

立法會
Legislative Council

LC Paper No. CB(2)2017/13-14
(These minutes have been seen
by the Administration)

Ref : CB2/PL/MP

Panel on Manpower

Minutes of meeting
held on Tuesday, 15 April 2014, at 4:30 pm
in Conference Room 3 of the Legislative Council Complex

Members present : Hon LEE Cheuk-yan (Chairman)
Hon WONG Kwok-kin, BBS (Deputy Chairman)
Hon Albert HO Chun-yan
Hon LEUNG Yiu-chung
Hon Tommy CHEUNG Yu-yan, SBS, JP
Hon CHAN Kin-por, BBS, JP
Dr Hon LEUNG Ka-lau
Hon CHEUNG Kwok-che
Hon IP Kwok-him, GBS, JP
Hon LEUNG Kwok-hung
Hon CHAN Yuen-han, SBS, JP
Dr Hon KWOK Ka-ki
Hon KWOK Wai-keung
Hon SIN Chung-kai, SBS, JP
Hon POON Siu-ping, BBS, MH
Hon TANG Ka-piu
Dr Hon CHIANG Lai-wan, JP
Hon CHUNG Kwok-pan

Member attending : Hon WONG Kwok-hing, BBS, MH

Member absent : Hon LEUNG Che-cheung, BBS, MH, JP

Public Officers attending : Item IV

Mr David LEUNG, JP
Deputy Commissioner for Labour
(Occupational Safety and Health)

Mr LI Chi-leung
Assistant Commissioner for Labour
(Occupational Safety)

Mr LEUNG Chun-ho
Chief Occupational Safety Officer
(Support Services)
Labour Department

Item V

Ms Agnes LO Kit-mui
Assistant Commissioner for Census and Statistics
(General)

Ms Wanda YUE Sze-fan
Senior Statistician
Census and Statistics Department

Mr Desmond HOU Ka-chun
Principal Economist
Financial Secretary's Office

Miss Mabel LI Po-yi
Assistant Commissioner for Labour
(Development)

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

Staff in attendance : Ms Rita LAI
Senior Council Secretary (2) 1

Ms Mina CHAN
Council Secretary (2) 1

Miss Lulu YEUNG
Clerical Assistant (2) 1

Action

I. Confirmation of minutes of previous meeting
(LC Paper No. CB(2)1262/13-14)

The minutes of the meeting held on 18 February 2014 were confirmed.

II. Information paper(s) issued since the last meeting
(LC Paper Nos. CB(2)1237/13-14(01) and CB(2)1278/13-14(01))

2. Members noted that the following papers had been issued since the last meeting -

- (a) referral from the Public Complaints Office on issues relating to protection for the working elderly; and
- (b) letter from Mr TANG Ka-piu proposing the Panel to discuss issues relating to amount of severance payment and long service payment under the Employment Ordinance ("EO").

3. Members agreed that Mr TANG Ka-piu's proposal be discussed at a future Panel meeting and the Administration should, in the meantime, be requested to provide a written response to the issues of concern raised in Mr TANG's letter.

(Post-meeting note: The Administration's response was circulated to members vide LC Paper No. CB(2)1514/13-14 on 13 May 2014.)

III. Date of next meeting and items for discussion
(LC Paper Nos. CB(2)1279/13-14(01) and (02))

Regular meeting in May 2014

4. Members agreed that the following items proposed by the Administration be discussed at the next regular meeting at 4:30 pm on 20 May 2014 -

Action

- (a) Progress of the work of the Standard Working Hours Committee; and
- (b) Manpower Projection to 2022.

IV. Occupational safety performance in the construction industry
(LC Paper Nos. CB(2)1269/13-14(01), CB(2)1279/13-14(03) and CB(2)1300/13-14(01))

5. At the invitation of the Chairman, Deputy Commissioner for Labour (Occupational Safety and Health) ("DC for L (OSH)") briefed members on the occupational safety performance of the construction industry as detailed in the Administration's paper.

6. Members noted the updated background brief entitled "Work safety in the construction industry" prepared by the Legislative Council ("LegCo") Secretariat.

Safety performance of the construction industry

7. Dr KWOK Ka-ki, Mr WONG Kwok-hing, Mr POON Siu-ping, Mr CHAN Kin-por and the Chairman expressed grave concern that 10 fatal accidents were recorded in the construction industry in the first quarter of 2014. In the light of commencement in sequence of major infrastructure projects, Dr KWOK Ka-ki raised queries about that such works had put great pressure on the resources and manpower in the industry. This had resulted in the engagement of ethnic minorities construction workers who had not received sufficient training, and consequently at the expense of safe work practices. He recalled that a number of fatal accidents had taken place during the construction of the Chek Lap Kok Airport and the Hong Kong Section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link (the XRL Project). Casting doubt about the effectiveness of the site inspections conducted by the labour inspectors of the Labour Department ("LD"), Dr KWOK sought information on the statistics on such inspections and asked about the measures taken by the Administration to prevent the recurrence of such accidents. Miss CHAN Yuen-han also enquired about the proportion of public works projects in the fatal accidents in the construction industry.

Action

8. Mr WONG Kwok-hing held the view that instead of urging for the importation of labour to alleviate the labour shortage problem in the construction industry, the Administration should work in collaboration with various stakeholders and encourage the employers to raise the work safety standards in the construction industry so as to attract the local young people to join the sector. Miss CHAN Yuen-han was concerned about whether the increasing number of industrial accidents in the construction sector was due to the arrangement of allowing contractors to recruit less experienced workers first and then provide them with training afterwards under the Contractor Cooperative Training Scheme.

9. Responding to members' concerns, DC for L (OSH) said that there were two cases of public works projects among the 10 fatal accidents in the construction industry in the first quarter of 2014. Apart from conducting regular site inspections, LD would from time to time launch special enforcement operations to deter work practices contravening statutory requirements on work safety, particularly those involving high-risk processes. LD would take immediate enforcement actions without prior warning upon discovery of breaches of safety legislation as well as initiate prosecutions and issue suspension notices ("SNs") and improvement notices ("INs") where any activity at the workplace would cause, or was likely to cause, an imminent risk of death or serious bodily injury to workers. According to the statistics provided by the Census and Statistics Department ("C&SD"), there were over 1 000 active works sites. In 2013, LD conducted around 8 000 special site inspections with over 640 prosecutions initiated and more than 340 SNs and 570 INs issued. DC for L (OSH) added that given the commencement of various mega infrastructure projects in recent years, LD would increase manpower to step up site inspections and vigorous enforcement actions in a number of major work areas in 2014-2015, including strengthening the monitoring of work safety of major works projects through the creation of an additional dedicated office and strengthening the monitoring of construction projects involving compressed air work through the creation of a dedicated team.

10. In response to the Chairman's enquiry about the staffing establishment of the dedicated office and dedicated team, DC for L (OSH) advised that altogether there would be four Mega Infrastructure Projects Offices with a total of 24 staff members by 2014-2015. As regards the dedicated team, an additional post of senior medical officer who possessed professional knowledge of compressed air work would be created while a medical officer post would be filled by internal redeployment.

Action

11. Regarding the strategy on construction safety promotion, DC for L (OSH) advised that in addition to dissemination of safety messages through the mass media and distribution of easy-to-understand promotional leaflets, LD had strengthened the collaboration with trade associations and workers' unions for conveying safety messages to workers direct. These included arranging for experienced workers or workers' families to visit new works sites to share their experience with site workers and disseminate safety pamphlets to promulgate the message of safeguarding themselves for their own good as well as their families.

12. Mr POON Siu-ping enquired whether the Administration had conducted analysis of the fatal accidents in the construction industry with respect to the age, experience and working hours of the workers concerned. Referring to C&SD's 2013 Report on Annual Earnings and Hours Survey, Mr POON noted with concern that about 70% of the construction workers worked more than 48 hours each week and 3 000 of them even worked over 72 hours in a week. Query was raised about the correlation between the accident rate and the working hours of individual workers.

13. Expressing concern about the spate of serious and fatal accidents in the construction industry, the Deputy Chairman enquired whether the Administration had looked into the causes of these accidents so as to formulate specific counter-measures to prevent the occurrence of such accidents.

14. Responding to members' concerns, DC for L (OSH) replied in the affirmative that the Government had studied the fatal cases in the construction sector in recent years. It was noted that in most cases the construction workers concerned were aged between 40 and 60. However, the correlation between these fatal cases and specific factors such as age or working hours was yet to be established having regard to the general ageing workforce and prevalent working hours pattern in a normal construction site. To enhance the work safety standards, DC for L (OSH) reiterated that apart from conducting regular site inspections, LD had in the past few years launched special enforcement operations to deter work practices contravening statutory requirements on work safety, particularly those involving high-risk processes including lifting operations, work-at-height and electrical works. Safety seminars would be conducted as appropriate, and stakeholders of the relevant trades would be invited to the seminars in which contractors would be advised of LD's enforcement actions, including issuance of SNs and initiation of prosecution without prior warning upon discovery of breaches of safety legislation.

Action

15. Mr LEUNG Yiu-chung expressed concern about the rising trend of the industrial accidents in recent years, regardless of the measures and enforcement actions taken to enhance the OSH standards. In the light of labour shortage in the construction industry, Mr LEUNG was concerned that the construction workers, who had to work on different works sites concurrently, would not be familiar with individual workplaces and thereby more prone to industrial accidents. He was of the view that the Administration should coordinate and ensure the launching of various major infrastructure and construction projects in an orderly manner.

16. DC for L (OSH) responded that LD was not in a position to coordinate the commencement of different infrastructure and construction projects. He said that LD had been working along with the Construction Industry Council ("CIC") and the Occupational Safety and Health Council ("OSHC") to enhance the OSH standards in the construction industry. For example, taking into account the experience of a voluntary scheme initiated by the industry, LD would, in conjunction with CIC, consider in mid 2014 issuing a set of guidelines proposing that workers who were new to the construction industry to carry a "P" label (i.e. Probationer) and those who were new to a construction site but had already possessed experience in construction works to carry a "N" label (i.e. Newcomer), under which contractors would assign supervisors to brief these newcomers on hazards to be avoided for a certain period of time.

17. Given a great number of works projects was underway, Mr LEUNG Yiu-chung expressed concern about the Administration's manpower in conducting site inspections and cast doubt on the effectiveness in enhancing the work safety standards. In response, DC for L (OSH) advised that complementary to the conventional inspections to the regular worksites, LD had adopted a new enforcement mode under which surprise audit inspections were conducted by LD inspectors to construction sites of large-scale infrastructure projects where there was a large number of construction workers. Following the audit inspection which lasted up to six to seven hours on each occasion, LD would liaise with the relevant project client about the improvement measures that needed to be taken on the construction site, which would have demonstration effects on other contractors engaged by that project client.

Action

18. The Chairman drew members' attention to one of the recommendations in the submission of the Association for the Rights of Industrial Accident Victims ("ARIAC") in respect of holding developers liable for non-compliance with OSH requirements.

19. Mr KWOK Wai-keung said that the OSH Committee of the Hong Kong Federation of Trade Unions was concerned that the use of certain materials such as aluminum and glass panels in the exterior of buildings had created difficulties for maintenance of the external walls of such buildings, and thereby posing more risks to work-at-height industrial accidents. The Federation called on the Administration to take into account the potential work hazards related to building maintenance when approving building plans.

20. DC for L (OSH) said that CIC, comprising representatives from the relevant government departments, including the Buildings Department and LD, industry stakeholders and developers, was following up on the safety of work-at-height on the external walls of buildings.

Work-at-height safety and related insurance issues

21. Mr POON Siu-ping said that he had moved a motion on ensuring occupational safety at the Council meeting of 20 February 2013, which was carried. He asked about the measures adopted by the Administration to ensure the work-at-height safety.

22. Pointing out that there were a significant number of construction fatalities involving work-at-height in recent years, Mr WONG Kwok-hing was concerned about the measures taken by the Administration to address the problem. Citing the fatal accident involving two workers falling from height while using a tower working platform to undertake external wall works that occurred on 25 March 2014, Mr WONG enquired about the progress of the case investigation as well as the Administration's regulatory efforts in such kind of worksites. Enquiry was further raised about whether illegal workers had been engaged by the contractor concerned.

23. DC for L (OSH) said that the Government was concerned that more than half of the construction fatal accidents were related to fall of persons from height in recent years. Apart from stepping up the publicity and promotional efforts on raising awareness of OSH in the construction industry, LD had conducted special inspections and enforcement actions

Action

at district level in ensuring compliance with the OSH legislation. Moreover, LD and OSHC jointly launched the RMAA (repair, maintenance, alteration and addition) safety accreditation scheme ("the Scheme") in June 2012, which included provision of safety training, subsidies for the purchase of fall arresting devices and safety audits for small-and-medium sized RMAA contractors. Scaffolding contractors accredited under the Scheme might obtain premium discounts up to 50% when procuring employees' compensation insurance under the Employees' Compensation Insurance Residual Scheme. As at early-March 2014, OSHC had received over 70 applications from small-and-medium enterprises ("SMEs") of the RMAA industry and accredited 16 of them.

24. Assistant Commissioner for Labour (Occupational Safety) ("AC for L (OS)") added that the Government was highly concerned about the serious accident that happened on 25 March 2014 and was looking critically into the circumstances and causes for the accident. Following the incident, LD had served SNs to the contractors concerned and was conducting joint investigation into the accident with the Electrical and Mechanical Services Department ("EMSD"), which was responsible for the regulation of tower working platforms. Besides, LD and EMSD were exploring measures to further enhance the work safety regarding the use of the tower working platforms, and had conducted a joint operation to inspect all tower working platforms to enhance work-at-height safety. As regards whether illegal workers had been engaged in the work site concerned, the Police was following up on the matter. At the request of the Chairman, AC for L (OS) agreed to report on the progress of the investigation.

Admin

25. Mr CHAN Kin-por said that to his knowledge, more than 60% of the scaffolding contractors procured employees' compensation insurance under the Employees' Compensation Insurance Residual Scheme. Noting that underwriting losses had been recording for such insurance plans, Mr CHAN was concerned about the occupational safety performance of the accredited enterprises under the Scheme. He also sought explanation for the relative small number of accredited enterprises under the Scheme, given that only 16 out of 70 applications from SMEs of the RMAA industry were accredited as at March 2014.

26. DC for L (OSH) explained that the small number of accredited enterprises under the Scheme was attributable to the stringent criteria adopted by OSHC. To monitor the occupational safety performance of the accredited SMEs, a notification mechanism under which OSHC

Action

would be notified of the occurrence of serious industrial accidents in the RMAA industry was put in place. No accredited enterprise under the Scheme, including those on the waiting list, was involved in serious industrial accidents. Should an accredited enterprise be found non-compliant with the OSH legislation in a fatal accident after investigation, it would be delisted from the Scheme as appropriate.

On-site safety officers

27. Mr POON Siu-ping said that given that on-site safety officers were employees of construction contractors, there were reservations that the former would be proactive in advising and taking measures to comply with OSH requirements which might have conflict of interests with their employers. Mr POON asked whether the Administration would consider conducting a review of the role and responsibilities of on-site safety officers. On the other hand, Mr KWOK Wai-keung sought clarification on the statutory requirement in respect of employment of safety officers on construction sites.

28. Responding to members, DC for L (OSH) advised that construction contractors were required under the Factories and Industrial Undertakings (Safety Officers and Safety Supervisors) Regulations (Cap. 59Z) to employ registered safety officers ("RSOs") to take care of OSH matters on construction sites and provide professional advice to the contractors concerned. Under the Factories and Industrial Undertakings (Safety Management) Regulation (Cap. 59 sub. leg. AF), specified factories and industrial undertakings, which employed 100 or more workers, were required to develop and implement a safety management system. Nevertheless, DC for L (OSH) stressed that it was the duty of every proprietor of an industrial undertaking to ensure, so far as was reasonably practicable, the health and safety at work of all persons employed by him at the industrial undertaking. LD would enhance the regulation of RSOs with reference to the code of conduct for safety practitioners prepared by the relevant professional federation. In addition, RSOs were required to complete a specified number of hours of Continuing Professional Development Programme in OSH prior to making application for renewal or revalidation of their professional qualifications.

29. In response to the Chairman's suggestion of increasing the number of RSOs in accordance with the scale of the construction sites, DC for L (OSH) considered that the effectiveness of a safety management system on construction sites depended on the experience and quality of RSOs, rather than the number of RSOs working on the sites.

Action

Use of machineries in the construction industry

30. Miss CHAN Yuen-han expressed concern about the regulation of machine operations on construction sites and the provision of the relevant training to workers to operate the machinery. Mr TANG Ka-piu shared a similar concern. Noting from the Hong Kong Construction Industry Employees General Union that a number of industrial accidents in the first quarter of 2014 involved machine operations, Mr TANG sought information on a breakdown of industrial accidents involving machine operations in the construction industry and enquired whether ageing machinery had been used in such incidents as well as the training of construction workers. He further asked whether the Administration would make reference to the experience of other places such as Shenzhen in setting a service life expectancy of machineries used in the public works projects, say 10 years.

31. DC for L (OSH) advised that the Factories and Industrial Undertakings Ordinance (Cap. 59) and the Occupational Safety and Health Ordinance (Cap. 509) ("OSHO") sought to regulate the use of plants and machineries on construction sites, including ensuring the stability and safety of lifting appliances through proper maintenance, regular testing and thorough examination, and to provide for safety management systems to safeguard workers' OSH. While due consideration would be given to the conditions of machinery used on construction sites, DC for L (OSH) pointed out that other major causes of industrial accidents involving machine operations included failure to maintain the stability/improper control of lifting appliances and operations exceeding the safe working load. In the first quarter of 2014, LD conducted a special enforcement operation targeting construction sites with lifting operations, resulting in the issue of nearly 70 statutory notices and initiation of 46 prosecutions. LD would, in conjunction with OSHC, the trade associations and the lifting professional organisations concerned, organise a "Mobile Crane Operation Safety Seminar" for lifting contractors in end-April 2014 to urge them to pay particular attention to the systemic safety risks identified by LD during enforcement actions and enhance safety measures on lifting operations.

32. In response to Mr POON Siu-ping's enquiry about the three fatal accidents under the category of "Specialized Work Process" in the construction industry in the first quarter of 2014, AC for L (OS) said that two of the cases involved the use of machinery/appliances and the remaining case was resulted from a work injury when undertaking interior maintenance work.

Action

Level of penalties for offences

33. Dr KWOK Ka-ki was of the view that the level of penalty for breaching the OSH legislation was disproportionate to the construction project cost and it could hardly achieve the deterrent effect. Employers concerned might choose to pay the fine in lieu of taking measures to enhance employees' OSH. Dr KWOK sought information on the maximum penalty imposed on developers in 2013 for non-compliance with the relevant OSH legislation.

34. The Deputy Chairman called on the Administration to impose heavier penalty on contractors so as to increase the deterrence effect on the non-compliance with the OSH legislation and requirements. Mr CHAN Kin-por, on the other hand, said that consideration might be given to initiating prosecution against workers who had not complied with the OSH legislation and had caused an imminent risk of death or serious bodily injury to themselves as well as other workers.

35. DC for L (OSH) advised that the Government was aware of the community concern over the penalty imposed on fatal industrial incidents. Currently, breaching OSHO would be liable to a maximum fine of \$500,000 and an imprisonment term of 12 months. The fine for non-compliance of OSHO was on average in the region of \$10,000 to \$30,000. Given the difficulties in proving the *mens rea* of the employer in committing an offence under OSHO, no employer had so far been sentenced with an imprisonment term. DC for L (OSH) further advised that subject to the advice of the Department of Justice ("DoJ"), LD would submit supplementary information, including the serious consequences of the accident concerned, the upward trend of the type of accident involved, the highest fine imposed in similar cases, to the court for considering the appropriate level of penalty to be imposed upon conviction. Depending on the circumstances of individual cases, LD would seek the advice of DoJ as to whether a review or an appeal to the court should be made in respect of the court's decision. Notably, the amount of the fine had increased significantly to some \$100,000 to \$200,000 for violation of safety legislation in several fatal cases in the past few months. LD would continue with its work in such direction. DC for L (OSH) added that heavier weighting would be accorded to accident rates in tender assessment of public works contractors such that contractors with low accident rate would have a better chance of winning a tender.

Action

Admin

36. The Chairman requested the Administration to provide a written response to the issues of concern raised in the submission from ARIAC.

(At this juncture, the Deputy Chairman took the chair during the temporary absence of the Chairman.)

V. Major findings of the 2013 Annual Earnings and Hours Survey (2013 Report on Annual Earnings and Hours Survey, LC Paper Nos. CB(2)1279/13-14(04) and (05))

37. With the aid of powerpoint presentation, Assistant Commissioner for Census and Statistics (General) ("AC/C&S") highlighted to members the major findings in the 2013 Report on Annual Earnings and Hours Survey ("AEHS").

(Post-meeting note: The softcopy of the powerpoint presentation materials was issued to members vide LC Paper No. CB(2)1320/13-14(01) on 16 April 2014.)

38. Members noted the updated background brief entitled "Annual Earnings and Hours Survey" prepared by the LegCo Secretariat.

Data collection and methodology for AEHS and Statutory Minimum Wage ("SMW") adjustment

39. Pointing out that the Minimum Wage Commission ("MWC") would make reference to the 2013 AEHS findings in recommending the next SMW rate to be effective in 2015, Mr LEE Cheuk-yan expressed concern about the time lag between data collection for AEHS and implementation of the revised SMW rate in the biennial review of the SMW rate. The Deputy Chairman shared a similar concern and was of the view that the Administration should address the problem. Mr LEE said that although the 2013 AEHS Report revealed that there were 98 100 employees (i.e. 3.4% of all employees) receiving an hourly wage of \$30 during the reference period of May to June 2013, with the rise in wages, the actual number and percentage of employees receiving an hourly wage of \$30 would have been decreased by 2015 when the next SMW rate took effect. He was concerned that MWC would have overestimated the number of employees receiving the SMW rate and enquired whether the Administration had made projections for wage statistics in 2014 and 2015 for the consideration of MWC.

Action

40. Principal Economist of the Financial Secretary's Office ("Principal Economist") said that the Government fully understood the problem of time lag between data collection/analysis and implementation of the revised SMW rate. Based on the experience of last review of the SMW rate, the Government would provide technical support for MWC in its review of the next SMW rate as appropriate, including projections on the wage distribution with reference to the more recent statistics on employment, unemployment and underemployment as well as employment earnings from C&SD's other ongoing surveys, including the General Household Survey.

41. Mr TANG Ka-piu noted with concern that according to MWC's estimation in 2012, about 223 100 employees, or 7.9% of all employees would be covered under the SMW rate if the rate was to be revised to \$30 in 2013. However, as shown from the 2013 AEHS Report, there were only 98 100 employees with hourly wage at \$30 during the reference period of May to June 2013. Having regard to the economic development, he cast doubt as to whether the market minimum wage level had in effect been higher than the SMW rate and thereby the number of employees receiving the SMW rate was remarkably less than the estimated number. In respect of the 98 100 employees receiving an hourly wage of \$30 in 2013, Mr TANG sought information on the number of employees whose employment earnings had increased because of the implementation of the revised SMW rate since May 2013 and the trades and industries involved.

42. Assistant Commissioner for Labour (Development) ("AC for L(D)") explained that the estimation on the number of employees receiving the revised SMW rate of \$30 was made on the basis of the trend of pay rise up to mid-2012. Since there would inevitably be a time lag between the date of recommending the SMW rate and the date of its implementation, MWC took into account short-term economic and labour market outlook and its Array of Indicators also included more frequently released indicators to monitor closely the latest situation after the implementation of SMW. AC for L(D) drew members' attention to the fact that a number of employees receiving an hourly wage less than \$30 had their hourly wage increased beyond \$30 after SMW uprating and therefore were not included among the 98 100 employees.

43. AC/C&S added that AEHS conducted by C&SD collected data on wages of employees in Hong Kong only during the reference period of May to June 2013. It was therefore not known how many employees among the 98 100 employees had their wages increased after the SMW uprating. As regards the industries involved, 86% of the 98 100

Action

employees were engaged in the four low paying sectors, viz. retail trade; restaurants; estate management, security and cleaning services; and other low paying sectors including elderly homes, laundry and dry cleaning services, hairdressing and other personal services, local courier services, and food processing and production. Over 90% of these employees were elementary or service workers while about 60% of them were females.

44. Mr KWOK Wai-keung was concerned that the impact of biennial review of the SMW rate would cause considerable hardship to the grassroots workers because of the time lag in wage adjustment. To address the time lag between compilation of statistics for the review of next SMW rate and its implementation, he took the view that the SMW rate should be reviewed and adjusted on an annual basis.

45. AC for L(D) responded that the Government was fully aware of the diverse views of the community on whether the SMW rate should be reviewed annually. In accordance with the Minimum Wage Ordinance (Cap. 608) ("MWO"), the SMW rate had to be reviewed at least once in every two years, without precluding more frequent rate review if there was evidence supporting the need. MWC had commenced a six-week public consultation from early April 2014 to invite views from various sectors of the community on the review of the SMW rate and would submit to the Chief Executive in Council its recommendation report on the revised SMW rate before the end of October 2014.

46. Given the time lag problem was crystal clear in a two-year cycle for conducting a review of the SMW rate, Mr LEUNG Yiu-chung enquired about the criteria to be adopted by the Administration to kick start another review of the SMW rate at an earlier time.

47. AC for L(D) and Principal Economist said that apart from making reference to the annual statistical data from AEHS, MWC took into account the more frequently released indicators on employment earnings and the findings of other surveys in conducting the review of the SMW rate. In recognition of an inevitable time lag between the date of recommending the SMW rate and the date of its implementation, AC for L(D) said that MWC had taken into account short-term economic and labour market outlook to conduct scenario testing with an attempt to have more thorough considerations when reviewing the SMW rate. Principal Economist reiterated that the Government would provide technical support for MWC as necessary, including projections on the distribution of wages with reference to the more recent statistics on employment earnings collected in other surveys conducted by C&SD.

Action

48. Mr LEUNG Yiu-chung, however, remained concerned about the accuracy of the projections and impact assessment in conducting the review of the SMW rate, which was considered unfair to the grassroots workers. The Deputy Chairman was of the view that the Administration should conduct a review on the mechanism for adjusting the SMW rate.

49. Mr POON Siu-ping noted that the median monthly wage for all employees in Hong Kong was \$14,100, excluding employees in the Government as well as student interns, work experience students and live-in domestic workers as exempted by MWO, in May to June 2013, which represented a 5.2% increase as compared with the corresponding figure in 2012 and was higher than the 4% inflation rate based on the Composite Consumer Price Index in the same period. While noting the rate of increase in wage level of workers in the low-paid industries was higher than the inflation rate and the median monthly wage because of the implementation of SMW, Mr POON asked whether the monthly wage in real terms for employees engaged in the financing and insurance industries as well as import and export trade industries, registering a 2.9% and 3.3% increase respectively, had in fact decreased.

50. AC/C&S replied in the affirmative. Yet, she drew members' attention to the definition of wage(s) published in the 2013 AEHS Report, which followed the definition of "wages" as adopted in EO, did not cover bonuses and allowances of gratuitous nature paid to an employee in the wage period. Given that take-home pay of employees in the financing and insurance industries as well as import and export trade industries usually comprised payment of such discretionary nature, the year-on-year increase in take-home pay of these employees might not necessarily be lower than the inflation rate.

[Members agreed to extend the meeting by 15 minutes.]

Working hours

51. Noting from the 2013 AEHS Report that the number of weekly working hours for the majority of employees during the reference period of May to June 2013 remained more or less the same when comparing with the corresponding figures in 2012, Mr LEE Cheuk-yan was of the view that improvement to the long working hours situation could only be made by way of legislative means.

Action

52. Mr KWOK Wai-keung expressed concern about the methodology in data collection for working hours statistics in the 2013 AEHS Report which covered contractual/agreed working hours and overtime hours worked at the direction of employers only. Pointing out that overtime work not under the direction of employers was not uncommon, Mr KWOK enquired whether such overtime working hours could be obtained from employees so as to reflect accurately the phenomenon of long working hours situation in a number of trades and industries, in particular the banking and information technology industries as well as accounting, designing and advertising industries.

53. In response, AC/C&S said that the working hours statistics published in the 2013 AEHS Report followed the definition of hours worked under MWO and thus covered contractual/agreed working hours and overtime hours worked at the direction of employers. Overtime hours not worked under the direction of employers, for which records or data were not available from the employers, were not included. That said, some firms had responded that their employees had been requested to undertake overtime work without compensation arrangement. In 2013, 49 000 employees had undertaken uncompensated overtime work. Notably, the majority of these employees were managers and administrators, professionals and associate professionals.

54. In the light of the slow work progress of the Standard Working Hours Committee ("SWHC"), which had not yet come to a view on the policy direction on SWH and whether legislative means was the way forward, Mr KWOK Wai-keung enquired how the Administration would safeguard the rights and benefits of employees who worked for long hours without due compensation.

55. AC for L(D) said that SWHC was pressing ahead with its work at full steam since its formation in April 2013. The two working groups formed under SWHC, namely "Working Hours Consultation Group" and "Working Hours Study Group" were conducting wide public consultation and comprehensive working hours surveys respectively and would endeavour to submit their reports to SWHC by end-2014 for deliberation and formulation of its ensuing work.

56. Noting that the median weekly working hours for female had remained at 44.3 during the reference period in 2012 and 2013 whereas that for male had increased from 47.0 in 2012 to 48.0 in 2013, Mr POON Siu-ping sought explanation for the phenomenon.

Action

57. AC/C&S said that it might be attributable to the increase in the number of male construction workers in 2013 whose weekly working hours were longer than the median weekly working hours for all employees.

58. There being no other business, the meeting ended at 6:38 pm.

Council Business Division 2
Legislative Council Secretariat
9 July 2014