

立法會 *Legislative Council*

LC Paper No. CB(2)839/09-10
(These minutes have been seen
by the Administration)

Ref : CB2/BC/11/08

Bills Committee on Minimum Wage Bill

Minutes of meeting held on Friday, 4 December 2009, at 8:45 am in the Chamber of the Legislative Council Building

Members present : Hon TAM Yiu-chung, GBS, JP (Chairman)
Hon Paul CHAN Mo-po, MH, JP (Deputy Chairman)
Hon Albert HO Chun-yan
Hon LEE Cheuk-yan
Hon LEUNG Yiu-chung
Hon LI Fung-ying, BBS, JP
Hon Tommy CHEUNG Yu-yan, SBS, JP
Hon Frederick FUNG Kin-kee, SBS, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon Vincent FANG Kang, SBS, JP
Hon WONG Kwok-hing, MH
Hon Jeffrey LAM Kin-fung, SBS, JP
Hon Andrew LEUNG Kwan-yuen, SBS, JP
Hon Alan LEONG Kah-kit, SC
Hon LEUNG Kwok-hung
Hon WONG Ting-kwong, BBS, JP
Hon CHAN Kin-por, JP
Hon Tanya CHAN
Dr Hon LEUNG Ka-lau
Hon CHEUNG Kwok-che
Hon WONG Kwok-kin, BBS
Hon IP Wai-ming, MH
Hon IP Kwok-him, GBS, JP
Hon Mrs Regina IP LAU Suk-yee, GBS, JP
Dr Hon PAN Pey-chyou
Dr Hon Samson TAM Wai-ho, JP

Members absent : Hon Miriam LAU Kin-yee, GBS, JP
Hon Emily LAU Wai-hing, JP
Hon Abraham SHEK Lai-him, SBS, JP
Hon Ronny TONG Ka-wah, SC
Hon CHIM Pui-chung

Hon Cyd HO Sau-lan
Dr Hon LAM Tai-fai, BBS, JP
Dr Hon Priscilla LEUNG Mei-fun
Hon WONG Sing-chi
Hon WONG Yuk-man
Hon Paul TSE Wai-chun

Public Officers attending : Mr Alan WONG Kwok-lun, JP
Deputy Commissioner for Labour (Labour Administration)

Mr FONG Ngai
Assistant Commissioner for Labour (Policy Support and
Strategic Planning)

Miss Bertha CHENG Wai-yue
Chief Labour Officer (Statutory Minimum Wage)
Labour Department

Miss Mabel LI Po-yi
Senior Labour Officer (Statutory Minimum Wage)
Labour Department

Ms Queenie TANG Yuen-shan
Labour Officer (Statutory Minimum Wage)
Labour Department

Mr Eamonn MORAN, JP
Law Draftsman
Department of Justice

Ms Roxana CHENG Pui-lan
Senior Assistant Solicitor General
Department of Justice

Ms Amy CHAN Wing-yan
Senior Government Counsel
Department of Justice

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

Staff in attendance : Mr Arthur CHEUNG
Senior Assistant Legal Adviser 2

Mrs Eleanor CHOW
Senior Council Secretary (2) 4

Ms Kiwi NG
Legislative Assistant (2) 1

I. Meeting with the Administration

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

2. The Bills Committee requested the Administration -
 - (a) to advise on the measures adopted by the Labour Department to tackle false self-employment;
 - (b) to provide statistics, if any, on cases of false self-employment for cleaning workers of single block building;
 - (c) to consider the feasibility of further exempting all student interns or all local students who studied in universities abroad and undertook internship in Hong Kong from the coverage of the Bill;
 - (d) to provide information on whether a different statutory minimum wage was provided for young people in other jurisdictions; and
 - (e) to explain whether the exemption under clause 6(3) of the Bill for live-in domestic workers would constitute indirect discrimination under the Sex Discrimination Ordinance and the Race Discrimination Ordinance.

II. Date of next meeting

3. The Bills Committee noted that the next meeting would be held on 17 December 2009 at 4:30 pm to continue discussion with the Administration.
4. The meeting ended at 10:42 am.

**Proceedings of meeting of the
Bills Committee on Minimum Wage Bill
on Friday, 4 December 2009, at 8:45 am
in the Chamber of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action Required
000654 - 000703	Chairman	Opening remarks	
000704 - 000735	Chairman	Conveying the dissatisfaction of Hon Emily LAU about the urgent rescheduling of meeting from 3 December to 4 December 2009	
000736 - 003434	Chairman Hon LEE Cheuk-yan Hon Audrey EU Hon Andrew LEUNG Hon LEUNG Kwok-hung Admin	Administration's further response to the list of questions raised in Hon LEE Cheuk-yan's letter of October 2009 (LC Paper No. CB(2)288/09-10(02)); whether the problem of false self-employment would become serious after the establishment of a statutory minimum wage (SMW); measures to address the problem of false self-employment; stepping up publicity on the consequences of false self-employment; whether there were statistics on cases of false self-employment for cleaning workers of single block building; Administration's explanation of the measures adopted by the Labour Department to tackle false self-employment and discussion of the subject at the meeting of the Panel on Manpower on 19 November 2009	Admin to advise on the measures adopted by the Labour Department to tackle false self-employment; to provide statistics, if any, on cases of false self-employment for cleaning workers of single block building
003435 - 004108	Chairman Hon LEE Cheuk-yan Hon Andrew LEUNG Admin	Administration's response to issues raised at the Bills Committee meeting held on 19 November 2009 (LC Paper No. CB(2)401/09-10(01)); difference between the United Kingdom and Hong Kong in the power of the legislature to amend subsidiary legislation; whether a different statutory minimum wage was provided for young people in other jurisdictions	Admin to provide information on whether a different statutory minimum wage was provided for young people in other jurisdictions

Time marker	Speaker	Subject(s)	Action Required
004109 - 005224	Chairman Hon LEE Cheuk-yan Admin SALA2	Whether the exemption under clause 6(3) of the Bill for live-in domestic workers (DWs) would constitute indirect discrimination under the Sex Discrimination Ordinance (SDO) and the Race Discrimination Ordinance (RDO); whether live-in DWs should be included in the Bill; Minimum Allowable Wage (MAW) for foreign domestic helpers (FDHs); Administration's explanation of the justifications for the exclusion of live-in DWs, both local and foreign, from the Bill and that the Bill would not constitute indirect discrimination under SDO and RDO	
005225 - 010544	Chairman Hon Jeffrey LAM Hon Mrs Regina IP Hon LEE Cheuk-yan Admin	Whether to exempt local students who studied in universities abroad and undertook internship in Hong Kong from the coverage of the Bill; whether to exempt all student interns from the coverage of the Bill; whether live-in DWs should be excluded from the coverage of the Bill; difficulties in ascertaining the actual hours worked by live-in DWs; in-kind benefits for live-in DWs not enjoyed by non-live-in workers; Administration's explanation that the Bill did not apply when there was no contract of employment between a student intern and the host organization, exempting all student interns would be prone to abuse, and there were insurmountable difficulties in verifying internships of overseas university students	Admin to consider the feasibility of further exempting all student interns or all local students who studied in universities abroad and undertook internship in Hong Kong from the coverage of the Bill
010545 - 014042	Chairman Hon LEUNG Yiu-chung Dr Hon LEUNG Ka-lau Hon CHAN Kin-por Hon LEE Cheuk-yan Admin	Mechanism for reviews of MAW for FDHs; factors considered in the reviews of MAW for FDHs; whether there was a formula for determining the MAW for FDHs; whether live-in DWs should be excluded from the coverage of the Bill; Administration's explanation	

Time marker	Speaker	Subject(s)	Action Required
		of the justifications for the exclusion of live-in DWs from the Bill, and the long-established mechanism in reviewing the MAW for FDHs	
014043 - 015730	Chairman Hon LEE Cheuk-yan Hon LEUNG Kwok-hung Admin	Previous adjustments of MAW for FDHs; whether the exemption under clause 6(3) of the Bill for live-in DWs would constitute indirect discrimination under SDO and RDO; Administration's clarification that the exemption of live-in DWs under clause 6(3) would not constitute indirect discrimination under SDO and RDO	Admin to explain whether the exemption under clause 6(3) of the Bill for live-in DWs would constitute indirect discrimination under SDO and RDO
015731 - 015750	Chairman	Date of next meeting	