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**Panel on Manpower**

**Subcommittee to Study Issues Relating  
to Standard Working Hours**

**Minutes of meeting  
held on Monday, 16 May 2016, at 2:30 pm  
in Conference Room 3 of the Legislative Council Complex**

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

**Public Officers : Item I  
attending**

Mr Stephen SUI Wai-keung, JP  
Under Secretary for Labour and Welfare

Ms Queenie WONG Ting-chi  
Assistant Commissioner for Labour  
(Policy Support)

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

Miss Christina WONG Lai-heung  
Senior Labour Officer (Working Hours Policy)  
Labour Department

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

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

Miss Lulu YEUNG  
Clerical Assistant (2) 1

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**I. Consultation on working hours policy directions of the  
Standard Working Hours Committee**

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

2. Most members expressed concern about the deficiencies of the data analyses on the implementation of a working hours policy as set out in the Consultation Document on Working Hours Policy Directions. These members considered that the stress tests under different scenarios had merely highlighted the potential adverse impacts of a working hours policy on the macroeconomic situation in Hong Kong, and had omitted the social benefits of introducing a standard working hours ("SWH") policy. Quantitative analyses on the social costs arising from long

working hours of employees should also be conducted in studying the policy directions of the subject of SWH. Concern was also raised about the effectiveness of the proposal of legislating for "contractual working hours" (i.e. the "big frame" under exploration) in addressing the long working hours situation and protecting the rights and benefits of employees, in particular the grassroots employees with lower income, lower skills and less bargaining power.

3. These members also expressed grave concern about the timeframe of the second-stage consultation currently undertaken by the Standard Working Hours Committee ("SWHC") and the insufficient time left for the current term Government to follow up the subject of SWH upon receipt of a report from SWHC. Reservations were raised about whether the next term Government would duly recognize the findings and recommendations in the SWHC report and take forward the subject accordingly. Some members were of the view that the current term Government should introduce a relevant bill into the Legislative Council ("LegCo") at the beginning of the Sixth LegCo so as to ensure that the issue would be followed up by the next term Government.

4. Some other members, however, held the view that given the six employee representatives of the Labour Advisory Board refused to participate in the work of SWHC again, the Administration could hardly tackle the divergent views between the labour sector and employers on a working hours policy.

5. In response to the views and concerns of members, Under Secretary for Labour and Welfare made the following points:

- (a) the subject of SWH was far more complicated than the introduction of the Statutory Minimum Wage. It was imperative that the community should carefully deliberate on the former's far-reaching social and economic implications before coming to a view on such an important subject; and
- (b) SWHC was consulting the public on four working hours policy directions. SWHC maintained an open mind and did not have any preconceived stance on the subject. The Administration appealed to the labour sector to continue to provide views to SWHC so that the latter could take into account all views collected during the consultation period for preparing its report to the Government. Upon receipt of the

report, the Government would carefully consider the recommendations therein and undertake the follow-up work as appropriate.

6. Principal Economist of the Financial Secretary's Office added that based on overseas experience, it would take a long period of time to conduct a study on the social costs arising from long working hours of employees, such as healthcare costs. Moreover, personal factors such as health conditions and types of work of individual employees would have to be taken into consideration in studying the correlation between working hours and healthcare expenses.

## **II. Any other business**

7. The Chairman said that the Subcommittee had to complete its work within the current legislative session and prepare a report on its deliberations for submission to the Panel on Manpower. As the second-stage consultation of SWHC on working hours policy directions would end on 24 July 2016, members agreed that the Subcommittee would not hold further meeting and its report would be circulated for members' consideration.

8. There being no other business, the meeting ended at 4:02 pm.

**Proceedings of meeting of the Subcommittee to  
Study Issues Relating to Standard Working Hours  
held on Monday, 16 May 2016, at 2:30 pm  
in Conference Room 3 of the Legislative Council Complex**

Time marker	Speaker	Subject(s) / Discussion	Action Required
<i>Agenda item I - Consultation on working hours policy directions of the Standard Working Hours Committee</i>			
000000 - 000753	Chairman	Opening remarks	
000754 - 002546	Chairman Admin	With the aid of powerpoint presentation, the Administration briefed members on the key contents of the Consultation Document on Working Hours Policy Directions ("Consultation Document").	
002547 - 003406	Chairman Mr KWOK Wai-keung Admin	<p>Mr KWOK Wai-keung's concerns and views as follows:</p> <p>(a) the Administration should state clearly in the public consultation exercise that the employee representatives of the Labour Advisory Board ("LAB") had not participated in the preparatory work of the second-stage consultation of the Standard Working Hours Committee ("SWHC");</p> <p>(b) while the potential adverse impacts of introduction of a working hours policy on the macroeconomic situation in Hong Kong were highlighted in the powerpoint presentation, the social benefits of introducing a standard working hours ("SWH") policy were omitted;</p> <p>(c) in respect of the findings of the 2014 Household Survey on Working Hours Situation ("Household Survey"),</p> <p>(i) 61.1% of the employees did not have the method of overtime compensation specified in their employment contracts/agreements. Instead of implementing "contractual working hours" (i.e. the "big frame") as proposed by SWHC to address the above situation, it was the Labour Department's negligence of duty for not taking appropriate enforcement action over the years;</p>	

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		<p>(ii) most employees' existing overtime compensation arrangement (i.e. the overtime pay rate of 1:1 (75.4%) and the rate of 1:1 (95.4%) for time-off in lieu) was unreasonable;</p> <p>(iii) since "maintaining a favourable business environment" was the third working hours policy objective that employers recognized, the Administration should not place this option the first when presenting the relevant data analyses;</p> <p>(d) in respect of the four proposed policy directions for taking forward the working hours policy, the labour sector expressed grave dissatisfaction about the fourth option (i.e. not to implement the "big frame" nor "small frame", but recommend implementing other policies/measures pertaining to working hours), which was in effect a step backward.</p> <p>The Administration's response as follows:</p> <p>(a) participation of the six employee representatives of LAB in the work of SWHC in the past years and their advice were highly appreciated. Their views were duly reflected in the documents for the first-stage consultation and second-stage consultation. The Administration had repeatedly appealed to the six employee representatives of LAB to participate in the work of SWHC. The Government would take into account all views including those from the labour sector collected from its consultation on working hours policy, if conducted and presented to the Government, with a view to identifying the working hours policy directions suitable for Hong Kong;</p> <p>(b) currently, the Employment Ordinance ("EO") did not oblige employers and employees to sign written employment contracts, nor to specify employees' working hours arrangements. The "big frame" should be a step forward by exploring a legislative approach to mandatorily require employers and employees to enter into written</p>	

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		<p>employment contracts specifying the number of working hours, overtime work compensation arrangements, etc.; and</p> <p>(c) it was generally believed that regulating working hours might help employees achieve better work-life balance, reduce their potential health problems, improve employees' quality of life, and foster labour relations and social harmony. In formulating the proposed working hours policy directions, SWHC had considered these factors and made reference to the relevant study findings of the International Labour Organization ("ILO") and other organizations so as to facilitate an informed and pragmatic discussion during the second-stage consultation. Chapter 3 of the Consultation Document had indeed provided the analysis, amongst others, the benefits of regulating working hours.</p>	
003407 - 004047	Chairman Mr LEUNG Yiu-chung Admin	<p>Mr LEUNG Yiu-chung cited that the experience of implementation of the Statutory Minimum Wage ("SMW") showed that it had not brought about an increase in unemployment as projected, and expressed reservation about the reliability of projected adverse impacts of the introduction of SWH.</p> <p>The Administration's advice that the number of lower-skilled employed persons had decreased by 32 000 in the quarter following the implementation of SMW in 2011. Notwithstanding this, the increase in labour costs arising from implementation of SMW was absorbed by an increase in the retail trade sales value of 25% as a result of the robust economy in 2011.</p> <p>Mr LEUNG's grave concern about the timeframe of the second-stage consultation and the insufficient time left for the current term Government to follow up on the recommendations of SWHC. His concern about whether the next term Government would duly take forward the subject of SWH accordingly.</p>	

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		<p>The Administration's advice as follows:</p> <p>(a) the subject of SWH was far more complicated than the introduction of SMW given the former's widespread and far-reaching implications on the overall employment market, employment relations, business environment, economic development and business competitiveness. It was imperative that an in-depth study on the subject be conducted before identifying an appropriate working hours policy direction;</p> <p>(b) SWHC had since its establishment been taking forward its work at full steam, and had completed an extensive first-stage consultation and an in-depth working hours survey in 2014. With reference to the findings of these two exercises and through an evidence-based approach which would facilitate an informed discussion on the subject, SWHC was consulting the public on four working hours policy directions; and</p> <p>(c) SWHC would prepare its report to the Government upon completion of the second-stage consultation. Upon receipt of the report, the Government would carefully consider the recommendations therein and follow up as appropriate.</p>	
004048 - 004627	Chairman Mr CHEUNG Kwok-che Admin	<p>Mr CHEUNG Kwok-che's grave concern about the adverse impact of long working hours on work-life balance and health conditions of employees. His view that the relevant social costs were substantial.</p> <p>Mr CHEUNG's query about the effectiveness of the "big frame" under exploration in addressing the long working hours situation, especially for those employees who did not have bargaining power on the employment terms and conditions put forward by employers.</p> <p>The Administration's response as follows:</p> <p>(a) SWHC was of the view that the "big frame" would help protect employees from entering into unreasonable employment terms and conditions; and</p>	



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		<p>(b) SWHC was consulting the public on four policy directions for taking forward the working hours policy. The Administration did not have any preconceived stance on the matter.</p>	
004628 - 005121	<p>Chairman Mr SIN Chung-kai Admin</p>	<p>Mr SIN Chung-kai's remarks that it was imperative to adopt a legislative approach in formulating a working hours policy. In view of the opposition from employers to the issue and the earnest call from the labour sector, the proposed working hours policy should strike a proper balance between the interests of employees and affordability of employers. Hence, members of the public should be provided with relevant information for discussion and consideration. The proposal of four working hours policy directions might have oversimplified the issue.</p> <p>Mr SIN's view that upon completion of the second-stage consultation, the current term Government should introduce the relevant bill into the Legislative Council ("LegCo") at the beginning of the Sixth LegCo.</p> <p>The Administration's advice that having considered views of different stakeholding groups, SWHC was consulting the public on four working hours policy directions. To facilitate an informed discussion during the consultation period, members of the public were provided with data analyses and results of impact assessments of different parameter combinations. Upon receipt of the SWHC's report, the Government would carefully consider the recommendations therein and the way forward for a working hours policy suitable for Hong Kong taking into account all relevant considerations.</p>	
005122 - 005912	<p>Chairman Mr LEE Cheuk-yan Admin</p>	<p>Mr LEE Cheuk-yan's criticism of the irresponsibility of the current term Government for failing to honour the Chief Executive ("CE")'s election pledge of following-up on the policy study on SWH, and its lack of initiative in legislating for SWH. His view that in the absence of right to collective bargaining, the labour sector could not negotiate with employers regarding employment terms on an equal footing.</p>	

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		<p>Mr LEE's view that in deliberating the subject of working hours policy, the labour sector had been placed on a less advantageous position as the Administration had presented the public with only the quantitative assessment on the adverse impact of SWH on the economy. The Administration should consider providing similar analyses on the social costs, such as the impact on work-life balance and health conditions of employees and related healthcare expenses, arising from long working hours.</p> <p>The Administration's advice that based on overseas experience, it would take a long period of time to conduct a study on the impact of working hours on healthcare costs. It was also noteworthy that working hours was only one of the many factors attributing to health conditions of individual employees.</p>	
005913 - 010656	Chairman Mr LEUNG Che-cheung Admin	<p>Mr LEUNG Che-cheung's view that given the divergent views between the labour sector and employers on a working hours policy, the contention could not be resolved by merely adopting the "big frame" approach.</p> <p>The Administration's advice that:</p> <p>(a) SWHC was consulting the public on policy directions for taking forward the subject of SWH which would embrace views of different stakeholding groups. SWHC kept an open mind on the subject; and</p> <p>(b) the Administration appealed to the labour sector to provide views during the second-stage consultation. In contemplating the way forward for the subject, the Administration would take into consideration the views of different stakeholders including the labour sector and employers, as well as the need to balance employees' interests and employers' affordability.</p> <p>Noting that only 49% of members of labour unions were in support of introducing SWH in the 2014 Opinion Survey on Working Hours Regimes, Mr LEUNG was concerned about the data collection methodology.</p>	

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		<p>The Administration's advice that independent consultants had been engaged to conduct the surveys. In the Household Survey, employee respondents had been asked to respond to each of the approaches which were not mutually exclusive. Notably, more than 90% of the employee respondents had opted for "providing for stipulation of hours of work, overtime arrangements and overtime compensation in employment contracts".</p>	
010657 - 011403	Chairman Mr KWOK Wai-keung Admin	<p>Mr KWOK Wai-keung sought clarification about the arrangement for stipulating overtime pay rates in employment contracts and the relevant provisions in EO.</p> <p>The Administration's response as follows:</p> <ul style="list-style-type: none"> <li>(a) under EO, a contract of employment could be made orally or in writing;</li> <li>(b) according to the Household Survey, 88.6% of employees had their weekly working hours specified in contracts/agreements and 61.1% did not have the method of overtime compensation specified in their contracts/agreements; and</li> <li>(c) SWHC was exploring the direction of requiring employers and employees to enter into written employment contracts specifying clearly terms relating to working hours, for example, the number of agreed working hours and overtime compensation arrangements.</li> </ul> <p>Mr KWOK's view that the business sector had already indicated its support for the "big frame" approach before the launch of the second-stage consultation. His reservation on the Administration's sincerity in exploring the "small frame" approach and considering the views of the labour sector.</p> <p>The Administration's advice that SWHC had stressed that it maintained an open mind and did not have any preconceived stance on the subject. Among the four policy directions that SWHC was consulting the public, two were related to the "small frame" approach. After analysing the</p>	

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		views collected during the consultation period, SWHC would prepare its report for submission to the Government for consideration and identifying the way forward for a working hours policy as appropriate.	
011404 - 012259	Chairman Mr LEE Cheuk-yan Admin	<p>Mr LEE Cheuk-yan's reiteration of his strong view that the impact assessments on the economy and different scenario testings on the setting up of working hours standards as set out in the Consultation Document were incomprehensive. He strongly called on the Administration to make reference to ILO's study on the relationship between working hours and productivity/health/work-life balance and include relevant information on the social costs arising from long working hours of employees in studying the way forward.</p> <p>The Administration's response as follows:</p> <p>(a) SWHC had deliberated in length on the framework of the second-stage consultation. Data analyses and results of impact assessments of different scenarios and the potential impacts on employees, enterprises and overall economy were set out in Chapter 6 of the Consultation Document;</p> <p>(b) a range of factors related to the working hours policy, which included social factors such as quality of life, family life and employees' health were set out in Chapter 3 of the Consultation Document. Reference had also been made to ILO's relevant studies on the influence of working time on work-life balance and family life. Notably, it was pointed out that work-life nexus was subject to influence from personal, situational and social considerations; and</p> <p>(c) in respect of conducting a study on the social costs arising from long working hours of employees, it might take a long period of time to collect various data.</p>	

<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s) / Discussion</b>	<b>Action Required</b>
012300 - 012759	Chairman Mr Tommy CHEUNG	Mr Tommy CHEUNG's remarks that stress tests should also be performed for small and medium enterprises under different scenarios as and when a working hours standard had been set up.  Mr CHEUNG's criticism of the unreliability of the impact assessment for the implementation of SMW. He cast doubt about the reliability of the impact assessment results on implementation of SWH, which in his view, were underestimated and conservative.	
012800 - 013151	Chairman Mr LEE Cheuk-yan	Mr LEE Cheuk-yan's reiteration that CE had not honoured his pledge made in his election manifesto in respect of following-up on the policy study on SWH.	
013152 - 013341	Chairman Mr Tommy CHEUNG	Preparation of a report on the deliberations of the Subcommittee.  Closing remarks.	<b>Secretariat</b>