

立法會
Legislative Council

LC Paper No. CB(2)1966/13-14
(These minutes have been seen
by the Administration)

Ref : CB2/BC/3/13

Bills Committee on Employment (Amendment) Bill 2014

Minutes of meeting
held on Monday, 9 June 2014, at 2:30 pm
in Conference Room 2 of the Legislative Council Complex

- Members present** : Hon Kenneth LEUNG (Chairman)
Hon LEE Cheuk-yan
Hon Emily LAU Wai-hing, JP
Hon Tommy CHEUNG Yu-yan, SBS, JP
Hon WONG Kwok-hing, BBS, MH
Hon Jeffrey LAM Kin-fung, GBS, JP
Hon Cyd HO Sau-lan
Hon WONG Kwok-kin, BBS
Hon Paul TSE Wai-chun, JP
Hon CHAN Chi-chuen
Hon CHAN Yuen-han, SBS, JP
Hon KWOK Wai-keung
Hon SIN Chung-kai, SBS, JP
Dr Hon Helena WONG Pik-wan
Hon POON Siu-ping, BBS, MH
Hon TANG Ka-piu
Dr Hon CHIANG Lai-wan, JP
- Members absent** : Hon Alan LEONG Kah-kit, SC
Dr Hon Kenneth CHAN Ka-lok
Dr Hon Elizabeth QUAT, JP
Hon Martin LIAO Cheung-kong, JP
Hon CHUNG Kwok-pan

Public Officers : Item I
attending

Mr Charles HUI Pak-kwan
Assistant Commissioner for Labour (Labour Relations)

Ms Melody LUK Wai-ling
Chief Labour Officer (Labour Relations)
Labour Department

Miss Candice CHENG Lai-fan
Senior Labour Officer (Labour Relations)
Labour Department

Mr Michael LAM Siu-chung
Senior Assistant Law Draftsman
Department of Justice

Mr Alan CHONG Ka-ning
Senior Government Counsel
Department of Justice

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

Staff in : Ms Clara TAM
attendance Assistant Legal Adviser 9

Mr Raymond LAM
Senior Council Secretary (2) 7

Ms Kiwi NG
Legislative Assistant (2) 1

I. Meeting with the Administration

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

2. Members requested the Administration -
 - (a) to reconsider, for the purpose of consistency in the use of expressions in the Employment Ordinance ("EO") (Cap. 57), amending all other provisions relating to calculation of "daily average of the wages" in respect of other relevant statutory entitlements under EO to align with the proposed amendments in the Bill; and
 - (b) to review the description of the long title of the Bill, taking into account members' views.
3. The Administration agreed to provide The Law Society of Hong Kong with the Administration's response to the issues raised in its submission, and undertook to include examples setting out the mode in which the paternity leave ("PL") entitled by an employee could be taken in its guidelines to be issued on PL after enactment of the Bill.

II. Any other business

4. Members noted that the next meeting had been scheduled for 25 June 2014 at 8:30 am to continue discussion with the Administration.
5. There being no other business, the meeting ended at 4:20 pm.

**Proceedings of meeting of the
Bills Committee on Employment (Amendment) Bill 2014
held on Monday, 9 June 2014, at 2:30 pm
in Conference Room 2 of the Legislative Council Complex**

Time marker	Speaker(s)	Subject(s)	Action Required
000000 - 000514	Chairman	Opening remarks	
000515 - 001158	Chairman Admin	Briefing on the Administration's response to issues raised in the submission from The Law Society of Hong Kong ("LawSo") (LC Paper No. CB(2)1709/13-14(02)).	
001159 - 001433	Chairman Mr POON Siu-ping Admin ALA9	Request of Mr POON Siu-ping and the Chairman and the Administration's agreement to provide LawSo with the Administration's response to issues raised in the latter's submission. ALA9's view and the Administration's response regarding the change in the structure of the provision on the calculation of "daily average of the wages" in relation to the daily rate of paternity leave ("PL") pay in the Employment (Amendment) Bill 2014 ("the Bill"). The Administration was requested to amend also other similar provisions in respect of other relevant statutory entitlements to maintain consistency in the use of expressions in the Employment Ordinance ("EO") (Cap. 57).	Admin
001434 - 002012	Chairman Mr Tommy CHEUNG Dr CHIANG Lai-wan Admin	Mr Tommy CHEUNG's question and the Administration's response regarding whether the Administration would have to consult the Labour Advisory Board ("LAB") on Committee Stage amendments ("CSAs") proposed by Members to the Bill which represented deviation from the consensus of LAB. Dr CHIANG Lai-wan's question and the Administration's response regarding whether consultation with LAB would be required for minor or textual amendments to the Bill. Dr CHIANG Lai-wan's question and the Chairman's reply regarding the timing for clause-by-clause examination of the Bill.	

Time marker	Speaker(s)	Subject(s)	Action Required
002013 - 002151	Chairman ALA9	Chairman's question and ALA9's advice regarding whether there were any restrictions on the length of time between the completion of scrutiny of the Bill and the resumption of Second Reading debate on the Bill.	
002152 - 002832	Chairman Admin	Briefing on the Administration's response to issues raised at the Bills Committee meeting on 26 May 2014 (LC Paper No. CB(2)1709/13-14(01)).	
002833 - 003826	Chairman Mr LEE Cheuk-yan Mr TANG Ka-piu Admin	<p>Concerns of Mr LEE Cheuk-yan and Mr TANG Ka-piu and the Administration's response regarding -</p> <p>(a) whether the Administration would give notice for resumption of Second Reading debate on the Bill, if members of the Bills Committee indicated that they would propose CSAs which represented deviation from the consensus of LAB; and</p> <p>(b) whether the Administration would withdraw its notice for resumption of Second Reading debate on the Bill, if CSAs which represented deviation from the consensus of LAB were proposed by Members to the Bill after the Administration had given notice for resumption of Second Reading debate on the Bill.</p>	
003827 - 004551	Chairman Mr KWOK Wai-keung Admin	<p>Mr KWOK Wai-keung's concerns and the Administration's response regarding -</p> <p>(a) whether the Administration would consult LAB on amendments proposed by members to the Bill which were not core components of the consensus reached at LAB; and</p> <p>(b) timing for such consultation with LAB.</p>	
004552 - 004807	Chairman Mr POON Siu-ping Admin	Mr POON Siu-ping's concern and the Administration's response regarding the scope of the Administration's review of the implementation of the law on PL one year after its coming into operation.	

Time marker	Speaker(s)	Subject(s)	Action Required
004808 - 010202	Chairman Mr LEE Cheuk-yan ALA9 Admin	<p>Mr LEE Cheuk-yan's question and the Administration's response regarding -</p> <p>(a) whether the expression "not more than 3 days" which featured in the Bill in relation to the entitlement of a male employee to PL would have the implication that employers would be allowed to grant less than three days' PL to their employees;</p> <p>(b) whether the Administration would need to consult LAB on amendments relating to such an expression;</p> <p>(c) whether there was a need for the Administration to consult LAB after the Bills Committee had completed its scrutiny of the Bill; and</p> <p>(d) previous examples where the Administration had, during the scrutiny of a bill, consulted LAB on major amendments proposed by members to a bill.</p> <p>ALA9's advice and the Administration's response regarding whether a provision drafted along the line of section 41E(1) of EO on restriction on payment in lieu of leave would be added to the Bill to address members' concern.</p> <p>Mr LEE Cheuk-yan's remark that the Administration's consultation with LAB, after the scrutiny of the Bill, on the amendments proposed by Members before giving notice for resumption of Second Reading debate should be discussed by the House Committee.</p>	
010203 - 010523	Chairman Mr CHAN Chi-chuen Admin	<p>Mr CHAN Chi-chuen's concern and the Administration's response regarding -</p> <p>(a) whether the Administration would consult LAB, after completion of scrutiny by the Bills Committee, on the amendments proposed or views expressed by Bills Committee members before giving notice for resumption of Second Reading debate on the Bill;</p>	

Time marker	Speaker(s)	Subject(s)	Action Required
		<p>(b) whether the Administration would consult LAB on CSAs, which represented deviation from the consensus of LAB, proposed by Members after the Administration had given notice for resumption of Second Reading debate on the Bill; and</p> <p>(c) the length of time needed for consultation with LAB.</p>	
010524 - 011109	Chairman Mr LEE Cheuk-yan Admin	Mr LEE Cheuk-yan's question and the Chairman's assessment regarding the timing for completion of scrutiny of the Bill, resumption of Second Reading debate on the Bill and discussion of draft CSAs proposed by members.	
Clause-by-clause examination			
011110 - 015016	Chairman Admin Mr KWOK Wai-keung Dr Helena WONG Dr CHIANG Lai-wan ALA9 Mr POON Siu-ping Miss CHAN Yuen-han	<p>Examination of the long title of the Bill.</p> <p>Concerns of Mr KWOK Wai-keung, Dr Helena WONG, Dr CHIANG Lai-wan and Mr POON Siu-ping, ALA9's advice and the Administration's response regarding the purpose of the expression "up to" in the long title of the Bill and whether amendments could be made to the Bill in view of the present drafting of the long title. The Administration was requested to take into account members' views and review the description of the long title.</p> <p>Miss CHAN Yuen-han's concern and the Administration's response regarding whether the protection from dismissal afforded under EO to female employees taking maternity leave should also be afforded to male employees taking PL.</p> <p>The Administration undertook to include examples setting out the mode in which the PL entitled by an employee could be taken in its guidelines to be issued on PL after enactment of the Bill.</p>	Admin
015017 - 015110	Chairman Admin	Examination of clause 1	

Time marker	Speaker(s)	Subject(s)	Action Required
015111 - 015206	Chairman	Date of next meeting.	

Council Business Division 2
Legislative Council Secretariat
3 July 2014