

**立法會**  
**Legislative Council**

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by the Administration)

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**Subcommittee on  
Business Registration Ordinance (Amendment of Schedule 2) Order 2013**

**Minutes of meeting  
held on Thursday, 13 June 2013, at 4:30 pm  
in Conference Room 3 of the Legislative Council Complex**

**Members present** : Hon WONG Ting-kwong, SBS, JP (Chairman)  
Hon LEE Cheuk-yan  
Hon LEUNG Yiu-chung  
Hon Tommy CHEUNG Yu-yan, SBS, JP  
Hon Andrew LEUNG Kwan-yuen, GBS, JP  
Hon Cyd HO Sau-lan  
Hon CHEUNG Kwok-che  
Hon IP Kwok-him, GBS, JP  
Hon Alan LEONG Kah-kit, SC  
Hon YIU Si-wing  
Hon LEUNG Che-cheung, BBS, MH, JP  
Hon SIN Chung-kai, SBS, JP  
Hon POON Siu-ping, BBS, MH  
Hon Tony TSE Wai-chuen

**Public Officers attending** : Item II  
Mr Ernest IP  
Assistant Commissioner for Labour  
Labour Department  
  
Miss Bonny WONG  
Senior Labour Officer  
Labour Department

Miss Cindy CHEUK  
Government Counsel  
Department of Justice

**Clerk in attendance** : Miss Betty MA  
Chief Council Secretary (2) 1

**Staff in attendance** : Mr YICK Wing-kin  
Assistant Legal Adviser 8

Ms Rita LAI  
Senior Council Secretary (2) 1

Ms Kiwi NG  
Legislative Assistant (2) 1

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Action

**I. Election of Chairman**

Mr WONG Ting-kwong was elected Chairman of the Subcommittee.

2. The Chairman, Mr Tony TSE and Mr LEUNG Che-cheung declared that they were owners of companies which were registered and issued with business registration certificates ("BRC") and paid BRC levy in accordance with the Business Registration Ordinance (Cap. 310) ("BRO"). Mr Andrew LEUNG and Mr IP Kwok-him declared that they were director and non-executive director of companies that were registered under BRO respectively. Mr YIU Si-wing declared that the company, which he worked for, was registered under BRO. Mr POON Siu-ping declared that he was a member of the Protection of Wages on Insolvency Fund ("PWIF") Board.

**II. Meeting with the Administration**

3. The Subcommittee deliberated (index of proceedings attached at **Annex**).

Action

4. The Administration was requested to provide information on the number of applications for ex gratia payment of severance payment ("SP") from PWIF in which the applicants could not fully receive their SP claimed, although the applicant had received SP met by the employee's accrued benefits derived from employer's contribution under the Mandatory Provident Fund schemes and the maximum amount of ex-gratia payment for SP from PWIF, together with the respective amount of unpaid SP involved in each of the past five years.

5. The Chairman said that the Subcommittee had completed the scrutiny of the Business Registration Ordinance (Amendment of Schedule 2) Order 2013 and would not propose any amendment to the Order. He would provide a verbal report on the deliberations of the Subcommittee to the House Committee on 14 June 2013.

**III. Any other business**

6. There being no other business, the meeting ended at 6:00 pm.

Council Business Division 2  
Legislative Council Secretariat  
29 July 2013

**Proceedings of meeting of the Subcommittee on  
Business Registration Ordinance (Amendment of Schedule 2) Order 2013  
held on Thursday, 13 June 2013, at 4:30 pm  
in Conference Room 3 of the Legislative Council Complex**

<b>Time marker</b>	<b>Speaker(s)</b>	<b>Subject(s)</b>	<b>Action Required</b>
<i>Agenda item I - Election of Chairman</i>			
000000 - 000224	Mr WONG Ting-kwong Mr LEUNG Che-cheung Mr IP Kwok-him	Election of Chairman	
000225 - 000411	Chairman Mr Tony TSE Mr LEUNG Che-cheung Mr POON Siu-ping Mr YIU Si-wing	Declaration of interest by the Chairman, Mr Tony TSE, Mr LEUNG Che-cheung, Mr POON Siu-ping and Mr YIU Si-wing.	
<i>Agenda item II - Meeting with the Administration</i>			
000412 - 001408	Chairman Admin	Briefing by the Administration on the background and justifications for introducing the Business Registration Ordinance (Amendment of Schedule 2) Order 2013 ("the Order").	
001409 - 002409	Chairman Mr LEE Cheuk-yan Admin	Mr LEE Cheuk-yan raised no objection to the proposed levy reduction, but considered that the Administration should review the scope of the coverage of the Protection of Wages on Insolvency Fund ("PWIF").  The Administration's response to Mr LEE's concern regarding -  (a) the effect of the offsetting arrangement under the Mandatory Provident Fund ("MPF") schemes on the maximum amount of ex-gratia payment for severance payment ("SP") to be recovered from PWIF to employees of insolvent employers; and  (b) the timetable for reviewing the scope of PWIF to enable employees of insolvent employers to enjoy better protection of statutory entitlements under the Employment Ordinance (Cap. 57) ("EO").	
002410 - 003039	Chairman Mr LEUNG Yiu-chung Admin	Mr LEUNG Yiu-chung's concern and the Administration's response regarding the protection of employees' statutory entitlement under EO and PWIF.	

Time marker	Speaker(s)	Subject(s)	Action Required
003040 - 003559	Chairman Ms Cyd HO Admin	Ms Cyd HO's concurrence with Mr LEE Cheuk-yan's earlier view.  The Administration's advice regarding Ms HO's suggestion of expanding the scope of legal aid assistance to employees to meet the legal expenses in case they needed to present winding-up or bankruptcy petitions against their insolvent employers in order to recover debts owed to them.	<b>Admin agreed to convey Ms HO's suggestion to the relevant bureau</b>
003600 - 003857	Chairman Mr Andrew LEUNG	Mr Andrew LEUNG's remark that the Business and Professionals Alliance for Hong Kong was in support of the Order. Mr LEUNG's view that the use of PWIF should be strictly adhered to its objective as a safety net for employees affected by business closure.	
003858 - 004224	Chairman Mr POON Siu-ping Admin	Mr POON Siu-ping's remarks about an ongoing judicial review proceedings on the calculation of ex gratia payment of SP from PWIF. Mr POON's concern and the Administration's response regarding -  (a) the likely impact of the judicial review proceedings on the payout from PWIF for SP; and  (b) the progress of review of the scope of PWIF.	
004225 - 004239	Chairman Mr Andrew LEUNG	Mr Andrew LEUNG's declaration of interest.	
004240 - 004806	Chairman Mr IP Kwok-him Admin	Mr IP Kwok-him's declaration of interest. Mr IP's remark that the Democratic Alliance for the Betterment and Progress of Hong Kong was in support of the Order.  Mr IP's enquiry and the Administration's response regarding measures adopted to enhance protection of employees' rights and entitlement under EO as well as to combat abuse of PWIF.	
004807 - 005609	Chairman Mr YIU Si-wing Admin	Mr YIU Si-wing's support of the proposed levy reduction.  Mr YIU's enquiries and the Administration's response regarding -  (a) the reasons for rejecting some applications for ex-gratia payment from PWIF;	

Time marker	Speaker(s)	Subject(s)	Action Required
		<p>(b) whether a mechanism was in place for triggering review of the BRC levy rate; and</p> <p>(c) the legal expenses relating to presenting a winding-up or bankruptcy petition against insolvent employers.</p>	
005610 - 010112	Chairman Mr Tommy CHEUNG Admin	While expressing support for the Order, Mr Tommy CHEUNG was concerned about the disparity in the penalty against employers and employees in relation to abuse of PWIF.	
010113 - 010823	Chairman Mr CHEUNG Kwok-che Admin	Mr CHEUNG Kwok-che's concern about the adequacy of the prescribed limit of ex-gratia payment for SP from PWIF. Mr CHEUNG's enquiry about the number of applications for ex gratia payment of SP from PWIF in which the applicants could not fully receive their SP claimed, although the applicant had received SP met by the employee's accrued benefits derived from employer's contribution under the MPF schemes and the maximum amount of ex-gratia payment for SP from PWIF, together with the respective amount of unpaid SP involved in each of the past five years.	<b>Admin to provide the information</b>
010824 - 011053	Chairman Mr Tony TSE	<p>Mr Tony TSE's expression of support for the proposed levy reduction in accordance with the review mechanism and the conduct of a review of the scope of PWIF.</p> <p>Mr TSE's further view that the Administration should continue to combat wage offences and PWIF abuse.</p>	
011054 - 011634	Chairman Mr LEE Cheuk-yan Admin	Mr LEE Cheuk-yan's reiteration of his concern and the Administration's response regarding the timetable for completing the review of the scope of PWIF.	
011635 - 012406	Chairman Mr LEUNG Yiu-chung Admin Mr LEE Cheuk-yan	<p>Mr LEUNG Yiu-chung's concern and the Administration's response regarding -</p> <p>(a) the timetable for the review of the coverage of PWIF; and</p> <p>(b) the measures in place to enhance protection of employees' benefits and rights under EO.</p>	

<b>Time marker</b>	<b>Speaker(s)</b>	<b>Subject(s)</b>	<b>Action Required</b>
012407 - 012809	Chairman Admin	Legislative timetable for the Order.  Scrutiny of the detailed provisions of the Order.	
<i>Agenda item III - Any other business</i>			
012810 - 013139	Chairman Mr LEE Cheuk-yan Mr IP Kwok-him Mr LEUNG Yiu-chung Clerk	Reporting the deliberations of the Subcommittee to the House Committee.	

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