

**立法會**  
**Legislative Council**

LC Paper No. CB(2)1443/19-20  
(These minutes have been seen  
by the Administration)

Ref : CB2/PL/MP

**Panel on Manpower**

**Minutes of special meeting**  
**held on Thursday, 12 March 2020, at 10:45 am**  
**in Conference Room 1 of the Legislative Council Complex**

- Members present** : Hon HO Kai-ming (Chairman)  
Hon CHU Hoi-dick (Deputy Chairman)  
Hon LEUNG Yiu-chung  
Hon Claudia MO  
Hon YIU Si-wing, BBS  
Dr Hon KWOK Ka-ki  
Hon KWOK Wai-keung, JP  
Hon Christopher CHEUNG Wah-fung, SBS, JP  
Dr Hon Fernando CHEUNG Chiu-hung  
Dr Hon Helena WONG Pik-wan  
Hon Elizabeth QUAT, BBS, JP  
Hon POON Siu-ping, BBS, MH  
Dr Hon CHIANG Lai-wan, SBS, JP  
Hon Andrew WAN Siu-kin  
Hon SHIU Ka-fai, JP  
Hon SHIU Ka-chun  
Hon YUNG Hoi-yan, JP  
Dr Hon Pierre CHAN  
Hon LUK Chung-hung, JP  
Hon Jeremy TAM Man-ho  
Hon Vincent CHENG Wing-shun, MH, JP
- Members attending** : Hon Tommy CHEUNG Yu-yan, GBS, JP  
Hon Holden CHOW Ho-ding  
Hon HUI Chi-fung

- Members absent** : Hon WONG Kwok-kin, SBS, JP  
Hon CHUNG Kwok-pan
- Public Officers attending** : Item II
- Mr Caspar TSUI Ying-wai, JP  
Under Secretary for Labour and Welfare
- Mr Raymond LIANG Lok-man  
Assistant Commissioner for Labour (Labour Relations)
- Ms Rebecca CHAN Ka-pik  
Senior Labour Officer (Labour Relations)  
(Maternity Leave Policy)  
Labour Department
- Miss Annet LAI Chau-mei  
Government Counsel  
Department of Justice
- Clerk in attendance** : Miss Betty MA  
Chief Council Secretary (2) 1
- Staff in attendance** : Mr Alvin CHUI  
Assistant Legal Adviser 3
- Ms Rita LAI  
Senior Council Secretary (2) 1
- Ms Kiwi NG  
Legislative Assistant (2) 1

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**I. Applications for late membership**  
(LC Paper Nos. CB(2)604/19-20(01), CB(2)679/19-20(01) and CB(2)689/19-20(01))

The Chairman advised that at the last meeting on 21 January 2020 when members considered and accepted two applications for late membership of the Panel, it was agreed that further applications for late membership would also be accepted on the same ground, i.e. to study

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issues relating to the Employment (Amendment) Bill 2019 ("the Bill"). Members accepted the applications for late membership from Mr Jeremy TAM, Ms Elizabeth QUAT and Ms YUNG Hoi-yan in accordance with Rule 23 of the House Rules. In response to Mr KWOK Wai-keung's enquiry, the Chairman advised that while no deadline would be set for such applications, he appealed to any Members who wished to join the Panel to discuss issues relating to the Bill to make applications for late membership as early as possible.

**II. Issues relating to the Employment (Amendment) Bill 2019**

(LC Paper Nos. CB(2)604/19-20(02) to (04), CB(2)662/19-20(01) and LS34/19-20)

2. The Chairman said that the special meeting was convened to discuss issues relating to the Bill consequent upon the passage of the Secretary for Labour and Welfare ("SLW")'s motion under Rule 54(4) of the Rules of Procedure ("RoP") at the Council meeting of 15 January 2020 that the Second Reading debate on the Bill be adjourned and the Bill be referred to the Panel on Manpower instead of the House Committee ("HC") ("the motion").

3. Members noted a tabled submission from the employee representatives of the Labour Advisory Board ("LAB") urging the passage of the Bill as soon as practicable.

The legislative proposal

4. Mr KWOK Wai-keung and Mr LUK Chung-hung pointed out that a consensus on extending the statutory maternity leave ("ML") from the existing 10 weeks to 14 weeks had been reached by LAB in November 2018, which was a community call over the years. They strongly urged members to render support to the Bill with a view to expeditiously improving the maternity benefits of female employees. Ms Elizabeth QUAT said that the Democratic Alliance for the Betterment and Progress of Hong Kong was in support of the Administration's proposal to extend the statutory ML to 14 weeks. Mr SHIU Ka-fai said that in view of the low fertility rate in Hong Kong, the Liberal Party had no opposition to the extension of the statutory ML to 14 weeks. For the interest of some 31 000 female employees (based on the 2016 data) in each year, Ms QUAT, Mr POON Siu-ping, Dr CHIANG Lai-wan, Mr Holden CHOW, Mr SHIU, Mr LUK and Ms YUNG Hoi-yan appealed to members to support the passage of the Bill with concerted

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efforts to improve the maternity benefits of female employees. Dr Helena WONG said that the Democratic Party was in support of extending the statutory ML over the years and called on the passage of the Bill as soon as practicable. Mr LEUNG Yiu-chung said that he was supportive of extending the statutory ML.

Meeting arrangements and legislative timetable

5. Mr POON Siu-ping, Dr CHIANG Lai-wan, Mr LUK Chung-hung, Ms YUNG Hoi-yan and Mr Jeremy TAM asked about the meeting arrangements and plan for the Panel to study the Bill as well as the relevant legislative timetable. Dr Helena WONG sought information on the relevant follow-up work to be undertaken by the Panel after the deliberations of the Bill.

6. Dr Fernando CHEUNG was of the view that the Panel might consider appointing a subcommittee to focus its study on the Bill, which could then report its deliberations to the Panel. The Chairman advised that the suggestion might not be feasible given that several subcommittees on policy issues were currently placed on the waiting list pending activation. If a subcommittee was to be formed under the Panel, HC's agreement should be sought for the immediate activation of the subcommittee.

7. The Chairman further advised that in the light of the Council's decision to refer the Bill to the Panel, he would arrange holding special meetings of the Panel to discuss policy issues relating to the Bill. Upon completion of the discussion, the Panel could submit a report on its deliberations to the Council. At the invitation of the Chairman, the Clerk said that pursuant to RoP 77(14), a Panel could make such reports as it considered appropriate to the Council provided that there should be at least one report during a session. Thus, apart from making a report to the Council on the Panel's work at the end of the session, the Panel might make another report to the Council regarding its deliberations on the Bill if it considered appropriate.

8. With respect to the legislative timetable for the Bill, the Chairman further advised that in accordance with RoP 54(5), the notice of resumption of the Second Reading debate on the Bill was to be given by the public officer in charge of the Bill, i.e. SLW, no later than the specified notice period. Citing the last Council meeting in the 2019-2020 session i.e. the Council meeting of 15 July 2020 as an example, SLW should give the notice of resumption of the Second

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Reading debate on the Bill by 29 June 2020. The deadline for giving notice of amendments, if any, to the Bill would then be 6 July 2020.

9. Mr HUI Chi-fung enquired whether non-Panel Members had been invited to join the discussion on issues relating to the Bill. At the invitation of the Chairman, the Clerk replied in the affirmative, adding that the notice of this special meeting had been issued to Panel members and copied to all non-Panel Members. The Chairman added that in line with the usual practice, a Member could attend any meeting of the Panel, regardless of whether he/she was a member of the Panel. Members were welcome to join the Panel to discuss issues relating to the Bill. As a matter of fact, several applications for late membership had already been accepted by the Panel.

*Inviting public views*

10. In response to Dr Helena WONG's enquiry about holding public hearings on the Bill, the Chairman advised that the Panel might consider the matter later as to whether public views should be invited on the Bill in the light of the latest situation of COVID-19 epidemic in Hong Kong.

Conduct of the meeting

11. Dr Helena WONG, Mr Andrew WAN and Mr HUI Chi-fung generally took the view that the scrutiny of the Bill should follow the established procedures of the Legislative Council ("LegCo"). Dr WONG was of the view that the Panel should model on the operation of a Bills Committee to study the Bill as far as practicable. Mr WAN considered it inappropriate for the Panel to scrutinize the details of the Bill, which had deviated from the usual practice of scrutinizing a bill by a Bills Committee. Mr HUI considered it not in order for the Panel to take over the work of a Bills Committee to study the Bill.

12. Mr LEUNG Yiu-chung and Dr Helena WONG sought clarifications about the differences between deliberations of the Bill by the Panel and the scrutiny work of a Bills Committee.

13. Mr KWOK Wai-keung, Mr Holden CHOW and Mr LUK Chung-hung expressed grave concern that pending the election of HC Chairman for the 2019-2020 session, HC could not discharge its functions properly, including the formation of Bills Committees if detailed scrutiny of a bill was considered necessary. If a Bills

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Committee on the Bill was to be formed after the election of the HC Chairman, the Bill would unlikely be passed within the current LegCo term. It was against this background that SLW had moved the motion at the Council to refer the Bill to the Panel in order to take forward the legislative process of the Bill.

14. Dr KWOK Ka-ki asked whether the Panel would conduct clause-by-clause examination of the Bill.

15. At the invitation of the Chairman, Assistant Legal Adviser 3 ("ALA3") said that following the passage of the motion by the Council, the Bill was referred to the Panel in accordance with RoP 54(4). In the light of RoP 77(3) and the Panel's terms of reference ("ToR"), the Panel might wish to focus on studying the policy aspects of the Bill. As opposed to the operation of a Bills Committee, the Panel would not usually conduct clause-by-clause examination of the Bill. As regards the conduct of the meeting, it would be a matter for the Panel Chairman to decide.

16. Ms Claudia MO was concerned whether the legislative proposal was allowed its due process in the event that the Panel had not conducted clause-by-clause examination of the Bill. Ms MO expressed the view that apart from the policy and legal aspects of the Bill, members should also study the drafting aspect of the Bill as to whether the provisions could adequately reflect the policy intent.

17. The Chairman said that while it was not the most desirable way to study the Bill by the Panel, he considered it in order for the Panel to examine the policy aspects of the Bill. He acknowledged that members would inevitably make reference to certain provisions of the Bill during the deliberations on the policy aspects of the Bill, especially whether the drafting could adequately reflect the legislative intent. He was prepared to allow members to do so in the forthcoming discussion.

18. Noting that the Panel would not conduct clause-by-clause examination of the Bill, Ms YUNG Hoi-yan asked whether consideration would be given to drawing up a discussion plan according to the provisions of the Bill.

19. Pointing out that as stipulated in RoP 76(7), a Bills Committee should consider the general merits and principles, and the detailed provisions, of the bill allocated to it, Dr Helena WONG and Mr HUI

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Chi-fung queried how the scrutiny of the Bill by the Panel would satisfy RoPs in the absence of the clause-by-clause examination process during its discussion on the Bill.

20. Mr Andrew WAN and Mr HUI Chi-fung expressed concern that having regard to the Panel's ToR and the fact that no clause-by-clause examination of the Bill would be conducted, the scrutiny of the Bill by the Panel had not gone through the due process and thus the Bill so passed might be subject to legal challenge in future.

21. Mr LEUNG Yiu-chung considered it important for a bill to be duly scrutinized by a Bills Committee. According to his experience, the clause-by-clause examination of a bill could facilitate members' better understanding of the policy intent as well as the general merits and principles of a bill. Mr LEUNG expressed concern about how the deficiency could be addressed if the Panel would not conduct clause-by-clause examination of the Bill.

22. Mr Holden CHOW considered that it was not necessary for members to drag on the discussion on whether the Panel could study detailed provisions of the Bill. In his view, notwithstanding the Panel would not conduct formally the clause-by-clause examination of the Bill, the Chairman could exercise flexibility in conducting the meeting such that reference to the relevant clauses of the Bill could be made by members when necessary in the course of discussing the policy aspects of the Bill.

23. Mr LUK Chung-hung said that the issue of whether the Bill should be referred to the Panel was fully debated at the Council meeting when SLW moved the motion. Mr KWOK Wai-keung held the view that given that the Bill was referred to the Panel by the Council and that the Bill was straightforward and non-controversial, he considered the scrutiny of the Bill by the Panel acceptable.

24. ALA3 drew members' attention to RoP 54(4) which stipulated that "....., the debate shall be adjourned and the bill shall be referred to the House Committee unless the Council, on a motion which, with the consent of the President, may be moved without notice by any Member, otherwise orders". While a bill would normally be referred to HC after the Second Reading debate on the bill had been adjourned under RoP 54(4), the provision did not preclude the Council from ordering the Bill to be referred to the Panel. In the circumstances of this case, the Bill was

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referred to the Panel by a motion passed by the Council in accordance with RoP 54(4). ALA3 further said that as the Chairman had earlier pointed out, the Panel would deliberate on the policy aspects of the Bill and could examine whether the policy intent was adequately reflected by the provisions of the Bill.

25. Dr Helena WONG and Mr HUI Chi-fung asked whether there was any precedent case of scrutiny of a bill by a Panel. The Clerk informed members that at the HC meeting on 15 June 2001, Members agreed that a decision on the need for a Bills Committee to study The Bank of China (Hong Kong) Limited (Merger) Bill and The Bank of East Asia, Limited Bill would be deferred, pending the Panel on Financial Affairs ("FA Panel") to be briefed on the two Bills. Subsequent to HC's decision, FA Panel held a special meeting on 19 June 2001 to study these two Bills and no clause-by-clause examination of the Bills had been conducted. FA Panel reported its deliberations to HC on 22 June 2001 and HC did not consider it necessary to form a Bills Committee to study the two Bills. The Members in charge of these two Bills subsequently gave respective resumption notices and the two Bills were passed at the Council meeting of 12 July 2001.

26. Mr LEUNG Yiu-chung, Mr Andrew WAN and Mr HUI Chi-hung held the view that the abovementioned case in 2001 was somewhat different from the present case of referring the Bill to the Panel, and that HC would not be required to consider whether a Bills Committee should be formed to study the Bill.

Proposed amendments to the Bill

27. Dr CHIANG Lai-wan, Dr Helena WONG and Mr Jeremy TAM expressed concern about whether the Panel would discuss members' proposed amendments to the Bill, as it was the normal practice for a Bills Committee to consider members' proposed amendments to a bill.

28. Dr Fernando CHEUNG considered that it was Members' right to propose amendments to the Bill if considered necessary to further improve the maternity benefits of female employees.

29. The Chairman said that similar to the arrangements of proposing amendments to a bill by the Chairman of a Bills Committee on behalf of the Bills Committee, he would move proposed amendments to the Bill on behalf of the Panel if there was an agreement among members on the



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proposed amendments. He would give notice of amendments to the Bill under his own name and explain the background and rationale for doing so when moving the proposed amendments at the relevant Council meeting.

30. At the invitation of the Chairman, ALA3 added that individual Members could propose amendments to a bill under RoP. As in the case of a Bills Committee, in the situation where the Administration did not agree to certain amendments proposed by Members, the Bills Committee would consider whether the Chairman should move the proposed amendments on behalf of the Bills Committee. Notwithstanding that the Panel would not conduct clause-by-clause examination of the Bill, members could reach an agreement as to whether any proposed amendments to the Bill should be moved by the Chairman on behalf of the Panel.

*[The Chairman directed that the meeting would be extended by 15 minutes.]*

31. In response to Ms YUNG Hoi-yan's concern, Under Secretary for Labour and Welfare said that the Administration with representatives from the Labour Department and the Department of Justice was prepared to respond to members' concerns and enquiries on the Bill in the Panel's forthcoming discussion on the Bill.

32. In concluding the meeting, the Chairman said that members had an in-depth discussion on the procedural matters relating to how the Panel would follow up the referral of the Bill to the Panel under RoP 54(4) at this meeting. The Panel would proceed with the discussion on the Bill and related issues at the next special meeting such that the Bill could be passed within the current legislative session. The Chairman further said that he took note of members' views on the future discussion of the Bill, and would consider drawing up a discussion plan for members' reference at the next special meeting. The Chairman added that members would be informed of the meeting arrangement in due course.

33. There being no other business, the meeting ended at 12:52 pm.