

立法會
Legislative Council

LC Paper No. CB(1)1256/09-10
(These minutes have been seen by
the Administration)

Ref : CB1/SS/6/09

**Subcommittee on
Census and Statistics (Annual Earnings and Hours Survey) Order**

**Minutes of meeting
held on Wednesday, 10 February 2010, at 8:30 am
in Conference Room B of the Legislative Council Building**

- Members present** : Hon LI Fung-ying, BBS, JP (Chairman)
Hon LEE Cheuk-yan
Hon IP Wai-ming, MH
Hon IP Kwok-him, GBS, JP
Dr Hon PAN Pey-chyou
- Members absent** : Hon Audrey EU Yuet-mee, SC, JP
Hon WONG Sing-chi
- Public Officers attending** : Agenda item II

Ms Jenny CHAN Wai-man
Principal Assistant Secretary for Financial Services and
the Treasury (Financial Services)3

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

Mr Alvin LI Wing-kong, JP
Assistant Commissioner for Census and Statistics
(General)

Ms Agnes LO Kit-mui
Senior Statistician (Labour)2
Census and Statistics Department

Mr Howard WONG Ho-fai
Statistician (Wages and Labour Costs)²
Census and Statistics Department

Clerk in attendance : Ms YUE Tin-po
Chief Council Secretary (1)³

Staff in attendance : Mr Kelvin LEE
Assistant Legal Adviser 1

Mr Joey LO
Council Secretary (1)³

Action

I. Election of Chairman

Ms LI Fung-ying was elected Chairman of the Subcommittee.

II. Meeting with the Administration

(L.N. 7 of 2010

-- Census and Statistics (Annual Earnings and Hours Survey) Order

Ref: FSB G4/62C(2009)

-- Legislative Council Brief on Census and Statistics (Annual Earnings and Hours Survey) Order issued by the Financial Services and the Treasury Bureau, and Labour and Welfare Bureau on 20 January 2010

LC Paper No. LS39/09-10

-- Paragraphs 12 to 19 of the Legal Service Division Report)

2. The Subcommittee deliberated (Index of proceedings attached at **Appendix**).

3. Regarding Mr IP Kwok-him's concern about the appropriateness to include the cost of providing meal benefits in kind as a sub-item under section 2(f), in the Schedule of the Census and Statistics (Annual Earnings and Hours Survey) Order, as such benefits was not a wage component under the Employment Ordinance (Cap. 57), the Administration undertook to provide a written response.

(Post-meeting note: The Administration's response was issued on 22 February 2010 vide LC Paper No. CB(1)1200/09-10.)

Legislative timetable

4. The Subcommittee completed its scrutiny work. Members generally supported the Order.

5. To enable the Subcommittee to examine the Administration's response and provide a report to the House Committee at its meeting on 5 March 2010, members agreed that the Chairman should move a motion at the Council meeting on 24 February 2010 to extend the scrutiny period of the Order to 17 March 2010.

III. Any other business

6. There being no other business, the meeting ended at 9:55 am.

Council Business Division 1
Legislative Council Secretariat
2 March 2010

**Proceedings of the meeting of
the Subcommittee on Census and Statistics (Annual Earnings and Hours Survey) Order
on Wednesday, 10 February 2010, at 8:30 am
in Conference Room B of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action required
000248 – 000500	Mr LEE Cheuk-yan Mr IP Kwok-him Ms LI Fung-ying	Election of Chairman	
000501 – 000746	Chairman Administration	Briefing by the Administration on the Annual Earnings and Hours Survey (AEHS) Order under Section 11 of the Census and Statistics Ordinance (Cap. 316) to provide for the introduction of a mandatory annual survey for the collection of data relating to the wage level and distribution, employment and demographic characteristics of employees in Hong Kong. (Ref: FSB G4/62C(2009))	
000747 – 001126	Chairman Mr LEE Cheuk-yan Administration	<p>Mr LEE Cheuk-yan's enquiry on the overall sample size and distribution, and the proportion of the sampled business establishments with less than 10 persons engaged.</p> <p>The Administration advised that:</p> <ul style="list-style-type: none"> - the AEHS enumerated around 10 000 business establishments across all employment sizes and industries covered by the Central Register of Establishments. The 10 000 establishments were randomly selected using a stratified sampling method; and - small and medium establishments (i.e. establishments with less than 100 persons engaged for the manufacturing industry and those with less than 50 persons engaged for non-manufacturing industries) constituted about 98% of the total number of establishments in Hong Kong. Whilst all the establishments with not less than 100 persons engaged would be included in the AEHS sample, the smaller establishments (with less than 100 persons engaged) would be randomly selected using stratified sampling. As data collected from individual sampled establishments would be appropriately weighted to reflect the actual number of small, medium and large establishments in different industries, reliable statistics pertaining to the overall situation of Hong Kong employees could be compiled. 	

Time marker	Speaker	Subject(s)	Action required
001127 – 001506	Chairman Administration	<p>The Chairman opined that apportionment of the sampled establishments by employment size should be determined in accordance with the corresponding distribution in the population in order not to create a major bias in the overall survey findings.</p> <p>The Administration advised that even though the composition of the sample in terms of employment size might be different from the composition in the population, the survey results obtained would be unbiased by suitably applying weighting. Systematic deviation or error in the survey results was not envisaged.</p>	
001507 – 002125	Chairman Mr IP Kwok-him Administration	<p>Mr IP Kwok-him's enquiry on the need to conduct AEHS as a mandatory statistical survey, the penalty for non-compliance, the number of similar mandatory surveys conducted in 2009, and the difference between the number of persons engaged and the number of employees referred to in section 1(4) and (5) under the Schedule of the AEHS Order.</p> <p>The Administration advised that:</p> <ul style="list-style-type: none"> - it was proposed that the AEHS should be conducted as a mandatory statistical survey because: <ul style="list-style-type: none"> (i) employee wage data obtained through the AEHS had irreplaceable reference value in analyses related to statutory minimum wage (SMW) and it was an established practice in Hong Kong and other statistically advanced economies that surveys with important policy implications were conducted on a mandatory basis to ensure adequate and timely response from selected business establishments and the quality of the data obtained; and (ii) the proposal would help enhance cooperation from the sampled business establishments; - 16 mandatory surveys were undertaken under Cap.316 in 2009. Non-compliance would carry a fine of \$500. To this end, the Administration would seek to encourage compliance by way of moral suasion in the first instance; and - the number of persons engaged included the employer, any non-remunerated family members of the employer, etc. in addition to employees, whilst the number of employees referred to the salaried 	

Time marker	Speaker	Subject(s)	Action required
		employed persons on the payroll.	
002126 – 002509	Chairman Dr PAN Pey-chyou Administration	<p>Dr PAN Pey-chyou enquired how the issue of false self-employment would be addressed in the survey. He suggested that the employees rather than the employers of the selected business establishments in the AEHS should be interviewed.</p> <p>The Administration advised that:</p> <ul style="list-style-type: none"> - self-employed persons were not employees of the sampled establishments and therefore data pertaining to such persons would not be collected in the survey - measures were being taken to tackle the problem of false self-employment. The Labour Department (LD) had undertaken to keep relevant statistics on cases relating to claims of false self-employment to facilitate better understanding of the problem. LD would report back to the Panel on Manpower after one year. 	
002510 – 003154	Chairman Mr IP Wai-ming Administration	<p>Mr IP Wai-ming suggested that the individual selected employees should be interviewed, and the information collected should be checked against the information provided by the sampled business establishments. He also enquired how the issue of the non-remunerated meal break would be tackled in the calculation of the hourly wage rate.</p> <p>The Administration advised that:</p> <ul style="list-style-type: none"> - in line with international practice where questionnaires were delivered to the employers for completion and return, the Census and Statistics Department (C&SD) went a step further by sending census officers to the sampled establishments to provide assistance in completing the questionnaires and verify the information provided by the employers. The suggestion of interviewing the individual employees of selected establishments might not be feasible as most employees did not keep detailed wage records of their own; - the hours worked by an employee in a wage period did not include any period allowed by the employer for a meal except to the extent (if any) during that period that the employee was required to work in accordance with the contract of employment or with the agreement or at the direction of the employer. 	

Time marker	Speaker	Subject(s)	Action required
		<p>This was clearly stated in the questionnaires;</p> <ul style="list-style-type: none"> - the above definition (i.e. meal break was not included in the hours of work) was also in conformity with international statistical standards; and - the hourly wage rate would be calculated by dividing the total wage receipt of the employee during the wage period by the total number of hours worked in the same period. 	
003155 – 004757	Chairman Dr PAN Pey-chyou Mr IP Wai-ming Administration	<p>Dr PAN Pey-chyou enquired how the issue of seasonal fluctuations in wages would be addressed to obtain a realistic picture. He also opined that as the months of May and June were within the low season of business activities by tradition, the figures collected in these two months might have an unfavourable impact on the SMW.</p> <p>Mr IP Wai-ming suggested that the AEHS should be conducted on a quarterly basis to even out the seasonal fluctuations in order to align with other surveys such as the General Household Survey. He also enquired about the timing for the release of the findings.</p> <p>The Administration advised that:</p> <ul style="list-style-type: none"> - the survey reference period in relation to an individual business undertaking would be either the month of April, May or June; - wage figures of the first quarter and the fourth quarter were relatively more volatile to be used in year-on-year comparison, whereas that of the third quarter was clouded by the summer work factor. Wage figures in the second quarter were relatively stable and more suitable for year-on-year comparison; - whilst seasonal deviations and fluctuations were inevitable, year-on-year comparison on the basis of wage data pertaining to the same reference period in each year would be meaningful and of good reference value. Extending the survey reference period to the whole year would be impractical and contrary to the prudent use of resources and cause undue time lag in releasing the survey results; - findings of the AEHS were not the only input for analyses in determining the SMW rate. Findings 	

Time marker	Speaker	Subject(s)	Action required
		<p>from other surveys would be referred to as well; and</p> <ul style="list-style-type: none"> - findings of the 2009 AEHS would be released before end March of 2010. It was envisaged that turning the survey into a mandatory survey could help improve the efficiency of data collection work and thus advance the timing for release of the findings in the future. 	
004758 – 005200	Chairman Administration	<p>Chairman's enquiry about the availability of the survey findings.</p> <p>The Administration advised that all parties would have equal access to the survey findings. Specifically, the survey findings would be provided to the Provisional Minimum Wage Commission for reference in recommending the initial SMW rate. They would also be made available for free download from the C&SD website by members of the public.</p>	
005201 – 005854	Chairman Mr LEE Cheuk-yan Administration	<p>Mr LEE Cheuk-yan's enquiry about the detailed classification of industries; and whether statistics would be compiled by job types straddling across different industry sectors such as cleansing and property management which would be of much reference value in determining the SMW rate.</p> <p>The Administration advised that:</p> <ul style="list-style-type: none"> - the classification of industries in the AEHS was based on the Hong Kong Standard Industrial Classification Version 2.0 (HSIC V2.0), which was modelled on the United Nations' International Standard Industrial Classification of All Economic Activities, Revision 4 and had over 1 000 detailed industry classes. Statistics analysed by industry groups in accordance with HSIC V2.0 and satisfying precision requirements would be published; and - as the SMW rate would be applicable to all jobs in Hong Kong regardless of type, the AEHS was designed to measure the wage distribution of all employees in Hong Kong, instead of the wage situations in specific occupations. Nevertheless, wage statistics on some common job types could also be compiled from the AEHS data for reference. 	

Time marker	Speaker	Subject(s)	Action required
005855 – 012008	Chairman Administration Mr IP Kwok-him Mr IP Wai-ming Mr LEE Cheuk-yan Assistant Legal Adviser (ALA)	<p><u>Clause-by-clause examination of the Census and Statistics (Annual Earnings and Hours Survey) Order (L.N. 7 of 2010)</u></p> <p>In response to Mr IP Wai-ming's enquiry, the Administration explained that the meaning of "significant changes in the employment or wage situation" in section 1(6) of the Schedule referred to major changes in operating environment of the sampled establishment which had caused significant changes in its employment and/or pay structures, such as business expansion or acquisition.</p> <p>Mr LEE Cheuk-yan enquired whether meal benefits in kind provided by the employer would be treated as part of the wage, and how the portion of the wage earned from overtime work (OT) or non-remunerated OT would be reflected in the survey findings.</p> <p>The Administration responded that:</p> <ul style="list-style-type: none"> - meal benefits in kind was not a wage component under the Employment Ordinance (Cap. 57) (EO). It would not be included as part of wage in analyses related to SMW; - meal benefits in kind was, however, regarded as a wage component in accordance with international statistical standards. Therefore, it was collected in the survey (at cost price) and would be included as part of wage in analyses related to international wage comparisons. Taking the case of a fast food chain, only the production cost rather than the selling price of the meal would be treated as part of the wage for the purpose of the survey; and - as the existing EO did not require the employer to keep records on hours of work, it would be difficult to collect information on non-remunerated OT hours in the survey. For the purpose of AEHS, the amount of OT paid and the number of paid overtime hours in the survey period were collected in the 2009 survey round. <p>Noting that meal benefits in kind was not a wage component under the EO, Mr IP Kwok-him raised concern whether it was appropriate to include the cost of providing meal benefits in kind as a sub-item under section 2(f) of the Schedule which was referring to the amount of wage with breakdown for the relevant wage period.</p>	<p>The Administration to follow up as stated in paragraph 3 of the minutes.</p>

Time marker	Speaker	Subject(s)	Action required
		Discussion on Mr IP Kwok-him's concern in relation to section 2(f)(vi) of the Schedule.	
012009 – 012343	Chairman Administration	<p>The Chairman enquired whether employment information pertaining to the business establishments employing outsourced services was required to be given in the AEHS Order.</p> <p>The Administration advised that persons engaged in the provision of outsourced services to a business establishment were not employees of the establishment employing outsourced services. Therefore, information pertaining to such persons would not be collected from the establishment which employed outsourced services. Instead, such persons were employees of the contractor establishment which provided the outsourced services and their information would be collected from the contractor establishment direct. In summary, information on employees engaged in outsourced services would not be omitted or double counted in the survey.</p>	
012344 – 012604	Chairman Clerk	<p>Extension of scrutiny period of the AEHS Order.</p> <p>Legislative timetable</p>	