p>Issues raised by Hon LEE Cheuk-yan -</p> <p>(a) he supported the CSAs proposed by the Administration;</p> <p>(b) he considered it not necessary to stipulate the requirement for the Commissioner for Labour to give a written consent under the proposed section 43S(1) but noted that such requirement was modelled on existing</p>	

Time marker	Speaker	Subject(s)	Action Required
		<p>section 64 of the Employment Ordinance ("EO").;</p> <p>(c) the process to institute prosecution of offence under section 43P was too lengthy. The Administration should review the Commissioner for Labour's consent for prosecution and other procedural requirements and revert to the Panel on Manpower; and</p> <p>(d) when the Bill would commence operation</p> <p>Response of the Administration -</p> <p>(a) the Bill would commence operation on a date to be appointed by the Secretary for Labour and Welfare by notice in the gazette and apply to LT and MECAB awards made on or after the appointed date;</p> <p>(b) the commencement notice would be subject to negative vetting by the Legislative Council; and</p> <p>(c) LD would need time to discuss with the Judiciary on the provision of documents required for the purposes stated in the proposed section 43R and to work out the enforcement details of the new offence after enactment of the Bill and before its commencement</p>	Admin to follow up
002043 - 002450	Chairman Hon Tommy CHEUNG Admin	<p>Concern raised by Hon Tommy CHEUNG that employers, especially small and medium enterprises, might not be aware of the implications brought about by the Bill</p> <p>Assurance by the Administration that it would employ various promotional measures to make employers and employees aware of their obligations and entitlements under the Bill</p>	
002451 - 002806	Chairman Hon LEE Cheuk-yan Admin	<p>Proposals of members -</p> <p>(a) posters should be posted and</p>	

<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action Required</b>
		<p>promotional leaflets should be distributed in offices of the Labour Relations Division of LD, LT and MECAB to make employers and employees aware of their obligations and entitlements under the Bill; and</p> <p>(b) LT and MECAB should explain to employers and employees the consequence of defaulting LT and MECAB awards</p>	
002807 - 002950	Chairman Admin	Examination of the proposed CSAs (LC Paper No. CB(2)1167/09-10(01))	
002951 - 003110	Chairman Admin	Date of resumption of Second Reading debate on the Bill and date of reporting the deliberations of the Bills Committee to the House Committee	

Council Business Division 2  
Legislative Council Secretariat  
16 April 2010