

立法會
Legislative Council

LC Paper No. CB(2)1613/16-17
(These minutes have been seen
by the Administration)

Ref : CB2/PL/MP

Panel on Manpower

Minutes of meeting
held on Tuesday, 18 April 2017, at 4:30 pm
in Conference Room 1 of the Legislative Council Complex

Members present : Hon LEUNG Yiu-chung (Chairman)
Hon HO Kai-ming (Deputy Chairman)
Hon Tommy CHEUNG Yu-yan, GBS, JP
Hon CHAN Kin-por, BBS, JP
Dr Hon Priscilla LEUNG Mei-fun, SBS, JP
Hon Paul TSE Wai-chun, JP
Hon LEUNG Kwok-hung
Hon Michael TIEN Puk-sun, BBS, JP
Hon YIU Si-wing, BBS
Dr Hon KWOK Ka-ki
Hon KWOK Wai-keung
Hon Christopher CHEUNG Wah-fung, SBS, JP
Hon POON Siu-ping, BBS, MH
Dr Hon CHIANG Lai-wan, JP
Hon Andrew WAN Siu-kin
Hon Jimmy NG Wing-ka, JP
Hon SHIU Ka-fai
Hon SHIU Ka-chun
Hon LUK Chung-hung
Hon Jeremy TAM Man-ho
Hon Nathan LAW Kwun-chung
Dr Hon LAU Siu-lai

Members attending : Dr Hon Helena WONG Pik-wan
Hon HUI Chi-fung

Members absent : Hon WONG Kwok-kin, SBS, JP
Hon Alice MAK Mei-kuen, BBS, JP
Dr Hon Fernando CHEUNG Chiu-hung
Hon CHU Hoi-dick
Dr Hon Pierre CHAN

Public Officers attending : Item IV

Ms Melody LUK Wai-ling
Assistant Commissioner for Labour
(Labour Relations)

Item V

Miss Mabel LI Po-yi, JP
Deputy Commissioner for Labour
(Labour Administration)

Mr Raymond HO Kam-biu
Assistant Commissioner for Labour
(Development)

Miss Bonny WONG Wai-man
Senior Labour Officer
(Statutory Minimum Wage)
Labour Department

Mr Sam SUM Kai-wah
Senior Labour Officer (Labour Inspection)
Labour Department

Item VI

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

Mr Carlson CHAN Ka-shun, JP
Commissioner for Labour

Mr Raymond HO Kam-biu
Assistant Commissioner for Labour
(Development)

Miss Can CHAN Shuk-yee
Chief Executive Officer
(Work Incentive Transport Subsidy)
Labour Department

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

Staff in attendance : Mr Kari CHU }
Chief Council Researcher 2 }
} Item IV only
Miss Angela CHOI }
Senior Council Researcher 7 }

Ms Rita LAI
Senior Council Secretary (2) 1

Ms Mina CHAN
Council Secretary (2) 1

Ms Kiwi NG
Legislative Assistant (2) 1

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I. Confirmation of minutes of previous meeting
(LC Paper No. CB(2)1194/16-17)

The minutes of the meeting held on 21 February 2017 were confirmed.

II. Information paper issued since the last meeting
(LC Paper No. CB(2)1142/16-17(01))

2. Members noted that a letter dated 3 April 2017 from Mr POON Siu-ping suggesting the Panel to discuss issues regarding measures to improve occupational safety and prevent industrial accidents had been issued since the last meeting. The Chairman advised that the subject of occupational safety performance had been included in the Panel's list of outstanding items for discussion.

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III. Date of next meeting and items for discussion
(LC Paper Nos. CB(2)1196/16-17(01) and (02))

Regular meeting in May 2017

3. Members agreed that the following items would be discussed at the next regular meeting on 16 May 2017 at 4:30 pm:

- (a) Major findings of the 2016 Annual Earnings and Hours Survey; and
- (b) Occupational safety concerning the construction of Hong Kong-Zhuhai-Macao Bridge.

In respect of item (b) above, members further agreed that deputations would be invited to give views on the item and that the meeting would be extended to allow more time for discussion. Dr LAU Siu-lai suggested that representatives of relevant bureaux/government departments, including those from the Development Bureau and the Highways Department, should be invited to the meeting.

Items for discussion at future meetings

Abolishing the "offsetting" arrangement progressively

4. In response to the Chairman's enquiry about the work progress of the Government's proposal of progressively abolishing the "offsetting" arrangement of mandatory provident fund ("MPF") contributions with severance payment or long service payment, Secretary for Labour & Welfare ("SLW") said that the Administration was engaging the business and labour sectors, MPF trustees and relevant advisory boards in discussion of the proposal and listening to their views. The Administration aimed to finalize the proposal by the end of June 2017.

Standard working hours

5. Responding to the Chairman's further enquiry about the proposed timing for discussion of the subject of standard working hours ("SWH"), SLW said that the SWH Committee submitted its report to the Government on 27 January 2017. The Government was taking full account of the report and the views of various sectors of the community,

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and would strive to map out within the term of the current Government the working hours policy direction that would suit Hong Kong's socio-economic situation. The Administration would revert to the Panel on the subject as soon as practicable.

IV. Briefing on information note on paid maternity leave in selected places

(LC Paper No. IN05/16-17)

6. The Chairman said that the Research Office of the Legislative Council ("LegCo") Secretariat would brief members on the key features of statutory maternity leave ("ML") in eight selected places as set out in the information note issued to members in February 2017. Members might seek clarification and supplementary information on the information note at this meeting. The Panel would discuss the subject of ML at a future meeting, if necessary.

7. With the aid of powerpoint presentation, Chief Council Researcher 2 of the Research Office ("CCR2") gave a briefing on the information note on paid ML in eight selected places.

(Post-meeting note: The powerpoint presentation materials were tabled at the meeting and circulated to members vide LC Paper No. CB(2)1237/16-17(01) on 19 April 2017.)

8. Dr Helena WONG said that the Democratic Party was in support of extending the duration of statutory ML to 14 weeks with full pay. Dr WONG was of the view that the Government should make reference to the arrangement of funding the ML pay by social insurance as adopted in some overseas places and partially finance the ML cost which was currently fully borne by individual employers. She enquired about whether there was any room for improvement in terms of the duration and pay of ML in Hong Kong.

9. Drawing on the Administration's paper on "Provisions on maternity leave under the Employment Ordinance" for the Panel meeting on 17 May 2016, CCR2 noted the position of the Administration that, in assessing whether to further improve maternity benefits for pregnant employees, the Administration would take into consideration employers' affordability and whether there was consensus in the community.

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10. Drawing reference to the arrangement adopted in some overseas places where ML pay was funded by a contributory social insurance, Dr CHIANG Lai-wan called on the Administration to consider setting up a fund to relieve employers' financial burden in meeting the additional operation cost if maternity benefits were to be enhanced.

11. Mr POON Siu-ping expressed disappointment that no legislative amendments had been made to the maternity provisions under the Employment Ordinance (Cap. 57) ("EO") since 1995. To his understanding, a piece of new legislation on shared parental leave ("PL") in the United Kingdom ("UK") was enacted in mid-2015 to promote family-friendly employment practices ("FFEP"). Mr POON further asked whether the 52-week ML was transferrable to the father of the newborns in UK, as in the case of the 480 days of statutory PL in Sweden.

12. Senior Council Researcher 7 pointed out that pregnant employees in UK were entitled to up to 52 weeks of statutory ML whereas statutory PL was granted to pregnant employees and their partners. She undertook to provide supplementary information on PL in UK after the meeting. As in the case of Sweden, ML had been replaced by a more gender-neutral PL policy since 1974, within which a specific number of days were reserved for each parent and the rest were transferable from one parent to the other.

13. Mr HUI Chi-fung considered that the provision of ML was part and parcel of FFEP. Given that Hong Kong lagged much behind the eight selected places in ML provision, he was concerned about the Administration's efforts in promoting FFEP. To facilitate future discussion of the matter, Mr HUI requested and CCR2 agreed to provide supplementary information on FFEP in the eight selected places.

Research
Office

14. The Deputy Chairman said that to his understanding, in Taiwan, parent with a newborn could apply for unpaid leave to take care of the child until the age of three. The Deputy Chairman requested and CCR2 agreed to provide further information on such unpaid leave arrangement in Taiwan after the meeting.

Research
Office

15. Expressing concern about the very low fertility rate in Hong Kong, Mr KWOK Wai-keung held the view that provision of maternity benefits alone could not encourage childbirth. To his understanding, there were complementary measures taken by the governments of Singapore and

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Research
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Taiwan to encourage childbirth. In this connection, Mr KWOK sought information on the fertility rate and unemployment rate in the eight selected places for exploration of the correlation between provision of ML/PL and childbirth policy in these places. CCR2 said that the Research Office would collate information on the unemployment rate and fertility rate in the eight selected places and see whether they had affected the statutory ML policies after the meeting.

16. The Chairman requested the Administration to take heed of members' concerns and views on the statutory maternity provisions in Hong Kong as compared with those in the eight selected places. He added that a meeting would be scheduled for discussion on the subject. Dr Helena WONG and Mr HUI Chi-fung suggested that the Panel should receive deputations' views on the subject.

V. Preparatory work for the implementation of the revised Statutory Minimum Wage rate
(LC Paper Nos. CB(2)1196/16-17(03) and (04))

17. Deputy Commissioner for Labour (Labour Administration) ("DC for L (LA)") briefed members on the preparatory work undertaken by the Labour Department ("LD") for the implementation of the revised Statutory Minimum Wage ("SMW") rate, as set out in the Administration's paper.

18. Members noted a background brief entitled "Preparatory work for the implementation of statutory minimum wage" prepared by the LegCo Secretariat.

Implementation of Statutory Minimum Wage

19. Dr CHIANG Lai-wan sought information about the number and percentage of employees earning the SMW rate in the past years since the implementation of SMW in May 2011. Mr Andrew WAN asked about the estimated number of employees who would benefit from the uprating of SMW to \$34.5 per hour. DC for L (LA) advised that according to the findings of the Annual Earnings and Hours Survey ("AEHS") in the respective years, the number of employees (with its proportion among all employees in brackets) earning the SMW rate was 180 600 (6.4%) in May to June 2011 (with the initial SMW rate of \$28 per hour), 98 100 (3.4%) in May to June 2013 (with the SMW rate at \$30 per hour), and 41 900 (1.4%) in May to June 2015 (with the SMW rate at \$32.5 per

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hour). The corresponding number of employees earning the revised SMW rate of \$34.5 per hour, which would take effect from 1 May 2017, would be reflected in the next round of AEHS to be conducted in May to June 2017. As set out in the 2016 Report of the Minimum Wage Commission ("MWC"), based on experience upon the implementation of SMW, with the knock-on effect on pay hierarchies ("knock-on effect"), the number of employees receiving a pay rise attributable to the uprating of SMW was generally larger than the number of employees earning just the SMW rate.

20. Dr CHIANG Lai-wan asked whether the decreasing number of employees covered by the SMW rate was due to the fact that an increasing number of low-income employees were engaged in part-time jobs and could not meet the continuous contract requirement under EO. The Chairman considered that the Administration should critically examine the effectiveness of SMW in protecting low-income workers against low wages in the light of the decreasing number of employees earning the SMW rate.

21. DC for L (LA) explained that after the implementation of SMW, it was observed that with the revision of the SMW rate, wages of employees originally earning just the SMW rate were raised to the revised SMW rate or above, while some low-paid employees earning wages above the SMW rate also enjoyed corresponding pay rise owing to the knock-on effect of the uprating of SMW. This suggested that more low-paid employees had notable wage gain with their hourly wage rates exceeding SMW. DC for L (LA) added that the SMW regime also applied to part-time employees, regardless of whether or not they were employed under a continuous contract as defined in EO. According to the 2016 AEHS findings, 7% of the total number of employees were employed on a part-time basis, remaining largely at the same level as that before the implementation of SMW. This reflected that the implementation of SMW had not resulted in fragmented employment.

22. While acknowledging the wage protection objective of SMW, Mr YIU Si-wing pointed out that the implementation of SMW had made it difficult for specific industries with comparatively less favourable working environment, such as catering, hotel and elderly care services, to retain existing staff and attract new entrants. He asked whether consideration would be given to expanding the Supplementary Labour Scheme to address the acute recruitment difficulties currently faced by individual service industries.

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23. DC for L (LA) pointed out that in making its recommendation on the revised SMW rate, MWC had considered relevant information and data collected from various surveys conducted regularly by the Census and Statistics Department ("C&SD"), which included the employment conditions in various industries. MWC had also conducted extensive consultation with stakeholders and members of the public and had fully considered the views of various sectors of the community, including organizations respectively representing employers and employees of different trades. As regards importation of labour, DC for L (LA) advised that the Supplementary Labour Scheme administered by LD allowed employers with genuine difficulties in finding suitable staff locally to import skilled workers on an appropriate, limited and targeted basis to relieve the manpower shortage of various sectors. Besides, relevant Government bureaux and departments had all along been closely monitoring the manpower demand and supply of different sectors and had strengthened training initiatives to attract new entrants to those sectors.

Impact of Statutory Minimum Wage on the employment of persons with disabilities

24. Deputy Chairman expressed concern about the impact of SMW on the employment of persons with disabilities. He asked whether the Administration had conducted any study in this regard.

25. DC for L (LA) advised that under the Minimum Wage Ordinance (Cap. 608) ("MWO"), employees with disabilities and able-bodied employees were protected by SMW alike. A special arrangement was also specified in MWO so that employees with disabilities had the right to undergo productivity assessment. LD had completed a review on this special arrangement for employees with disabilities under the SMW regime and reported the review results to the Panel in December 2014. The review covered, among other things, the impact of SMW on the employment opportunities of persons with disabilities. According to the review results, views gathered from many stakeholders of the rehabilitation sector had indicated that SMW had not brought about a significantly adverse impact on the employment opportunities of persons with disabilities and many employers had been willing to offer the SMW rate to persons with disabilities.

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26. Deputy Chairman took the view that consideration should be given to collecting specific statistics on the changes in the employment situation of persons with disabilities before and after the implementation of SMW. DC for L (LA) said that employment statistics of persons with disabilities were released in 2014 in the Special Topic Report No. 62 - Persons with Disabilities and Chronic Diseases. She took note of the Deputy Chairman's suggestion and said that LD would relay his view to C&SD for consideration in the next round of relevant Special Topic Enquiry.

27. The Chairman asked whether the Administration would consider to obtain employment statistics of employees with disabilities, in particular whether they were paid with wages less than the SMW rate, say, from sheltered workshops. DC for L (LA) explained that sheltered workshops provided persons with disabilities, who were not able to enter into open employment, with appropriate vocational training in a specially designed environment, in which there was no employer-employee relationship between the service units and the trainees. As such, training allowance for trainees of sheltered workshops was not subject to the SMW requirement.

28. In response to Deputy Chairman's enquiry about the employment support and services for persons with disabilities, DC for L (LA) advised that to enhance the employability of job seekers with disabilities, LD, in addition to providing personalized employment services, would continue to implement the Work Orientation and Placement Scheme, which aimed to encourage employers to offer more employment opportunities for persons with disabilities and provide them with coaching and support through the provision of an allowance. The Social Welfare Department also provided various support and services for promoting the employment of persons with disabilities.

Review of the Statutory Minimum Wage rate

29. Mr SHIU Ka-chun and Mr POON Siu-ping called on the Administration to review the SMW rate on an annual basis such that the wage level of grassroots workers could catch up with inflation and enable them to meet their living expenses. Mr LUK Chung-hung took the view that MWC should take into account local economic growth in its future review of the SMW rate. Mr Andrew WAN asked whether the Administration would consider taking into account the actual living cost of low-income employees in determining the SMW rate so that those employees earning the SMW rate could maintain a reasonable standard of living and meet the basic needs of their families.

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30. DC for L (LA) explained that in making its recommendation on the revised SMW rate, MWC had considered an Array of Indicators reflecting the latest socio-economic and employment conditions after the implementation of SMW and its upratings as well as forecasts of the local economic growth and inflation. DC for L (LA) drew members' attention to the fact that the inflationary pressure of Hong Kong had remained relatively moderate in the past years. While the revised SMW rate of \$34.5 represented an increase of 6.2% over the current SMW rate of \$32.5, the cumulative increase of underlying Composite Consumer Price Index from May 2015 (i.e. the last adjustment of the SMW rate) to February 2017 was 3.6% only.

31. DC for L (LA) further said that MWC had fully considered the views of the community on the review of the SMW rate collected during its public consultation. As stated in MWC's 2016 Report, even though SMW helped raise the employment earnings of low-paid workers, it was by no means and should not be the only way of resolving working poverty. Besides, since the employment terms and working hours of individual employees as well as their family situations and needs varied, it was difficult to meet the needs of the families of all employees by relying on the uprating of SMW. DC for L (LA) added that the Administration had implemented the Low-income Working Family Allowance ("LIFA") Scheme since May 2016.

Enforcement work

32. Noting that LD would launch targeted enforcement campaigns to ensure compliance with MWO by employers, Mr POON Siu-ping enquired about the concrete measures to be taken by LD. Referring to paragraph 11 of the Administration's paper, Mr POON asked about the breakdown by industries of the 44 convicted summonses for failure to pay SMW and the penalties imposed.

33. DC for L (LA) said that in addition to conducting workplace inspections to establishments of various trades, LD would launch targeted inspection campaigns for low-paying sectors, including catering, retail, security services, cleaning services and elderly care services, etc., to ensure compliance with MWO. Such targeted inspection campaigns would be carried out from June 2017 to monitor wage payment after the coming into effect of the revised SMW rate on 1 May 2017. DC for L (LA) further said that the 44 convicted summonses involved

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different industries, viz. security services, beauty care, telecommunications, business services, elderly care services, import and export, retail, construction and real estate agency industry, with 12 of these summonses issued against non-compliant employers of security services. The highest fine imposed for a convicted case was \$25,000. In 2016, a fine of \$7,000 was imposed on one convicted case for underpayment of SMW in the real estate agency industry.

VI. Proposed freezing of two income limits under the Work Incentive Transport Subsidy Scheme

(LC Paper Nos. CB(2)1126/16-17(01) and CB(2)1196/16-17(05))

34. At the invitation of the Chairman, SLW briefed members on the proposal to freeze the income limits for (a) individual-based/one-person household-based applications, and (b) household-based applications from households of six persons or above under the Work Incentive Transport Subsidy ("WITS") Scheme (hereafter referred to as "the proposal"), as detailed in the Administration's paper.

35. Members noted a background brief entitled "Work Incentive Transport Subsidy Scheme" prepared by the LegCo Secretariat.

36. Mr SHIU Ka-chun asked why the proposed freezing of income limits would not apply to applications from households with two members and five members. SLW explained that the income limits for household sizes of two to five persons and the asset limits for individual-based applications and different household sizes had been adjusted upwards in accordance with the existing adjustment mechanism and taken effect from the claim month of February 2017. A strict adherence to the existing adjustment mechanism would result in reduction of the applicable income limit for individual-based/one-person household-based applications and that for applications from households of six persons or above. The Administration proposed to freeze the income limits for these two categories of applicants in the annual adjustment in 2017 pending the completion of the forthcoming overall policy review of the LIFA Scheme which would also examine the interface issues between LIFA and WITS.

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Review of the Work Incentive Transport Subsidy Scheme

37. Mr POON Siu-ping said that he in principle was in support of the proposal. That said, Mr POON considered it inappropriate to require applicants to undergo an asset test under the WITS Scheme which aimed at encouraging employment. Noting that the Government would conduct an overall policy review of the LIFA Scheme one year after its implementation, i.e. in mid-2017 and the interface issues between LIFA and WITS, Mr POON asked about the specific timetable and details of the review. Echoing a similar concern, the Deputy Chairman said that the low take-up rate of the WITS applications was due to the stringent eligibility criteria. He also considered the design of the application form for WITS too complicated and time-consuming for completion.

38. Pointing out that the poverty line was set at 50% of median monthly household income, Mr SHIU Ka-chun expressed concern that the income limits for individual-based applications / different household sizes were, however, set at 60% to 100% of the median monthly domestic household income of the corresponding household sizes. In addition, the income limits for LIFA Scheme were more stringent than that under the WITS Scheme. He queried about the different income limits under the WITS Scheme and the LIFA Scheme given that the policy objectives of both schemes were to provide assistance to low-income families. In his view, the Administration's poverty alleviation policy was piecemeal and lack of comprehensive planning. Mr SHIU also expressed concern that the administration cost for the WITS Scheme was too high and unacceptable.

39. SLW said that the LIFA Scheme had been implemented since May 2016. The Government would conduct a comprehensive policy review on the LIFA Scheme one year after its implementation, i.e. in mid-2017. In this context, the interface issues between the LIFA Scheme and the WITS Scheme would be examined, and the Administration would also explore how to rationalize the income limit adjustment mechanism and manpower requirements for WITS Scheme as well as the application procedures. The overall objective was to keep both schemes simple and easy to administer having taken into account the principle of prudent use of public money. In fact, the Administration had commenced the relevant preparatory work for the upcoming review in mid-2017, including commissioning a survey agency to conduct surveys and to seek from LIFA recipients information that was not captured in the administrative data of the LIFA applications, such as any

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changes in their working hours and employment earnings before and after the implementation of the LIFA Scheme. The Administration would also study the reasons why eligible low-income employees who appeared, prima facie, to be eligible for LIFA in terms of income and the number of working hours, had not applied for LIFA. In this connection, the Labour and Welfare Bureau had commissioned C&SD to collect such information from target applicants during its General Household Survey ("GHS"). It was expected that such information would be available around September 2017.

40. The Chairman was concerned about whether the next-term Government would duly follow up on the review findings. SLW said that as the WITS Scheme and the LIFA Scheme aimed at promoting employment and self-reliance which was in line with the overall policy objective of the Government, he expected that the Government would continue to enhance relevant initiatives as appropriate along similar strategic policy direction.

Level of subsidy rate

41. Dr LAU Siu-lai expressed grave concern that the level of monthly subsidy of \$600 had remained unchanged since inception of the WITS Scheme in 2011. The amount of subsidy was insufficient for those residing in remote areas to cover their work-related travelling expenses in view of the significant rise in fares of various transport modes. Dr LAU was of the view that the subsidy rate should be adjusted annually. Sharing a similar view, Mr Jeremy TAM considered that the subsidy rate should be adjusted with reference to the annual increase in the public transport fares. Dr LAU added that a two-tier subsidy rates based on the distance between the location of work and residence should be introduced.

42. SLW said that when the Administration reported to the Panel on the findings of a review of the WITS Scheme in June 2016, it had pointed out that according to GHS conducted by C&SD in the third quarter of 2015, the average monthly expense of WITS target recipients on public transport for travelling to and from work was \$442, and the amount for those working across districts and for those residing in the New Territories were \$481 and \$525 respectively, falling within the present full-rate WITS at \$600 per month. SLW further said that LD had commissioned C&SD to collect such statistics in the fourth quarter of 2016. It was expected that the latest statistics would be available by mid-2017.

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43. The Chairman said that the Administration should also collect statistics on the actual expenses incurred by WITS recipients for travelling to and from work and study whether the present full-rate WITS at \$600 per month was adequate in meeting the actual work-related travelling expenses of individual recipients. SLW said that members' views on the level of subsidy rate were fully noted and would be taken into consideration as appropriate.

Applications under the Work Incentive Transport Subsidy Scheme

Admin

44. Noting that many applicants had submitted more than one round of applications for the WITS Scheme from October 2011 to February 2017, Mr Jeremy TAM requested the Administration to provide the respective number of applicants who had submitted one, two, three and four or above round(s) of applications. The Administration agreed to provide such information in writing after the meeting. In response to Mr TAM's enquiry, Assistant Commissioner for Labour (Development) responded that the proportion of applications made by individuals, households with two, three, four, five and six members or above were 50%, 17.5%, 16%, 12.5%, 3% and 1% respectively. Mr TAM expressed concern whether the comparatively fewer applications made by households with more members was due to the stringent eligibility criteria. He further requested and the Administration agreed to provide a breakdown of household-based applications under the WITS Scheme by household size.

Admin

45. Mr LEUNG Kwok-hung considered that the WITS Scheme was a form of low-income supplement for the working-poor families. Eligible workers were, however, deterred from applying for WITS because of the difficulties for them to obtain supporting documents, such as proof for employment earnings, from their employers. In his view, the Administration should also address the problem of low wage level by raising the SMW rate.

46. In concluding the discussion, the Chairman said that members raised no objection to the Administration's proposed special one-off arrangement to freeze the income limits for two categories of WITS applicants and reporting of the proposal to the Finance Committee by circulation of an Information Note.

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47. There being no other business, the meeting ended at 6:31 pm.

Council Business Division 2
Legislative Council Secretariat
15 June 2017