

立法會

Legislative Council

LC Paper No. CB(2)2093/16-17
(These minutes have been seen
by the Administration)

Ref : CB2/PL/MP

Panel on Manpower

Minutes of meeting
held on Tuesday, 20 June 2017, at 3:00 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 WONG Kwok-kin, SBS, JP
Hon Paul TSE Wai-chun, JP
Hon LEUNG Kwok-hung
Hon Michael TIEN Puk-sun, BBS, JP
Hon YIU Si-wing, BBS
Hon Alice MAK Mei-kuen, BBS, JP
Dr Hon KWOK Ka-ki
Hon KWOK Wai-keung
Hon Christopher CHEUNG Wah-fung, SBS, JP
Dr Hon Fernando CHEUNG Chiu-hung
Hon POON Siu-ping, BBS, MH
Dr Hon CHIANG Lai-wan, JP
Hon Andrew WAN Siu-kin
Hon CHU Hoi-dick
Hon SHIU Ka-fai
Hon SHIU Ka-chun
Dr Hon Pierre CHAN
Hon LUK Chung-hung
Hon Jeremy TAM Man-ho
Hon Nathan LAW Kwun-chung
Dr Hon LAU Siu-lai

Member attending : Hon Frankie YICK Chi-ming, JP

Member absent : Hon Jimmy NG Wing-ka, JP

[According to the Judgment of the Court of First Instance of the High Court on 14 July 2017, LEUNG Kwok-hung, Nathan LAW Kwun-chung, YIU Chung-yim and LAU Siu-lai have been disqualified from assuming the office of a member of the Legislative Council, and have vacated the same since 12 October 2016, and are not entitled to act as a member of the Legislative Council.]

Public Officers attending : Item IV

Mr Jeff LEUNG Wing-yan
Deputy Commissioner for Labour
(Occupational Safety and Health)

Mr WU Wai-hung
Assistant Commissioner for Labour
(Occupational Safety)

Mr MAK Ping-sang
Chief Occupational Safety Officer
(System and Support)
Labour Department

Item V

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

Mr Carlson CHAN Ka-shun, JP
Commissioner for Labour

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

Mr Simon LI Chi-chung
Chief Labour Officer (Working Hours Policy)
Labour Department

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

Attendance
by invitation : Item V

Session One

Hong Kong Catholic Commission For Labour Affairs

Miss LAW Pui-shan
Policy Research Officer

The Hong Kong Federation of Trade Unions Rights &
Benefits Committee

Mr WONG Chi-wah
Member

The Civic Party

Mr Warren TAM Ka-chun
District Developer of the New Territories West

Retail, Commerce and Clothing Industries General Union

Ms CHAN Im-mui
President

Hong Kong Catering Industry Association

Mr FUNG Bing-hau
Representative

Institution of Dining Art

Mr CHENG Pak-man
Vice-Chairman

New People's Party / Civil Force

Ms LAM Chung-yan
Representative

The Lion Rock Institute

Mr Joe CHAN
Programme Director

Association of Restaurant Managers Ltd.

Mr LEUNG Chi-wai
Chairman

Hong Kong Container Tractor Owner Association Ltd.

Mr LAM Hoi-tat
Chairman

The Cosmetic & Perfumery Association of Hong Kong Ltd.

Mr HO Shiu-chung
President

Employers' Federation of Hong Kong

Mr PONG Wai-yan
Chief Executive Officer

九龍公共小型巴士潮籍工商聯誼會

Mr 吳錦順

The Democratic Party

Mr LUK Tai-hang
Community Officer

工黨青年部

Mr CHIU Yan-loy

Hong Kong & Kowloon Motor Boats & Tug Boats
Association Ltd.

Mr Bondy WEN Tsz-kit
Chairman

Individual

Mr NGAN Lit-fung

The Federation of Hong Kong & Kowloon Labour Unions

Mr NG Kwong-king

Hong Kong Chef Union

Mr NG Chi-fai
Chairman

Individual

Miss WONG Hiu-kwan

Individual

Mr 蘇偉權

唔要合約工時，我要標準工時大聯盟

Mr KWOK Man-ho
Spokesperson

Kwai Fong Workers

Miss 馮淑儀
Representative

Hong Kong Ample Love Society Ltd.

Ms TSANG Cheuk-yi
Chairlady

Good Neighbour North District Church

Mr CHAN Hoi-hing
Minister

街坊工友服務處 勞工組

Mr LAI Chi-po
Member

飲食業職工總會

Mr CHOW Ho-wan
Representative

Hong Kong Taxi Owners' Association Ltd.

Mr WONG Po-keung
Chairman

飲食及酒店業職工總會

Ms 羅鄧敬

The Federation of Hong Kong Property Management
Industry Limited

Mr 李偉宗

Union of Hong Kong Dockers

Mr HUNG Chun-ngai
Director General

Session Two

Individual

Miss 胡嘉琪

Individual

Miss 蔡莉莉

Federation of Hong Kong Industries

Mr Jimmy KWOK Chun-wah
Deputy Chairman

North District Employment Concern Group

Ms KWOK Yuen-yee
Convener

Catholic Diocese of Hong Kong Diocesan Pastoral Centre
for Workers - New Territories

Mr Augustine YU Siu-po
Centre Supervisor

New Territories Outsourcing Cleaners Concern Group

Miss LEE Wing-sze
Member

North District Low Income Family Concern Group

Mr LAM Yui-kam
Member

Hong Kong Food and Environmental Hygiene Department
Staff Rights Union

Mr SZE Loi-yan
Treasurer

Economy Panel of The Liberal Party

Mr CHOI Tak-shing
Member

Individual

Mr HO Wang

Progressive Labor Union for Domestic Workers

Miss ESTRADA Grace A.
Chairperson

Thai Migrant Workers' Union

Miss JAROENNON Parichat
Vice Chairperson

Hong Kong Federation of Asian Domestic Workers Unions

Mr TANG Kin-wa
Organizing Secretary

Union of Nepalese Domestic Workers in Hong Kong

Miss SHRESTHA Namrata
Organizing Secretary

Association of Indonesian Migrant Workers (ATKI-HK)

Ms Maesaroh
Chairperson

Where Is the Promised Standard Working Hours?

Mr YU Hok-man
Spokesperson

Individual

Mr WONG Cho-ki

Indonesian Migrant Workers' Union

Ms Sringatin
Chairperson

Asian Migrants' Coordinating Body (AMCB-IMA)

Mr VILLANUEVA Emmanuel
Spokesperson

Mission For Migrant Workers

Miss 唐曉昕

Individual

Miss CHAN Wai-chun

Union of Food and Environmental Hygiene Department
Market Association

Mr KWOK Kin-bun
Chairperson

Government Frontline Employee Union

Ms CHAU Ling-wah
Vice-Chairperson

United Filipinos in Hong Kong

Ms Vicky Casia Cabantac
Chairperson

Individual

Mr Why

Hong Kong Buildings Management and Security Workers
General Union

Mr John LEUNG Yip-hon
Organizing Secretary

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

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

Ms Kiwi NG
Legislative Assistant (2) 1

Miss Lulu YEUNG
Clerical Assistant (2) 1

Action

I. Confirmation of minutes of previous meeting
(LC Paper No. CB(2)1613/16-17)

The minutes of the meeting held on 18 April 2017 were confirmed.

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II. Information papers issued since the last meeting

(LC Paper Nos. CB(2)1508/16-17(01), CB(2)1611/16-17(01), CB(2)1651/16-17(01) and CB(2)1676/16-17(01))

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

- (a) joint letter dated 19 May 2017 from Mr KWOK Wai-keung, Mr HO Kai-ming and Mr LUK Chung-hung suggesting the Panel to follow up the review of implementation of statutory paternity leave and the Administration's response to the joint letter;
- (b) letter dated 7 June 2017 from Mr LUK Chung-hung proposing the Panel to hold a joint meeting with the Panel on Financial Affairs to discuss policy on outsourcing government services and the rights and benefits of workers engaged by government service contractors ("outsourced workers"); and
- (c) letter dated 16 June 2017 from Dr LAU Siu-lai proposing the Panel to discuss review of statutory maternity leave and review of the continuous contract requirement under the Employment Ordinance (Cap. 57) ("EO").

3. The Chairman said that the proposed items for discussion in paragraph 2(a) to (c) above had already been included in the Panel's list of outstanding items for discussion. Regarding Dr LAU Siu-lai's suggestion to discuss review of statutory maternity leave in paragraph 2(c), members might wish to consider the matter under agenda item III.

III. Date of next meeting and items for discussion

(LC Paper Nos. CB(2)1615/16-17(01) and (02))

Regular meeting in July 2017

4. Members noted that the Administration proposed to discuss the following items at the next regular meeting on 18 July 2017:

- (a) Review of statutory maternity leave;

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- (b) Occupational disease and occupational health situation in 2016; and
- (c) Adjustment of the maximum rates of medical expenses under the Employees' Compensation Ordinance and the Pneumoconiosis and Mesothelioma (Compensation) Ordinance.

The Chairman invited members' views on whether the Panel could deal with three discussion items at the next meeting. Members considered that the Panel should discuss and receive deputations' views on review of statutory maternity leave at the next meeting. The Chairman said that to allow sufficient time for meeting with deputations and discussion of the review of statutory maternity leave, he would liaise with the Administration about the timing for discussion of the other two proposed discussion items. Members would be informed of the agenda for the July meeting in due course.

(Post-meeting note: Members were informed of the meeting arrangement for the meeting on 18 July 2017 vide LC Paper No. CB(2)1737/16-17.)

Alignment of statutory holidays with general holidays

5. Dr CHIANG Lai-wan suggested that the Panel should follow up on the alignment of number of statutory holidays with general holidays. The Chairman instructed that the item be added to the Panel's list of outstanding items for discussion.

Secretariat

IV. Hong Kong's occupational safety performance in 2016
(LC Paper Nos. CB(2)1615/16-17(03) and (04))

6. At the invitation of the Chairman, Deputy Commissioner for Labour (Occupational Safety and Health) ("DC for L(OSH)") briefed members on Hong Kong's occupational safety performance in 2016, as detailed in the Administration's paper.

7. Members noted an updated background brief entitled "Occupational safety performance in Hong Kong" prepared by the Legislative Council ("LegCo") Secretariat.

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Enforcement actions against occupational safety and health requirements

8. Pointing out that the Government was the largest employer of outsourced workers, Mr Andrew WAN was of the view that the Government should strengthen its regulatory efforts to safeguard OSH of these workers. He was particularly concerned about work injuries of non-skilled workers engaged by the Food and Environmental Hygiene Department ("FEHD") and Leisure and Cultural Services Department and sought information on the relevant statistics. He further asked whether FEHD had conducted surprise inspections to the workplaces of its outsourced workers to ensure their OSH.

Admin

9. DC for L(OSH) advised that when conducting surprise inspections to workplaces, the Labour Department ("LD") targeted at high-risk processes or workplaces rather than specific type of workers. LD therefore did not maintain separate statistics on occupational injuries of outsourced workers engaged by different bureaux/government departments. At the request of Mr Andrew WAN and the Chairman, DC for L(OSH) agreed to obtain the requisite information from the government departments concerned and provide members with the information, if available, after the meeting.

Admin

10. Noting that 307 prosecutions against breaching of OSH legislation had been initiated after LD's special enforcement operations conducted in March and April 2017, Dr LAU Siu-lai enquired about the targets of the special enforcement operations and the distribution of the prosecutions among public works projects and private developments. Assistant Commissioner for Labour (Occupational Safety) ("AC for L(OS)") said that the special enforcement operations targeted at new works and work-at-height safety, irrespective of whether the construction sites were under public works projects or private developments. AC for L(OS) added that Dr LAU's requested statistics on the distribution of prosecutions would be provided after the meeting.

Construction work safety

11. Mr POON Siu-ping expressed concern that up to mid-June 2017, LD had recorded 12 industrial fatalities in the year, including those happened at the construction sites of the Hongkong-Zhuhai-Macao Bridge ("HZMB") local related projects. He was of the view that the Administration should conduct a review on the effectiveness of the OSH

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measures. To his knowledge, LD's occupational safety officers ("OSOs") had complained about the increasing workload and severe manpower shortage in the rank. Mr POON enquired about the Administration's plan to increase manpower of the OSO grade to safeguard OSH of construction workers.

12. DC for L(OSH) said that LD adopted a risk-based approach for conducting site inspections and considered that manpower resources for OSOs were sufficient for the purpose. It would review the manpower requirement for OSOs regularly and bid for additional manpower resources if necessary.

13. Dr KWOK Ka-ki, however, expressed grave reservations about the sufficiency of OSOs in LD to conduct inspections to workplaces, having regard to the recurrence of fatal accidents and work injuries in the construction industry. Given that more than 5 000 workers were engaged on construction sites under the HZMB local related projects, Dr KWOK sought information on the number of frontline OSOs engaged to ensure work safety of the projects in the past six months.

14. DC for L(OSH) said that LD had stepped up its inspection efforts in the light of the recent fatalities and work injuries on the work sites of the HZMB local related projects. In keeping with the risk-based enforcement approach, the number of OSOs undertaking operations targeting these projects varied according to the intensity of such operations. The Chairman requested the Administration to provide the details in writing after the meeting.

Admin

Safety of working at height

15. Mr LUK Chung-hung noted with concern that among the 10 construction industrial fatalities in 2016, seven cases (i.e. 70%) involved persons falling from height. Mr LUK sought information on the new measures adopted by the Administration to reduce risks associated with working at height.

16. DC for L(OSH) said that the Administration was highly concerned that a number of the fatal accidents involved workers falling from height. LD had exchanged views with the major stakeholders on how to enhance the relevant work safety in the construction industry. To curb recurrence of similar accidents, LD had liaised with the Buildings Department in respect of provision of anchoring points in new buildings

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for installation of suspended working platform and other design safety initiatives to facilitate safe conduct of external wall works. LD also worked with the Construction Industry Council ("CIC") to explore the requirement of using fully-boarded scaffolding or adopting closely-spaced bamboo scaffolding on every lift for erection of working platforms to reduce hazards of falling from height when working on bamboo scaffolding. It was expected that relevant guidelines would be issued within 2017. In addition, LD and the Occupational Safety and Health Council had launched from 25 April 2017 the new Safety Helmets with Y-type Chin Straps Sponsorship Scheme for Small and Medium-sized Enterprises of Construction Industry, which would provide subsidy to small and medium-sized enterprises ("SMEs") engaged in the construction industry to acquire safety helmets with Y-type chin straps that conformed to safety standards in order to encourage the use of such helmets.

Road works safety

17. Referring to the several fatal accidents involving workers working on road/at roadside in 2016, Dr KWOK Ka-ki was concerned about the specific measures taken by the Administration to reduce such road accidents and thereby safeguarding the occupational safety of workers engaged in road works.

18. DC for L(OSH) said that after the occurrence of the several fatal accidents involving workers working on road/at roadside in 2016, LD had enhanced measures with regard to OSH of road/roadside work, including enhancing publicity and promotion work such as issuing relevant Work Safe Alerts to remind the industry to take appropriate measures to ensure the work safety of workers and to prevent recurrence of accidents; and stepping up surprise inspections to road/roadside work in terms of frequency and intensity, in particular during night-time. LD would continue with the efforts.

Level of penalty

19. Dr KWOK Ka-ki enquired about the Administration's timetable for introducing legislative amendments to impose heavier penalties for duty holders in contravention of the OSH legislation. The Chairman, Mr POON Siu-ping and Dr LAU Siu-lai echoed similar concerns. Dr LAU called on the Administration to consider making non-compliance with the OSH legislation a criminal offence in the event that the relevant

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industrial fatality was resultant from negligence on the part of the duty holder, so as to achieve a greater deterrent effect. Consideration could also be given to making reference to the imposition of different levels of penalties for breaching OSH legislation by the court in the United Kingdom.

20. DC for L (OSH) responded that LD in consultation with the Department of Justice would conduct a review on the penalty level for non-compliance with the OSH legislation. The Administration had commenced the relevant preparatory work with reference to the penalty levels under similar legislation in other jurisdictions. DC for L (OSH) pointed out that under the OSH legislation, it was a criminal offence if there was sufficient evidence substantiating that the duty holder/contractor was liable for causing the industrial accidents or fatalities. That said, the Administration would take note of Dr LAU Siu-lai's suggestion when conducting the review. The Chairman requested the Administration to keep the Panel posted of the review outcome.

Other issues

21. Pointing out that the phenomenon of false self-employment for food delivery service was common in the catering sector, Mr LUK Chung-hung was concerned about the protection for these self-employed persons ("SEP") under EO in the event of work accidents. In his view, the Administration should step up its publicity efforts to raise awareness of the public on the differences in the rights and benefits between an employee and a SEP under EO. Consideration should also be given to introducing relevant legislative amendments to EO to enhance the employees' protection for SEPs. In this connection, Mr LUK sought information on the number of work injury compensation claims involving disputes between the employer and injured employee over whether the latter was an employee or a SEP in the past year. DC for L (OSH) said that he did not have the information on hand and would provide the requisite information, if available, after the meeting.

Admin

22. Mr Jeremy TAM enquired about whether the Administration would model on overseas practices of erecting a monument in memory of the deceased workers in the vicinity of the site where the industrial fatal accident happened after completion of the public works project.

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23. DC for L (OSH) said that the Administration shared members' concern about the occurrence of industrial fatalities, irrespective of whether workers were engaged under public works projects or private development projects. After the occurrence of the accidents, LD and relevant government departments would take follow-up actions and provide support to the bereaved family members of workers who died in the industrial accidents. In addition, LD in collaboration with other government departments organized various activities on 28 April each year to observe the World Day for Safety and Health, which was also a memorial day for victims of work accidents, with a view to raising awareness of workplace safety and occupational health issues. DC for L (OSH) added that LD would convey Mr Jeremy TAM's suggestion to relevant government departments for consideration.

V. Follow up on the report of the Standard Working Hours Committee

(LC Paper Nos. CB(2)1615/16-17(05) and (06))

24. Secretary for Labour and Welfare ("SLW") briefed members on the working hours policy framework and the proposed measures to take forward the recommendations of the Standard Working Hours Committee ("SWHC") on working hours policy direction of Hong Kong, as set out in the Administration's paper.

25. Members noted an updated background brief entitled "Standard working hours" prepared by the LegCo Secretariat.

Presentation of views by deputations/individuals

26. At the invitation of the Chairman, a total of 57 deputations/individuals presented their views on the working hours policy framework and the Administration's proposed measures to take forward the subject. A summary of views of these deputations/individuals is in the **Appendix**.

Discussion

Long working hours situation

27. Mr POON Siu-ping, Mr LUK Chung-hung and Mr Nathan LAW were gravely concerned that according to a UBS Group survey conducted in 2016, Hong Kong almost topped all countries/places in terms of total working hours and the median weekly working hours was more than

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50 hours. Mr LAW was concerned that there were cases of employees suffering from overexertion at work and even cases of sudden deaths suspected to be caused by overexertion. Mr LUK informed members that the survey findings also showed that the weekly working hours had increased by six hours as compared with the corresponding survey in 2012. He expressed reservations that only overtime hours worked at the direction of employers was included in the Annual Earnings and Hours Survey ("AEHS") of the Census and Statistics Department and called on the Administration to improve the data collection methodology for the working hours statistics in order to reflect accurately the working hours situation and formulate an appropriate working hours policy. Mr LAW and the Deputy Chairman were of the view that social costs arising from the long working hours of employees, such as healthcare expenses and welfare services, were substantial. They enquired about whether the Administration had conducted relevant assessment.

28. Principal Economist of the Financial Secretary's Office ("PE/FSO") said that SWHC had taken into account relevant social factors during its deliberations on the working hours policy. However, in the light of overseas experience, it would take a long period of time to conduct a study on the social costs, for example, healthcare costs, arising from long working hours of employees. Moreover, it was also noteworthy that personal factors such as health conditions, lifestyles and types of work of individual employees would have to be taken into consideration in studying the correlation between working hours and healthcare expenses.

29. Mr LEUNG Kwok-hung was gravely concerned that a considerable number of grassroots employees had been working for long hours, but they could not support their livelihood because of the low wage level. In the absence of collective bargaining, employees were not on an equal footing with employers in the negotiation of terms and conditions of the employment contracts. Mr LEUNG was of the view that the Administration should address the situation by legislative means and introduce standard working hours ("SWH") across-the-board i.e. a weekly working hours of 44 hours for all employees.

30. Mr YIU Si-wing pointed out that it was difficult to implement SWH in the service industry as it comprised different work types and required much flexibility in the discharge of work duties. Mr YIU expressed concern that implementation of SWH would increase the operation cost of enterprises especially SMEs and might result in business closure and monopolization of the industry by a few large enterprises.

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Overall concerns on the Administration's proposal

31. Mr POON Siu-ping said that to his understanding, the labour sector was strongly dissatisfied and disappointed at the Administration's decision of not to pursue legislating for SWH but to adopt a legislative approach to mandate employers to enter into written employment contracts with the lower-income grassroots employees, which should include terms on working hours and overtime compensation arrangements ("the Administration's proposal"). Mr POON drew members' attention to the fact that the six employee representatives of the Labour Advisory Board ("LAB") on SWHC had ceased to participate in work of SWHC from November 2015 after the employer representatives had backtracked on their promise to conduct future discussion of the working hours policy direction on the basis of legislating for working hours of employees as agreed at the SWHC meeting on 18 March 2015. Against this background, he envisaged that it would be difficult for LAB to arrive at a consensus on the Administration's proposal and enquired about how the Administration would take forward the matter. Mr LEUNG Kwok-hung expressed a similar concern.

32. Mr KWOK Wai-keung and Mr LUK Chung-hung said that the labour sector would not accept the Administration's proposal or support the relevant legislative proposals. Mr KWOK considered that the Administration's proposal was inclined to the business sector. He added that the labour sector had a very clear and strong call for implementation of SWH i.e. a weekly working hours of 44 hours and overtime pay rate of 1.5 times so as to safeguard work-life balance of employees. Mr LUK pointed out that it was not uncommon for employees in the catering sector to work for long working hours without overtime compensation. He was concerned that such arrangement would be formalized if the existing long working hours were stipulated in employment contracts under the "contractual working hours" approach. In his view, the Administration should have a clear stance over the long working hours situation and whether overtime work should be compensated.

33. Dr Pierre CHAN said that public hospital doctors were in support of implementation of SWH, notwithstanding that it might not be applicable to them. Referring to a lawsuit years ago concerning remuneration for public hospital doctors when working on rest days and public holidays as well as their overtime compensation arrangements, Dr CHAN said that the court did not rule in favour of the claim regarding overtime work hours as terms on need to work overtime when necessary

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were stipulated in the employment contracts of public hospital doctors. He therefore considered that the "contractual working hours" approach could not adequately safeguard employees' rights against working hours arrangements.

34. Dr Fernando CHEUNG pointed out that following the adoption of the International Labour Convention in 1919 to limit hours of work and provide for adequate rest periods for workers, SWH had already been implemented in many countries/places, including the less developed countries, so as to protect the basic rights of employees. Dr CHEUNG considered that the Administration's proposal was far from adequate to safeguard the rights of grassroots workers and asked whether the Administration would consider shelving the proposal.

35. In response to members' views and concerns, SLW said that the Administration was fully aware of the divergent views between the labour sector and the employers over the subject of legislating for SWH which was a complex issue and would have far-reaching socio-economic implications. Adopting SWHC's recommendations would mark an important and positive step forward in shaping the working hours policy in Hong Kong. Specifically, adopting a legislative approach to mandate employers to enter into written employment contracts with the lower-income grassroots employees, which should include terms on working hours and overtime compensation arrangements as agreed between employers and employees ("Recommendation (1)") and adopting a legislative approach to specify that the lower-income grassroots employees should be entitled to overtime compensation by way of overtime pay at a rate no less than the rate of the agreed wages (i.e. wages as defined under EO but excluding overtime pay) or the equivalent time-off in lieu ("Recommendation (2)") could serve as a useful first step in improving the working hours policy by enhancing the transparency of the working hours terms and putting in place appropriate and fair overtime compensation arrangements for the lower-income grassroots employees.

36. SLW further said that the Administration would report to LAB the working hours policy framework and proposed measures to take forward SWHC's recommendations. The Administration would then proceed to examine and iron out the contents of the legislative proposals and the implementation arrangements and seek LAB's views. The Administration would also commence the formulation of sector-specific working hours guidelines through the tripartite committees of LD to

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provide guidance on suggested working hours standards, overtime compensation methods and good working hours management measures, etc. for reference and adoption by employers and employees. The Government would review the effectiveness and impact of the recommendations after two years of implementation, including whether there was a need for SWH legislation and, if so, its contents and relevant arrangements.

37. SLW added that the Administration's proposal would not apply to live-in domestic helpers, irrespective of whether they were foreign or local ones. The proposal was in line with the arrangements in other countries/places, such as South Korea, Singapore and the United Kingdom.

Proposed wage line and coverage of the Administration's proposal

38. Mr Jeremy TAM considered it imperative to safeguard work-life balance for all employees and therefore it was inappropriate to set a wage line for the implementation of a working hours policy. Mr TAM also expressed concern that the proposed wage line was too low, and employers could easily evade their statutory responsibility by providing employees with monthly wages barely above \$11,000. Mr TAM called on the Administration to implement SWH with a view to safeguarding employees' entitlement to compensation for overtime work and addressing the problem of underpaid overtime work.

39. The Deputy Chairman said that the Hong Kong Federation of Trade Unions expressed grave disappointment at the Administration's proposal and shared the views of the majority of deputations/individuals attending the meeting that the Administration should implement SWH to benefit more employees, given that most employees did not have the bargaining power to negotiate with employers on the terms and conditions of employment contracts. The Deputy Chairman enquired about the respective numbers of employees covered under Recommendations (1) and (2), if the wage line was to be set at monthly wages of \$11,000.

40. Mr KWOK Wai-keung said that the Administration's proposal could not squarely address the long working hours situation and uncompensated overtime work in specific trades and industries, including transport, catering, retail trade, elderly care services as well as middle management and professionals as the monthly earnings of the employees concerned had exceeded the proposed wage line.

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41. SLW responded that with reference to the crude assessment results, setting the wage line at monthly wages of \$11,000 would benefit some 610 000 employees under Recommendation (1) and around 550 000 under Recommendation (2). It was deemed an appropriate and acceptable wage line covering a reasonable number of low-income employees without significant adverse impact on enterprises and Hong Kong's overall economy. SLW stressed that the latest statistical data would be taken into account when finalizing the relevant legislative proposals.

42. In response to the Deputy Chairman's enquiry, PE/FSO said that the number of employees to benefit from Recommendation (2) would be around 550 000, and the corresponding annual additional wage bill would be around \$524 million (in 2016 prices), representing around 0.1% of the total wage bill.

43. The Deputy Chairman and Mr KWOK Wai-keung, however, were concerned whether the projected number of employees to benefit from the Administration's proposal was overestimated.

44. Mr SHIU Ka-fai said that the Liberal Party was in support of the Administration's proposed working hours policy direction. That said, it could further explore whether the proposed wage line should be adjusted upwards. Mr YIU Si-wing shared a similar view. Mr SHIU stressed that the terms and conditions of employment contracts could be worked out and agreed between employers and employees.

45. Mr Michael TIEN said that he was in support of addressing the issue of uncompensated overtime work by means of mandating written employment contracts, which should include terms on working hours and overtime compensation arrangements and that concerns over work-life balance should more appropriately be addressed by specifying the maximum working hours instead of SWH. Given the low unemployment rate in Hong Kong, Mr TIEN considered that employees were in a favourable position when choosing their jobs and their rights could be duly safeguarded. Nevertheless, Mr TIEN called on the Administration to consider adjusting the proposed wage line upwards to the median monthly wage of all employees in Hong Kong in 2016, i.e. \$16,200.

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46. SLW responded that the proposed wage line referred to the 20th percentile of monthly wages in 2016 AEHS Report. The Administration would take into account the latest statistical data as well as the affordability of enterprises and Hong Kong's overall economy when formulating the contents, including the proposed wage line, and detailed arrangements of Recommendations (1) and (2) under the relevant legislative proposals.

Motion

47. The Chairman put the following motion moved by Mr Michael TIEN to vote:

"本會要求政府實施標準工時委員會的建議時，將工資線定於「2016 年收入及工時按年統計調查」的每月工資中位數，即 16,200 元。"

(Translation)

"That this Panel requests the Government to, in implementing the recommendations of the Standard Working Hours Committee, set the wage line at the median monthly wage, i.e. \$16,200, indicated in the 2016 Report on Annual Earnings and Hours Survey."

The Chairman said that one member voted for the motion, five members voted against it and four members abstained. He declared that the motion was negated.

48. In concluding the discussion, the Chairman requested the Administration to relay to the next-term Government the views and concerns expressed by members and deputations attending the meeting over the Administration's proposal when formulating a working hours policy suitable for Hong Kong.

49. There being no other business, the meeting ended at 8:06 pm.

Panel on Manpower

Meeting on Tuesday, 20 June 2017, at 3:00 pm

Meeting to receive views on

"Follow up on the report of the Standard Working Hours Committee"**Summary of views and concerns expressed by deputations/individuals**

No.	Name of deputation/individual	Submission / Major views and concerns
<i>Session One</i>		
1.	Hong Kong Catholic Commission For Labour Affairs	<ul style="list-style-type: none"> ● LC Paper No. CB(2)1678/16-17(01)
2.	The Hong Kong Federation of Trade Unions Rights & Benefits Committee	<ul style="list-style-type: none"> ● LC Paper No. CB(2)1788/16-17(01)
3.	The Civic Party	<ul style="list-style-type: none"> ● LC Paper No. CB(2)1678/16-17(02)
4.	Retail, Commerce and Clothing Industries General Union	<ul style="list-style-type: none"> ● LC Paper No. CB(2)1615/16-17(07)
5.	Hong Kong Catering Industry Association	<ul style="list-style-type: none"> ● LC Paper No. CB(2)1672/16-17(01)
6.	Institution of Dining Art	<ul style="list-style-type: none"> ● LC Paper No. CB(2)1615/16-17(08)
7.	New People's Party / Civil Force	<ul style="list-style-type: none"> ● LC Paper No. CB(2)1719/16-17(01)
8.	The Lion Rock Institute	<ul style="list-style-type: none"> ● LC Paper No. CB(2)1678/16-17(03)
9.	Association of Restaurant Managers Ltd.	<ul style="list-style-type: none"> ● LC Paper No. CB(2)1615/16-17(10)
10.	Hong Kong Container Tractor Owner Association Ltd.	<ul style="list-style-type: none"> ● Opposed legislating for standard working hours ("SWH"), as it would adversely affect the flexibility of manpower deployment in the container industry. ● There would be much difficulties in implementing SWH in the small and medium-sized enterprises ("SMEs"). ● Due consideration should be given to the impact of implementation of SWH on the competitiveness of Hong Kong as well as upward mobility of the younger generation.

No.	Name of deputation/individual	Submission / Major views and concerns
11.	The Cosmetic & Perfumery Association of Hong Kong Ltd.	<ul style="list-style-type: none"> ● LC Paper No. CB(2)1678/16-17(04)
12.	Employers' Federation of Hong Kong	<ul style="list-style-type: none"> ● LC Paper No. CB(2)1615/16-17(11) ● LC Paper No. CB(2)1678/16-17(05) ● LC Paper No. CB(2)1719/16-17(02)
13.	九龍公共小型巴士潮籍工商聯誼會	<ul style="list-style-type: none"> ● Opposed legislating for SWH. ● Terms and conditions of the employment contracts should be reached by mutual agreement between employers and employees. The Administration should not introduce legislation to regulate working hours of employees.
14.	The Democratic Party	<ul style="list-style-type: none"> ● The Chief Executive failed to honour his election manifesto in respect of legislating for SWH. ● Opposed legislating for "contractual working hours" in place of legislating for SWH i.e. a weekly working hours of 44 hours and overtime pay rate of 1.5 times. There were worries that written employment contracts would formalize long working hours as the employment terms and conditions were largely decided by employers. ● Some of the grassroots workers, including security guards and those working in the retail trade and residential care homes for the elderly, would not be covered under the Administration's proposal i.e. setting the wage line at monthly wages of \$11,000 for implementing various recommendations for working hours arrangements ("the Administration's proposal"), as their monthly earnings exceeded \$11,000.
15.	工黨青年部	<ul style="list-style-type: none"> ● The long working hours situation in Hong Kong had caused a number of social problems. ● The Administration should legislate for SWH i.e. a daily working hours of eight hours, a weekly working hours of 44 hours and overtime pay rate of 1.5 times so as to safeguard work-life balance of employees. ● Opposed legislating for "contractual working hours". Employees did not have bargaining power to negotiate with employers on the terms and conditions of the employment contracts.
16.	Hong Kong & Kowloon Motor Boats & Tug Boats Association Ltd.	<ul style="list-style-type: none"> ● LC Paper No. CB(2)1719/16-17(03)

No.	Name of deputation/individual	Submission / Major views and concerns
17.	Mr NGAN Lit-fung	<ul style="list-style-type: none"> ● It was necessary to legislate for SWH (i.e. a weekly working hours of 44 hours and overtime pay rate of 1.5 times) and maximum working hours so as to safeguard work-life balance of employees. ● Concern was raised about uncompensated overtime work in the past years. Legislation should be introduced to plug the loophole. ● Legislating for "contractual working hours" could hardly safeguard employees' rights and benefits. Employees had no bargaining power during the negotiation of terms and conditions of the employment contracts. There was concern that long working hours would in effect be formalized.
18.	The Federation of Hong Kong & Kowloon Labour Unions	<ul style="list-style-type: none"> ● LC Paper No. CB(2)1719/16-17(04)
19.	Hong Kong Chef Union	<ul style="list-style-type: none"> ● Called for legislating for SWH. ● Legislating for "contractual working hours" was not acceptable given that the terms and conditions of the employment contracts were largely decided by employers and therefore employees' rights could hardly be safeguarded. ● Long working hours situation had brought about adverse impact on employees' health, quality of life and family life.
20.	Miss WONG Hiu-kwan	<ul style="list-style-type: none"> ● The Administration should regulate working hours and legislate for SWH so as to safeguard work-life balance of employees. ● Concern was raised about the severe long working hours situation in various trades and industries and there were cases of employees suffering from overexertion at work and even cases of sudden deaths suspected to be caused by overexertion. ● Should "contractual working hours" be legislated, it would become lawful for employers to exploit the employees as the former would decide on the terms and conditions of the employment contracts.
21.	Mr 蘇偉權	<ul style="list-style-type: none"> ● Expressed concern about the severe long working hours situation in various trades and industries. Legislating for SWH was the bare minimum request of employees to ensure work-life balance. ● When formulating measures to promote economic development of Hong Kong, the basic rights of grassroots workers should not be compromised.

No.	Name of deputation/individual	Submission / Major views and concerns
22.	唔要合約工時，我要標準 工時大聯盟	<ul style="list-style-type: none"> ● Working for long hours had brought about adverse impact on employees' health and quality of life as well as their family life. ● Legislating for "contractual working hours" could hardly safeguard employees' rights and benefits. Concern was expressed that employees did not have bargaining power in the negotiation of terms and conditions of the employment contracts. ● Query was raised about the small number of lower-income grassroots employees to be covered under the Administration's proposal if the wage line was set at monthly wages of \$11,000.
23.	Kwai Fong Workers	<ul style="list-style-type: none"> ● Dissatisfaction was expressed that the Standard Working Hours Committee ("SWHC") had only come up with the recommendation for legislating for "contractual working hours" after years of discussion and that the recommendation was adopted by the Government. It was not necessary to legislate for contractual working hours. ● Disagreement was expressed that implementation of SWH would undermine the competitive edge of Hong Kong. ● The next-term Government should seriously consider legislating for SWH. The Government should take the lead in implementing SWH for its employees.
24.	Hong Kong Ample Love Society Ltd.	<ul style="list-style-type: none"> ● The deputation stated that it also represented the views of the Liberal Party. ● When formulating the working hours policy, the Administration should balance the interest of various stakeholders. The detailed working hours arrangements should be worked out based on the agreement reached between employers and employees. ● Concern that the adoption of a legislative approach to mandate employers to enter into written employment contracts with the lower-income grassroots employees might give rise to conflicts between the two parties. ● The business sector would accept the proposed definition of lower-income grassroots employees, i.e. employees whose monthly wages were below \$11,000.
25.	Good Neighbour North District Church	<ul style="list-style-type: none"> ● LC Paper No. CB(2)1719/16-17(05)

No.	Name of deputation/individual	Submission / Major views and concerns
26.	街坊工友服務處 勞工組	<ul style="list-style-type: none"> ● The Chief Executive had not honoured his pledge made in the election manifesto in respect of legislating for SWH. ● Opposed legislating for "contractual working hours" which could hardly safeguard employees' rights and benefits. As employees were not on equal footing with employers, they would not have bargaining power in the negotiation of terms and conditions of the employment contracts. Wage line should not be introduced to narrow the scope of employees to be covered by the Administration's proposal. ● The Administration should legislate for SWH i.e. a daily working hours of eight hours, a weekly working hours of 44 hours and overtime pay rate of 1.5 times so as to safeguard work-life balance of employees.
27.	飲食業職工總會	<ul style="list-style-type: none"> ● The severe long working hours situation in the catering sector had brought about adverse impact on employees' health and quality of life as well as their family life. It was noteworthy that the number of industrial accidents in the catering sector topped all industries. ● Hong Kong lagged far behind some other Asian economies in the implementation of SWH. Moreover, the implementation of SWH in these economies had not undermined their competitive edge. ● The Administration should seriously consider implementing SWH (i.e. a daily working hours of eight hours, a weekly working hours of 44 hours and overtime pay rate of 1.5 times).
28.	Hong Kong Taxi Owners' Association Ltd.	<ul style="list-style-type: none"> ● LC Paper No. CB(2)1719/16-17(06)
29.	飲食及酒店業職工總會	<ul style="list-style-type: none"> ● Disappointment was expressed that SWHC failed to respond to the community call for legislating for SWH. ● The Administration should legislate for SWH so as to safeguard work-life balance of employees and address the long working hours situation in various trades and industries, including the catering sector. ● Query was raised about the small number of employees to be covered under the Administration's proposal if the wage line was set at monthly wages of \$11,000 in respect of the scope of the lower-income grassroots employees.
30.	The Federation of Hong Kong Property Management Industry Limited	<ul style="list-style-type: none"> ● LC Paper No. CB(2)1615/16-17(13)

No.	Name of deputation/individual	Submission / Major views and concerns
31.	Union of Hong Kong Dockers	<ul style="list-style-type: none"> ● Legislating for "contractual working hours" could hardly address the long working situation in Hong Kong, given that many employees already had their working hours stipulated in the employment contracts. ● Query was raised about the Administration's projection that around 550 000 employees would benefit from the recommendation to adopt a legislative approach to specify that the lower-income grassroots employees should be entitled to overtime compensation by way of overtime pay at a rate no less than the rate of the agreed wages or the equivalent time-off in lieu. ● Working for long hours had brought about adverse impact on employees' health, quality of life and family life. The Administration should seriously consider legislating for SWH (i.e. a weekly working hours of 44 hours and overtime pay rate of 1.5 times).
<i>Session Two</i>		
32.	Miss 胡嘉琪	<ul style="list-style-type: none"> ● LC Paper No. CB(2)1719/16-17(07)
33.	Miss 蔡莉莉	<ul style="list-style-type: none"> ● LC Paper No. CB(2)1719/16-17(08)
34.	Federation of Hong Kong Industries	<ul style="list-style-type: none"> ● LC Paper No. CB(2)1678/16-17(05)
35.	North District Employment Concern Group	<ul style="list-style-type: none"> ● The deputation highlighted the problems experienced by employees working for long hours. ● The Administration should seriously consider legislating for SWH.
36.	Catholic Diocese of Hong Kong Diocesan Pastoral Centre for Workers - New Territories	<ul style="list-style-type: none"> ● LC Paper No. CB(2)1719/16-17(09)
37.	New Territories Outsourcing Cleaners Concern Group	<ul style="list-style-type: none"> ● There were worries that under legislating for the "contractual working hours" approach, long working hours would be stipulated in the employment contracts and result in increasing workload. ● Legislating for "contractual working hours" could hardly safeguard employees' rights and benefits. Employees were not on equal footing with employers and therefore had no bargaining power in the negotiation of terms and conditions of the employment contracts.

No.	Name of deputation/individual	Submission / Major views and concerns
38.	North District Low Income Family Concern Group	<ul style="list-style-type: none"> ● Opposed legislating for "contractual working hours". It was pointed out that terms and conditions of the employment contracts would largely be decided by employers. ● Query was raised about the basis for determining the proposed wage line. ● Query was raised about the binding effect of the sector-specific working hours guidelines which would set out the suggested working hours standards and other details.
39.	Hong Kong Food and Environmental Hygiene Department Staff Rights Union	<ul style="list-style-type: none"> ● Being the largest employer in Hong Kong, the Government should take the lead in setting the weekly working hours of 44 hours for the government employees, non-civil service contract employees and employees engaged under government outsourced services contracts. It would have a demonstration effect to the private sector for implementing SWH. ● Concern that the number of working hours would be decided by employers under the "contractual working hours" approach and that long working hours would be stipulated in the employment contracts. As such, there would be no compensation for overtime work and it could not address the long working hours situation.
40.	Economy Panel of The Liberal Party	<ul style="list-style-type: none"> ● The deputation shared the community call for work-life balance. It was believed that a win-win situation could be achieved by reaching agreement between employers and employees on the working hours arrangements. Should SWH be mandatorily introduced, it might give rise to labour disputes. ● Opposed implementation of SWH, having regard to the operational difficulties of SMEs. ● Considered that the Administration's proposal, including setting the proposed wage line and formulating the sector-specific working hours guidelines to provide guidance on suggested working hours standards, overtime compensation methods and good working hours management measures, was acceptable.
41.	Mr HO Wang	<ul style="list-style-type: none"> ● Support for the Administration's proposal to define the scope of lower-income grassroots workers by setting the proposed wage line. ● A working hours policy had to take full account of the operational situations and practical needs of different sectors or occupations. An across-the-board working hours regulation for all sectors would have adverse impacts on individual sectors. ● Agreement could be reached between employers and employees in respect of the working hours arrangements.

No.	Name of deputation/individual	Submission / Major views and concerns
42.	Progressive Labor Union for Domestic Workers	<ul style="list-style-type: none"> ● The working hours of foreign domestic helpers ("FDHs") topped all employees in Hong Kong. Disappointment was expressed that they were excluded from the proposals and measures of working hours arrangements. ● The Administration should squarely address the long working hours situation of FDHs in Hong Kong.
43.	Thai Migrant Workers' Union	<ul style="list-style-type: none"> ● FDHs worked for long hours which had brought about adverse impact on their health. There was absence of regulation governing their working hours. ● The Administration should include FDHs under its proposal for working hours arrangements. ● The Government should observe the International Labour Convention No.189 for the purpose of safeguarding the working conditions of migrant workers.
44.	Hong Kong Federation of Asian Domestic Workers Unions	<ul style="list-style-type: none"> ● LC Paper No. CB(2)1788/16-17(02)
45.	Union of Nepalese Domestic Workers in Hong Kong	<ul style="list-style-type: none"> ● Hong Kong was one of the two places in Asia where SWH was not implemented. ● According to a survey findings, the average daily working hours of FDHs was 19 hours. Such long working hours had brought about adverse impact on their health. ● The Government should implement SWH i.e. a daily working hours of eight hours and a weekly working hours of 44 hours, which should be enjoyed by all employees, including migrant workers.
46.	Association of Indonesian Migrant Workers (ATKI-HK)	<ul style="list-style-type: none"> ● LC Paper No. CB(2)1719/16-17(10)
47.	Where Is the Promised Standard Working Hours?	<ul style="list-style-type: none"> ● LC Paper No. CB(2)1719/16-17(11)
48.	Mr WONG Cho-ki	<ul style="list-style-type: none"> ● Long working hours was detrimental to employees' health and would bring about serious consequence. Work-life balance was considered to be imperative. ● There were worries that overtime work could be uncompensated if "contractual working hours" was to be legislated as the number of working hours stipulated in the written employment contracts would largely be decided by employers.

No.	Name of deputation/individual	Submission / Major views and concerns
49.	Indonesian Migrant Workers' Union	<ul style="list-style-type: none"> ● LC Paper No. CB(2)1678/16-17(06)
50.	Asian Migrants' Coordinating Body (AMCB-IMA)	<ul style="list-style-type: none"> ● LC Paper No. CB(2)1678/16-17(07)
51.	Mission For Migrant Workers	<ul style="list-style-type: none"> ● LC Paper No. CB(2)1615/16-17(14)
52.	Miss CHAN Wai-chun	<ul style="list-style-type: none"> ● LC Paper No. CB(2)1788/16-17(03)
53.	Union of Food and Environmental Hygiene Department Market Association	<ul style="list-style-type: none"> ● Legislating for "contractual working hours" could not protect the rights of all employees in Hong Kong. The Administration should consider shelving the proposal. ● The lower-income grassroots workers had no bargaining power in the negotiation of terms and conditions of the employment contracts. ● As shown from overseas experience, legislating for SWH would not undermine economic development.
54.	Government Frontline Employee Union	<ul style="list-style-type: none"> ● Disappointment was expressed that the Administration had not addressed the long working hours situation in Hong Kong over the years. ● Concern was expressed about the disparity in the number of working hours between some 20 000 to 30 000 frontline government employees and the rest of the government employees. ● The Administration should legislate for SWH i.e. a daily working hours of eight hours, a weekly working hours of 44 hours and overtime pay rate of 1.5 times so as to safeguard work-life balance of employees and serve as a demonstration effect to the private sector.
55.	United Filipinos in Hong Kong	<ul style="list-style-type: none"> ● LC Paper No. CB(2)1788/16-17(04)
56.	Mr Why	<ul style="list-style-type: none"> ● Disappointment was expressed that the Administration had adopted a delaying tactic in addressing the long working hours situation in Hong Kong. ● Given that employee representatives of the Labour Advisory Board had not participated in the work of SWHC since November 2015, the labour sector had in effect not expressed its support for legislating for "contractual working hours" which could hardly address the long working hours situation in Hong Kong.

No.	Name of deputation/individual	Submission / Major views and concerns
57.	Hong Kong Buildings Management and Security Workers General Union	<ul style="list-style-type: none">● Employees were not on equal footing with employers and therefore had no bargaining power in the negotiation of terms and conditions of the employment contracts. The adoption of "contractual working hours" approach would be abused by employers to formalize long working hours for employees.● The current-term Government should shelve the Administration's proposal and the next-term Government should seriously consider legislating for SWH.

Council Business Division 2
Legislative Council Secretariat
19 September 2017