

立法會
Legislative Council

LC Paper No. CB(3) 759/16-17

Ref : CB(3)/M/MM

Tel : 3919 3300

Date : 29 June 2017

From : Clerk to the Legislative Council

To : All Members of the Legislative Council

Note: According to the Judgment of the Court of First Instance of the High Court on 14 July 2017, LAU Siu-lai had been disqualified from assuming the office of a member of LegCo, and had vacated the same since 12 October 2016, and was not entitled to act as a member of LegCo.

Against this background, when dealing with this motion, the Council will not deal with LAU Siu-lai's amendment set out in this paper.

Council meeting of 12 July 2017

**Amendments to motion on
“Conducting a comprehensive review of labour legislation to
improve labour rights and interests”**

Further to LC Paper No. CB(3) 715/16-17 issued on 21 June 2017, five Members (Hon LUK Chung-hung, Dr Hon KWOK Ka-ki, Dr Hon Helena WONG, Hon Andrew WAN and Dr Hon LAU Siu-lai) have respectively given notice of their intention to move separate amendments to Hon HO Kai-ming's motion on “Conducting a comprehensive review of labour legislation to improve labour rights and interests”. Members have been informed vide LC Paper No. CB(3) 731/16-17 issued on 22 June 2017 that the above motion, originally scheduled for the Council meeting of 5 July 2017, will be rescheduled to the Council meeting of 12 July 2017. As directed by the President, the respective amendments will be printed in the terms in which they were handed in on the Agenda of the Council.

2. The President will order a joint debate on the above motion and the five amendments. To assist Members in debating the motion and the amendments, I set out below the procedure to be followed during the debate:

- (a) the President calls upon Hon HO Kai-ming to speak and move his motion;
- (b) the President proposes the question on Hon HO Kai-ming's motion;
- (c) the President calls upon the five Members who wish to move amendments to speak in the following order, but no amendment is to be moved at this stage:
 - (i) Hon LUK Chung-hung;
 - (ii) Dr Hon KWOK Ka-ki;

- (iii) Dr Hon Helena WONG;
 - (iv) Hon Andrew WAN; and
 - (v) Dr Hon LAU Siu-lai;
- (d) the President calls upon the public officer(s) to speak;
 - (e) the President invites other Members to speak;
 - (f) the President gives leave to Hon HO Kai-ming to speak for the second time on the amendments;
 - (g) the President calls upon the public officer(s) to speak again;
 - (h) in accordance with Rule 34(5) of the Rules of Procedure, the President has decided that he will call upon the five Members to move their respective amendments in the order set out in paragraph (c) above. The President invites Hon LUK Chung-hung to move his amendment to the motion, and forthwith proposes and puts to vote the question on Hon LUK Chung-hung's amendment;
 - (i) after Hon LUK Chung-hung's amendment has been voted upon, the President deals with the other four amendments; and
 - (j) after all amendments have been dealt with, the President calls upon Hon HO Kai-ming to reply. Thereafter, the President puts to vote the question on Hon HO Kai-ming's motion, or his motion as amended, as the case may be.

3. For Members' reference, the terms of the original motion and of the motion, if amended, are set out in the **Appendix**.

(Dora WAI)
for Clerk to the Legislative Council

Encl.

(Translation)

**Motion debate on
“Conducting a comprehensive review of labour legislation to
improve labour rights and interests”
to be held at the Council meeting of 12 July 2017**

1. Hon HO Kai-ming’s original motion

That this Council urges the Government to make safeguarding labour rights and interests its priority task and expeditiously conduct a comprehensive review of and make amendments to the various legislation relating to labour matters, so as to ensure that such legislation keeps pace with the times.

2. Motion as amended by Hon LUK Chung-hung

That, *for a long time, Hong Kong society has remained in a situation of ‘strong capitalists and weak workers’ where employees generally lack bargaining power and the Government’s policy implementation often tilts in favour of the business sector, ignoring the effects of the times and changes in environment on the labour market; in this connection,* this Council urges the Government to make safeguarding labour rights and interests its priority task and expeditiously conduct a comprehensive review of and make amendments to the various legislation relating to labour matters, so as to ensure that such legislation keeps pace with the times, *and hence strengthen the protection for employees; the relevant proposals include:*

- (1) *enacting legislation on standard working hours and rates of overtime pay and stipulating the number of standard working hours at 44 per week, so as to ensure that employees can strike a balance between work and rest;*
- (2) *aligning the numbers of statutory holidays and general holidays at 17, so that all employees in Hong Kong are entitled to the same number of holidays;*
- (3) *expeditiously implementing the abolition of the Mandatory Provident Fund offsetting mechanism to strengthen retirement protection for employees;*

- (4) *stipulating the review cycle of the statutory minimum wage level to be once a year to solve the problem of persistent lag in the minimum wage level;*
- (5) *reviewing the definition of continuous contracts of employment under the Employment Ordinance, so that part-time employees are entitled to paid annual leave, sickness allowance, rest days, severance payments, long service payments, payments in lieu of notice for the termination of employment contracts, etc.;*
- (6) *reviewing the service outsourcing system to stipulate that, regardless of industries, the principal contractors are liable for their subcontractors' defaults on payment of wages to employees, so as to strengthen the protection for employees of outsourced service contractors;*
- (7) *establishing a system for the right to collective bargaining on the central, trade and enterprise levels, so as to elevate the status of trade unions and enhance communication between employees and employers;*
- (8) *increasing the statutory paternity leave to seven days and increasing the paternity leave pay payable to employees to be full-pay;*
- (9) *increasing the statutory maternity leave to 14 weeks and increasing the maternity leave pay payable to employees to be full-pay, and introducing a six-month period of postnatal employment protection, so as to provide greater protection for working women;*
- (10) *introducing breastfeeding-friendly measures in workplace and stipulating the requirement of providing baby care rooms in newly constructed commercial buildings;*
- (11) *stipulating the requirement for employers to provide employees with no less than three days of paid training leave annually, so as to encourage employees to pursue continuing education;*
- (12) *enacting legislation on age discrimination to promote and protect the employment of senior citizens;*
- (13) *reviewing employers' responsibilities for employees suffering from occupational diseases and meeting industrial accidents, and increasing the relevant penalties to enhance the deterrent effect;*

- (14) *amending the Employees' Compensation Ordinance to expand the scope of protection for work injuries and occupational diseases, and improving the mechanisms for preventing work injuries and occupational diseases as well as rehabilitation, thereby assisting employees to return to work as soon as possible;*
- (15) *setting up a 'central occupational insurance compensation fund' to provide comprehensive compensation to employees sustaining work injuries or suffering from occupational diseases, irrespective of whether they are employed or self-employed;*
- (16) *reviewing the work procedures for work-at-height activities and the safety measures required as well as the criminal liabilities of employers, etc., so as to prevent accidents involving workers in the construction industry falling from heights; and*
- (17) *reviewing the work arrangements and contingency measures in times of typhoon and rainstorm to enhance the protection of occupational safety for workers.*

Note: Hon LUK Chung-hung's amendment is marked in *bold and italic type*.

3. Motion as amended by Dr Hon KWOK Ka-ki

That a survey indicates that Hong Kong is the place with the longest working hours in the world, but the Government has all along neglected labour rights and interests and over-emphasized the interests of the business sector in formulating labour policies; in this connection, this Council urges the Government to make safeguarding labour rights and interests its priority task and expeditiously conduct a comprehensive review of and make amendments to the various legislation relating to labour matters, so as to ensure that such legislation keeps pace with the times; the relevant proposals include:

- (1) *increasing the statutory paternity leave to seven days and increasing the paternity leave pay to be full-pay;*
- (2) *enacting legislation on standard working hours to stipulate the number of standard working hours at 44 per week, thereby preventing exploitation of employees by employers through uncompensated overtime work and enabling employees to spend more time with family members;*
- (3) *changing the review cycle of the statutory minimum wage level from the present 'once in two years' to 'once every year' to ensure that*

employees' wage levels can catch up with the rate of increase in the prices of goods;

- (4) *enacting legislation to affirm workers' right to collective bargaining and amending the Trade Unions Ordinance to protect workers' right to join trade unions, so that employees and employers enjoy equal powers in negotiations;*
- (5) *reviewing the definition of continuous contracts of employment under the Employment Ordinance to allow employees not employed under a continuous contract to enjoy employment rights and benefits to which full-time employees are entitled;*
- (6) *providing a clear legal definition of occupational diseases and extending the definition to cover strains and diseases resulting from work; and*
- (7) *stipulating the responsibilities of principal contractors in cases involving industrial injuries and fatalities.*

Note: Dr Hon KWOK Ka-ki's amendment is marked in *bold and italic type*.

4. Motion as amended by Dr Hon Helena WONG

That, *given that the Government at present has not yet formulated comprehensive family-friendly policies, it is difficult for employees to strike a balance between working and taking care of family members; in this connection*, this Council urges the Government to make safeguarding labour rights and interests its priority task and expeditiously conduct a comprehensive review of and make amendments to the various legislation relating to labour matters, so as to ensure that such legislation keeps pace with the times; *the relevant proposals include:*

- (1) *increasing the statutory maternity leave from 10 weeks to 14 weeks while according employees entitlement to full-pay maternity leave; and*
- (2) *increasing the statutory paternity leave from three days to seven days while according employees entitlement to full-pay paternity leave.*

Note: Dr Hon Helena WONG's amendment is marked in *bold and italic type*.

5. Motion as amended by Hon Andrew WAN

That *the last-term Government made insufficient efforts to solve labour problems and put forward noncommittal proposals for the prescription of standard working hours and abolition of the Mandatory Provident Fund offsetting mechanism, which proved that the last Chief Executive reneged on his election pledge; in this connection*, this Council urges the Government to make safeguarding labour rights and interests its priority task and expeditiously conduct a comprehensive review of and make amendments to the various legislation relating to labour matters, so as to ensure that such legislation keeps pace with the times; *the relevant proposals include:*

- (1) *withdrawing the proposal for ‘contractual working hours’ and immediately enacting legislation on standard working hours and overtime compensation to stipulate the number of standard working hours at 44 per week;*
- (2) *expeditiously implementing the abolition of the Mandatory Provident Fund offsetting mechanism and considering the adoption of the ‘fund pool’ proposal to handle the related issues;*
- (3) *increasing the penalties under the Industrial Undertakings Ordinance and the Occupational Safety and Health Ordinance to enhance employers’ awareness of occupational safety, and stepping up efforts in promoting occupational safety and health;*
- (4) *enacting legislation to affirm the right to collective bargaining;*
- (5) *implementing review of the statutory minimum wage level ‘once every year’; and*
- (6) *aligning the numbers of statutory holidays and general holidays at 17.*

Note: Hon Andrew WAN’s amendment is marked in *bold and italic type*.

6. Motion as amended by Dr Hon LAU Siu-lai

That this Council urges the Government to make safeguarding labour rights and interests its priority task and expeditiously conduct a comprehensive review of and make amendments to the various legislation relating to labour matters, *including raising the statutory minimum wage level and implementing review of the minimum wage level ‘once every year’, stipulating standard working hours in lieu of ‘contractual working hours’ proposed by the last-term Government, and increasing the statutory paternity leave to seven days*, so as

to ensure that ~~such legislation keeps pace with the times~~ ***all wage earners in Hong Kong can enjoy protection of a basic living and work-life balance.***

Note: Dr Hon LAU Siu-lai's amendment is marked in ***bold and italic type*** or with deletion line.