

立法會
Legislative Council

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by the Administration)

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**Subcommittee on
Minimum Wage Ordinance (Amendment of Schedule 3) Notice 2015 and
Employment Ordinance (Amendment of Ninth Schedule) Notice 2015**

**Minutes of meeting
held on Wednesday, 11 February 2015, at 8:30 am
in Conference Room 2 of the Legislative Council Complex**

- Members present** : Dr Hon CHIANG Lai-wan, JP (Chairman)
Hon LEE Cheuk-yan
Hon LEUNG Yiu-chung
Hon Tommy CHEUNG Yu-yan, SBS, JP
Hon Frederick FUNG Kin-kee, SBS, JP
Hon Andrew LEUNG Kwan-yuen, GBS, JP
Hon IP Kwok-him, GBS, JP
Hon Frankie YICK Chi-ming
Hon YIU Si-wing
Hon CHAN Chi-chuen
Hon LEUNG Che-cheung, BBS, MH, JP
Dr Hon KWOK Ka-ki
Dr Hon Fernando CHEUNG Chiu-hung
Hon SIN Chung-kai, SBS, JP
Hon Martin LIAO Cheung-kong, SBS, JP
Hon POON Siu-ping, BBS, MH
Hon TANG Ka-piu, JP
Hon CHUNG Kwok-pan
- Members absent** : Hon Cyd HO Sau-lan, JP
Hon KWOK Wai-keung

**Public Officers : Item I
attending**

Mr Matthew CHEUNG Kin-chung, GBS, JP
Secretary for Labour and Welfare

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

Mr Desmond HOU Ka-chun
Principal Economist, Economic Analysis and
Business Facilitation Unit
Financial Secretary's Office

Mr William MAK Chi-tung
Chief Labour Officer (Statutory Minimum Wage)
Labour Department

Mr Jonathan LUK King-hang
Government Counsel
Department of Justice

**Attendance : Item I
by invitation**

Hong Kong Catering Industry Association

Mr Thomas WOO
Vice President

The Federation of Hong Kong and Kowloon Labour Unions

Miss KWOK Sau-mui
Lead Organizer

Hong Kong Buildings Management And Security Workers
General Union

Ms YU Mei-wan
Executive Committee Member

Institution of Dining Art

Mr Henry MA
Vice Chairman

Left 21

Mr NG Chung-tat
Member

Liberal Party Youth Committee

Mr Victor NG
Representative

最低工資關注組

Mr Fun CHEUNG
Representative

Individual

Mr WONG Yun-tat
Member of Kwai Tsing District Council

Cleaning Workers Union

Mr CHAN Tsz-kit
Organizer

Hong Kong Federation of Restaurants & Related Trades

Mr TAM Hop-sing
Chief Executive Officer

The Forthright Caucus

Mr LO Ho-yuen
Representative

Left 21 Education Department

Mr John LEUNG Yip-hon
Member

The Hong Kong Federation of Trade Unions Rights and Benefits Committee

Mr Kingsly TAM
Member

葵涌勞工權益關注組

Miss Vincci WONG
Representative

Hong Kong Confederation of Trade Unions

Mr POON Man-hon
Policy Researcher

Chosen Power

Mr CHAN Tsun-kit
Director

Chosen Parent Network

Ms AU Yim-fong
Chairperson

Association of Restaurant Managers

Mr LEUNG Kui-tang
Vice-Chairman

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

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

Mr Raymond LAM
Senior Council Secretary (2) 7

Ms Kiwi NG
Legislative Assistant (2) 1

I. Meeting with deputations and the Administration

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

2. Members received oral representations from 18 deputations/individual on the Minimum Wage Ordinance (Amendment of Schedule 3) Notice 2015 and Employment Ordinance (Amendment of Ninth Schedule) Notice 2015.

II. Any other business

3. The Chairman advised that a further meeting would be scheduled to continue discussion and members would be informed of the meeting date in due course.

(Post-meeting note: With the concurrence of the Chairman, the next meeting was scheduled for 16 February 2015 from 11:00 am to noon.)

4. There being no other business, the meeting ended at 10:45 am.

Council Business Division 2
Legislative Council Secretariat
10 March 2015

**Proceedings of meeting of the Subcommittee on
Minimum Wage Ordinance (Amendment of Schedule 3) Notice 2015 and
Employment Ordinance (Amendment of Ninth Schedule) Notice 2015
held on Wednesday, 11 February 2015, at 8:30 am
in Conference Room 2 of the Legislative Council Complex**

Time marker	Speaker(s)	Subject(s)	Action Required
000000 - 000649	Chairman	Opening remarks	
000650 - 001007	Chairman Mr Thomas WOO, Hong Kong Catering Industry Association	Presentation of views [LC Paper No. CB(2)833/14-15(02)]	
001008 - 001319	Chairman Miss KWOK Sau-mui, The Federation of Hong Kong and Kowloon Labour Unions	Presentation of views [LC Paper No. CB(2)846/14-15(01)]	
001320 - 001647	Chairman Ms YU Mei-wan, Hong Kong Buildings Management And Security Workers General Union	Presentation of views [LC Paper No. CB(2)826/14-15(01)]	
001648 - 001956	Chairman Mr Henry MA, Institution of Dining Art	Presentation of views [LC Paper No. CB(2)801/14-15(03)]	
001957 - 002225	Chairman Mr NG Chung-tat, Left 21	Presentation of views	
002226 - 002528	Chairman Mr Victor NG, Liberal Party Youth Committee	Presentation of views	
002529 - 002838	Chairman Mr Fun CHEUNG, 最低 工資關注組	Presentation of views	
002839 - 003149	Chairman Mr TAM Hop-sing, Hong Kong Federation of Restaurants & Related Trades	Presentation of views [LC Paper No. CB(2)801/14-15(04)]	

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003150 - 003523	Chairman Mr LO Ho-yuen, The Forthright Caucus Mr Tommy CHEUNG	Presentation of views [LC Paper No. CB(2)826/14-15(02)]	
003524 - 003838	Chairman Mr John LEUNG, Left 21 Education Department	Presentation of views	
003839 - 004046	Chairman Mr Kingsly TAM, The Hong Kong Federation of Trade Unions Rights and Benefits Committee	Presentation of views [LC Paper No. CB(2)846/14-15(02)]	
004047 - 004337	Chairman Miss Vincci WONG, 葵涌 勞工權益關注組	Presentation of views	
004338 - 004639	Chairman Mr POON Man-hon, Hong Kong Confederation of Trade Unions	Presentation of views [LC Paper No. CB(2)826/14-15(03)]	
004640 - 005004	Chairman Mr CHAN Tsun-kit, Chosen Power	Presentation of views [LC Paper No. CB(2)846/14-15(03)]	
005005 - 005313	Chairman Ms AU Yim-fong, Chosen Parent Network	Presentation of views [LC Paper No. CB(2)846/14-15(04)]	
005314 - 005515	Chairman Mr LEUNG Kui-tang, Association of Restaurant Managers	Presentation of views [LC Paper No. CB(2)833/14-15(02)]	
005516 - 005855	Chairman Mr WONG Yun-tat, Member of Kwai Tsing District Council	Presentation of views	
005856 - 010937	Chairman Admin	Administration's response to issues raised by deputations/individuals - (a) in making its recommendation on the revised Statutory Minimum Wage ("SMW") rate, the Minimum Wage Commission ("MWC") had considered,	

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		<p>among other things, the findings of the Annual Earnings and Hours Survey ("AEHS") conducted by the Census and Statistics Department ("C&SD") and an array of indicators covering information on the socio-economic and labour market conditions as well as Gross Domestic Product and price forecasts;</p> <p>(b) to adopt a more holistic approach in reviewing the SMW rate, MWC had conducted scenario testing for the local economic outlook in view of the time gap between recommending the SMW rate and its implementation;</p> <p>(c) the average monthly employment earnings of full-time employees in the lowest decile group had increased by about 35% in the past three years or so, which represented an increase of 14.1% after netting out inflation;</p> <p>(d) the upcoming implementation of the Low-income Working Family Allowance Scheme would also help address the needs of low income families;</p> <p>(e) since SMW had been implemented for only a few years with limited experience, the existing flexible arrangement of reviewing the SMW rate at least once in every two years should be maintained; and</p> <p>(f) some establishments would need time to review and revise their business contracts in the light of increase in the SMW rate. If the SMW rate was reviewed annually, some employers might tend to offer short-term employment contracts and replace their permanent staff with casual workers.</p>	
010938 - 011304	Chairman Mr CHAN Tsz-kit, Cleaning Workers Union	Presentation of views	

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011305 - 011908	Chairman Dr Fernando CHEUNG Admin	<p>Dr Fernando CHEUNG's views and concerns that -</p> <p>(a) the proposed increase in SMW could not catch up with inflation during the same period; and</p> <p>(b) with the special arrangement for employees with disabilities under the SMW regime, the income of such employees could not enable them to earn a living.</p> <p>Administration's response that -</p> <p>(a) the special arrangement sought to strike an appropriate balance between providing wage protection to employees with disabilities and safeguarding their employment opportunities in view of the concern of the community and relevant organisations about the possible employment difficulties of some employees with disabilities. The right to invoke the assessment was solely vested in the employees with disabilities. The Government had reviewed the special arrangement and briefed the Panel on Manpower on the review results and enhancement measures; and</p> <p>(b) up to the end of January 2015, more than 420 assessment cases had been completed under the special arrangement and it was found that the post-assessment wage levels of the employees with disabilities concerned were higher than those before the assessment/ implementation of SMW.</p>	
011909 - 012639	Chairman Mr Tommy CHEUNG Admin	<p>Mr Tommy CHEUNG's views that -</p> <p>(a) adopting May and June of a year as the reference period of AEHS might not reflect the actual impact of revision of SMW which took effect in May; and</p> <p>(b) the statistics for September to November of a year should be considered instead of those for May to June of a year when MWC reviewed the SMW rate.</p>	

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		<p>Administration's response that -</p> <p>(a) reference was made to the practices of other places in conducting similar surveys when determining the survey reference period of AEHS;</p> <p>(b) wage levels of employees in the second quarter were comparatively more stable and thus more suitable for year-on-year comparisons. In view of this, the second quarter was adopted as the survey reference period for the 2009 and 2010 rounds of AEHS. In consideration of the implementation of SMW on 1 May 2011, the survey reference period was changed to May to June as from the 2011 round such that the survey results could be directly used for analyses related to SMW; and</p> <p>(c) the concerns and views of Mr Tommy CHEUNG would be conveyed to C&SD.</p>	
012640 - 013038	Chairman Mr TANG Ka-piu Admin	<p>Mr TANG Ka-piu's remark regarding the Administration's response to issues raised at the meeting on 30 January 2015 and in his letter of 4 February 2015 (LC Paper Nos. CB(2)801/14-15(01) and CB(2)833/14-15(01)) that -</p> <p>(a) inflation was mainly driven by food prices and private housing rentals in Hong Kong in the past few years; and</p> <p>(b) since the implementation of SMW, total employment in Hong Kong had risen by about 250 000 over the pre-SMW level and the number of working poor households had decreased.</p> <p>Mr TANG Ka-piu's question regarding the mechanism for initiating a review on the SMW rate ahead of the current two-year cycle.</p> <p>Administration's response that the Minimum Wage Ordinance (Cap. 608) ("MWO") stipulated that it was the Chief Executive who required MWC to review the SMW rate at</p>	

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		<p>least once in every two years. A review of the SMW rate could be conducted within less than two years if circumstances so warranted.</p>	
013039 - 013345	<p>Chairman Mr LEE Cheuk-yan</p>	<p>Mr LEE Cheuk-yan's views that -</p> <ul style="list-style-type: none"> (a) the profitability of Chinese restaurants had increased from 2.4% in 2010 to 5% in 2012; (b) increases in rentals had a much greater impact on the operating costs of enterprises; and (c) the SMW rate should be reviewed annually. 	
013346 - 013653	<p>Chairman Mr LEUNG Yiu-chung</p>	<p>Mr LEUNG Yiu-chung's views that -</p> <ul style="list-style-type: none"> (a) the wages of employees with disabilities should be adequate for them to live a dignified life; and (b) the Government should provide wage subsidy to employees with disabilities earning wages below SMW. 	
013654 - 013954	<p>Chairman Mr SIN Chung-kai Admin</p>	<p>Mr SIN Chung-kai's view that consideration should be given to adopting a formula-based mechanism for the adjustment of SMW.</p> <p>Administration's response that -</p> <ul style="list-style-type: none"> (a) many other SMW jurisdictions also considered an array of factors in their review of the SMW rate. As SMW would impact on a host of factors like the labour market, employment, economy, inflation, productivity and competitiveness which interacted constantly and varied according to different socio-economic circumstances, a formula-based mechanism for the adjustment of the SMW rate could not take account of the changing social, employment and economic environment in an effective, timely and flexible manner; and 	

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		(b) MWC had conducted scenario testing for the local economic outlook in view of the time gap between recommending the SMW rate and its implementation.	
013955 - 014312	Chairman Mr Frederick FUNG Admin	<p>Mr Frederick FUNG's view that the Government should study the experience of Taiwan and Spain in the provision of wage subsidy to enterprises which employed persons with disabilities.</p> <p>Administration's response that subsidy in the form of seed money was already being provided by the Government to social enterprises which employed persons with disabilities.</p>	
014313 - 014635	Chairman Mr POON Siu-ping Admin	<p>Mr POON Siu-ping's questions regarding -</p> <p>(a) whether the Government had any timetable for reviewing the SMW rate ahead of the two-year cycle; and</p> <p>(b) whether different weights were assigned to different indicators considered in the review of SMW rate.</p> <p>Mr POON's concern regarding whether the Government would in the longer term consider topping up the difference between the wage rates of employees with disabilities whose productivity was assessed to be less than 100% and the SMW rate.</p> <p>Administration's response that -</p> <p>(a) since SMW had been implemented for only a few years, it would be more appropriate to accumulate more experience before consideration was given to reviewing the review frequency of the SMW rate; and</p> <p>(b) adopting an evidence-based approach, MWC had reviewed the SMW rate in a comprehensive, objective and balanced manner and had made reference to the statistics in an array of indicators in a holistic way. As shown in the 2014 Report of MWC, no specific weightings</p>	

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		had been assigned to individual items in the array of indicators.	
014636 - 014911	Chairman Mr LEE Cheuk-yan Admin	<p>Mr LEE Cheuk-yan's concerns that -</p> <p>(a) the hourly wages of cleansing workers of the Legislative Council Complex who were employees of government outsourced contractors would not receive a wage increase until the new SMW rate took effect on 1 May 2015; and</p> <p>(b) the SMW rate was reviewed annually in the United Kingdom ("UK").</p> <p>Administration's response that there was no statutory requirement in some places such as the UK on the review frequency of the SMW rate, and the federal SMW rate in the United States of America had not been revised for seven years in the past.</p>	
014912 - 015125	Chairman Mr Tommy CHEUNG Admin	Mr Tommy CHEUNG's question and the Administration's response regarding whether statistics on the wages of casual workers in the restaurant sector had been collected by AEHS.	
015126 - 015604	Chairman Mr Frederick FUNG Mr LEUNG Yiu-chung Admin	<p>Mr LEUNG Yiu-chung's view that the Government should top up the difference between the wage rates of employees with disabilities whose productivity was assessed to be less than 100% and the SMW rate.</p> <p>Mr Frederick FUNG's view that wage subsidy should be provided to employees with disabilities and the Government should study the experience of Spain in the provision of such subsidy.</p> <p>Administration's response that -</p> <p>(a) the special arrangement sought to strike an appropriate balance between providing wage protection to employees with disabilities and safeguarding their employment opportunities in view of the concern of the community and relevant organisations about the possible</p>	

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		<p>employment difficulties of some employees with disabilities;</p> <p>(b) the proposal on wage subsidy would involve major policy implications; and</p> <p>(c) low income families could apply for the Comprehensive Social Security Assistance Scheme to meet their basic needs.</p>	
015605 - 015813	Chairman Mr SIN Chung-kai Admin	<p>Mr SIN Chung-kai's question regarding whether the Government had any timetable for reviewing the SMW rate ahead of the two-year cycle.</p> <p>Administration's response that since SMW had been implemented for only a few years, more experience should be accumulated before consideration was given to reviewing the review frequency of the SMW rate. MWO allowed the flexibility of reviewing the SMW rate ahead of the two-year cycle as and when necessary.</p>	
015814 - 020349	Chairman	<p>Chairman's remark that she would extend the meeting time by 15 minutes under House Rule 24A(a).</p> <p>Mr Tommy CHEUNG requested putting on record his objection to the extension of meeting time.</p>	
020350 - 021017	Chairman ALA8 Mr Tommy CHEUNG	<p>Examination of the Minimum Wage Ordinance (Amendment of Schedule 3) Notice 2015.</p> <p>Mr Tommy CHEUNG's view that the findings of statistics for September to November should be considered instead of those for May to June when MWC reviewed the SMW rate, as the latter could not reflect the ripple effect of the increase in SMW rate in May.</p>	
021018 - 021051	Chairman ALA8	Examination of the Employment Ordinance (Amendment of Ninth Schedule) Notice 2015.	

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021052 - 021439	Chairman Dr KWOK Ka-ki Admin	Dr KWOK Ka-ki's view that increases in rentals in recent years had a much greater impact on the operating costs of enterprises. Dr KWOK Ka-ki's question and the Administration's response on the existing monthly monetary cap on keeping records of hours worked by employees.	
021440 - 021756	Chairman Mr Tommy CHEUNG Mr LEE Cheuk-yan Mr POON Siu-ping Clerk	Legislative timetable. Date of next meeting.	

Council Business Division 2
Legislative Council Secretariat
10 March 2015