

立法會
Legislative Council

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by the Administration)

Ref : CB2/BC/6/20

Bills Committee on Employment (Amendment) Bill 2021

Minutes of first meeting
held on Tuesday, 13 April 2021, at 9:00 am
in Conference Room 2A of the Legislative Council Complex

- Members present** : Hon WONG Ting-kwong, GBS, JP (Chairman)
Hon Starry LEE Wai-king, SBS, JP
Hon CHAN Kin-por, GBS, JP
Hon WONG Kwok-kin, SBS, JP
Hon Alice MAK Mei-kuen, BBS, JP
Hon KWOK Wai-keung, JP
Hon POON Siu-ping, BBS, MH
Hon SHIU Ka-fai, JP
Hon LUK Chung-hung, JP
Hon Vincent CHENG Wing-shun, MH, JP
- Member absent** : Dr Hon CHENG Chung-tai
- Public Officers attending** : Item II
Ms Jade WONG
Acting Assistant Commissioner for Labour (Labour Relations)

Ms Annie CHAN
Senior Labour Officer (Labour Relations) (Policy Support)
Labour Department
- 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

Miss Lulu YEUNG
Clerical Assistant (2) 1

I. Election of Chairman (and Deputy Chairman)

Mr WONG Ting-kwong was elected Chairman of the Bills Committee.

2. Members agreed that there was no need for the Bills Committee to elect a Deputy Chairman.
3. Members accepted the application for late membership from Mr SHIU Ka-fai in accordance with Rule 23 of the House Rules.

II. Meeting with the Administration

4. The Bills Committee deliberated (index of proceedings attached at **Annex**).

Follow-up actions required of the Administration

5. The Bills Committee requested the Administration to provide the following information:
 - (a) statutory holiday entitlement of the labour force in the neighbouring economies/cities (e.g. Shenzhen, Singapore);
 - (b) labour policy on foreign domestic workers (e.g. wage level, statutory holiday entitlement) in the neighbouring economies/cities; and
 - (c) with respect to the Migration for Employment Convention (Revised), 1949 (International Labour Convention No. 97) ("the Convention") applicable to Hong Kong,

- (i) whether there was any restriction on the wage level of foreign domestic workers; and the rationale for excluding foreign domestic helpers under the Minimum Wage Ordinance (Cap. 608); and
- (ii) consequences for non-compliance with the Convention by member states.

Invitation of public views

6. Members agreed to invite written views on the Bill by posting a notice on the website of the Legislative Council. The 18 District Councils would also be notified of the invitation.

III. Any other business

7. Members agreed that another meeting would be scheduled to discuss the Administration's response to issues raised by members at the meeting and consider individual members' proposed amendments to the Bill, if any. The Chairman said that members would be informed of the meeting arrangement in due course.

(Post-meeting note: The next meeting of the Bills Committee was scheduled for 21 May 2021 at 9:00 am.)

8. There being no other business, the meeting ended at 10:19 am.

Council Business Division 2
Legislative Council Secretariat
28 May 2021

**Proceedings of first meeting of the
Bills Committee on Employment (Amendment) Bill 2021
held on Tuesday, 13 April 2021, at 9:00 am
in Conference Room 2A of the Legislative Council Complex**

Time marker	Speaker	Subject(s) / Discussion	Action Required
000450 - 000708	Mr WONG Ting-kwong Mr WONG Kwok-kin Mr Vincent CHENG Ms Starry LEE	Election of Chairman	
000709 - 000813	Chairman Mr SHIU Ka-fai	Application for late membership	
000814 - 000909	Chairman Mr LUK Chung-hung	Mr LUK Chung-hung's enquiry and the Chairman's advice regarding the meeting arrangement.	
000910 - 001326	Chairman Admin	Briefing by the Administration on the background and contents of the Employment (Amendment) Bill 2021 ("the Bill").	
001327 - 002334	Chairman Mr LUK Chung-hung Admin	<p>Mr LUK Chung-hung's remarks that the labour sector was disappointed at the Administration's proposal of increasing an additional day of statutory holiday ("SH") in every two years such that in eight years' time the total number of SHs would be on a par with the number of general holidays ("GHs") ("the legislative proposal") and called for achieving the alignment in three years' time. Members belonging to the Hong Kong Federation of Trade Unions would consider proposing amendments to the Bill to shorten the timeframe of alignment.</p> <p>Mr LUK's further views/concerns as follows:</p> <p>(a) the Administration had overestimated the cost of increasing the number of SHs from existing 12 days to 17 days. The cost impact on business should not be significant given that not all employers would need to hire substitute workers to fully make up for the manpower loss owing to additional SH entitlement; and</p> <p>(b) aligning the number of SHs with GHs would create a win-win situation for both employers and employees as increasing SH entitlement would help stimulate the consumption activities in various sectors, and consequently boost up the economy. The Administration should conduct a study on the positive economic</p>	

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		<p>impacts to be brought about by increasing five days of SHs.</p> <p>The Administration responded as follows:</p> <p>(a) the subject of aligning SHs with GHs had been deliberated by the Labour Advisory Board ("LAB") for years and there was no consensus reached between employee members and employer members of LAB;</p> <p>(b) the Chief Executive put forward a series of initiatives to further improve people's livelihood in 2020, one of which was to increase progressively the number of SHs to 17 days. The legislative proposal had taken into account the interests of employers, including households employing foreign domestic helpers ("FDHs"), employees and the present economic situation;</p> <p>(c) according to crude estimation, among all employees in Hong Kong (excluding government employees and live-in domestic helpers), about 1.2 million or close to 40% would benefit from the legislative proposal; and</p> <p>(d) assuming all businesses affected would hire substitute workers to fully make up for the manpower loss owing to additional SH entitlement, a crude estimation indicated that the annual potential additional cost on businesses for each additional day of SH would be around 0.07% of the total wage bill of all industries. Specifically, the corresponding annual potential additional cost to the low-paying sectors as a whole would amount to around 0.17% of the total wage bill of these sectors for each additional day of SH.</p>	
002335 - 003125	Chairman Mr POON Siu-ping Admin	<p>Mr POON Siu-ping's remarks that the labour sector had called for aligning the number of SHs with that of GHs over the years.</p> <p>Mr POON's views/concerns and enquiries regarding:</p> <p>(a) the legislative proposal was an unfair arrangement for those employees currently being granted SHs only;</p>	

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		<p>(b) the social benefits of the legislative proposal;</p> <p>(c) whether the Government had consulted relevant religious groups with respect to proposal of increasing the additional SHs on the Easter holidays (including Easter Monday, Good Friday and the day following Good Friday) in six years' time; and</p> <p>(d) whether the Administration would withdraw the Bill if individual members proposed amendments to the Bill, say, achieving the alignment in three to five years.</p> <p>The Administration responded as follows:</p> <p>(a) implementing the legislative proposal in a progressive and orderly manner by increasing an additional SH every two years would allow businesses to better adapt themselves and make corresponding adjustments on an incremental basis. It would also be less impactful and more manageable for households with FDHs;</p> <p>(b) employees who would benefit from the legislative proposal could enjoy more leisure time and work-life balance, which would be conducive to family relationship and commitment; and</p> <p>(c) under the current proposal, the Birthday of the Buddha would be the first additional SH as it was a stand-alone holiday that did not fall within the peak travel seasons nor long school holidays.</p>	
003126 - 003723	Chairman Ms Starry LEE Admin	<p>Ms Starry LEE's remarks that the legislative proposal had posed pressure to some middle-class employers of FDHs. It was pointed out that owing to the live-in requirement for FDHs, the employment conditions of FDHs were not the same as local employees. She was also concerned about the competitiveness edge of Hong Kong in respect of the labour policy as compared with the neighbouring economies/cities.</p> <p>Ms LEE's enquiries and the Administration's response regarding:</p>	

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		<p>(a) SH entitlement of the labour force in the neighbouring economies/cities, for examples, Shenzhen and Singapore; and</p> <p>(b) labour policy on FDHs (e.g. wage level, statutory holiday entitlement) in the neighbouring economies/cities.</p> <p>At Ms LEE's request, the Administration agreed to provide the response in writing after the meeting.</p>	Admin
003724 - 004805	<p>Chairman Ms Alice MAK Admin Assistant Legal Adviser ("ALA")³</p>	<p>Ms Alice MAK pointed out that the labour sector had called for alignment of the number of SHs with that of GHs over the years.</p> <p>Ms MAK's grave concern that the Administration had only consulted LAB on 14 October and 5 November 2020 on the alignment proposal and that decided to put forth the legislative proposal to the Legislative Council ("LegCo") in the absence of consensus among LAB members.</p> <p>The Administration responded that in making any decisions related to improvements of employment benefits, the Government would first consult LAB with a view to reaching a consensus between the employee and employer members before introducing the relevant proposals into LegCo. Having regard to the different views on the pacing of achieving alignment of SHs with GHs expressed by employee members and employer members of LAB and the fact that there was little prospect that a consensus could be reached between them in the foreseeable future, deferring action until a consensus was reached in LAB would mean that employees, especially the grassroots, who were currently enjoying SHs only, would have to wait further to enjoy the additional employment benefits. It was incumbent upon the Government to take into account the different views of employee and employer sides and strike an appropriate balance for the interest of the society as a whole, and put forward the proposal by legislative means.</p> <p>Ms MAK's concern about whether the drafting of the long title of the Bill, i.e. specifying progressively increasing five days of SHs from 2022 to 2030, would render individual members' proposed amendments to the commencement of an additional SH outside scope of the Bill.</p>	

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		<p>ALA(3)'s advice that the admissibility of a proposed amendment to a bill was a matter to be decided by the President of LegCo. In considering the admissibility of amendments proposed by individual members to a bill, the President would consider, among others, whether an amendment to a bill was relevant to the subject matter of the bill as laid down in rule 57(4)(a) of the Rules of Procedure. When considering the subject matter of the bill, the President would take into account the long title, the Explanatory Memorandum and the provisions of the bill, the LegCo Brief on the bill and other relevant factors.</p> <p>The Administration advised that subject to any proposed amendments from members to the Bill, it would seek legal advice and provide response accordingly.</p>	
004806 - 005339	Chairman	Suspension of the meeting for five minutes.	
005340 - 010853	Chairman Mr SHIU Ka-fai Admin Ms Starry LEE	<p>Mr SHIU Ka-fai said that the business sector did not have strong objection to the legislative proposal and that the Liberal Party respected the views of LAB members from the employer side.</p> <p>Mr SHIU's view that the two separate holiday systems of SHs and GHs had been put in place for employees of different jobs over the years. It was imperative to maintain Hong Kong's competitiveness while improving employees' rights and benefits gradually.</p> <p>Mr SHIU's remarks that some employers of FDHs expressed grave concern that, similar to local workers, FDHs would also be entitled to the additional SHs under the legislative proposal. Mr SHIU enquired whether the Administration had consulted the employers of FDHs on the legislative proposal.</p> <p>The Administration responded as follows:</p> <p>(a) 12 days of SHs and 17 days of GHs were respectively stipulated under the Employment Ordinance (Cap. 57) ("EO") and the General Holidays Ordinance (Cap. 149) ;</p>	

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		<p>(b) in the light of the Migration for Employment Convention (Revised), 1949 (International Labour Convention No. 97) ("the Convention") which was applicable to Hong Kong, the proposed increase in the number of SHs would apply to all eligible employees, including FDHs; and</p> <p>(c) currently, there were provisions under EO that alternative or substituted SHs could be arranged between employers and employees, and such arrangement would also be applicable to all eligible employees, including FDHs, in respect of the additional SHs under the legislative proposal.</p> <p>At the request of Mr SHIU and Ms Starry LEE, the Administration agreed to provide the following information:</p> <p>(a) with respect to the Convention,</p> <p>(i) whether there was any restriction on the wage level of FDHs; and the rationale for excluding FDHs under the Minimum Wage Ordinance (Cap. 608); and</p> <p>(ii) consequences for non-compliance with the Convention by member states.</p>	Admin
010854 - 011559	Chairman Mr KWOK Wai-keung	<p>Mr KWOK Wai-keung's view that it was imperative to eliminate the unfair arrangement for employees currently being granted SHs only.</p> <p>Mr KWOK's criticism that the proposed pace of achieving the alignment of SHs with GHs was unduly long and unacceptable. The timeframe should be advanced so as to benefit the employees concerned as soon as possible, in particular the grassroots elderly employees.</p>	
011600 - 011755	Chairman Mr CHAN Kin-por	<p>Mr CHAN Kin-por welcomed the legislative proposal.</p> <p>In response to Mr CHAN's enquiry, the Administration advised that according to crude estimation, among all employees in Hong Kong (excluding government employees and live-in domestic helpers), about 1.2 million or close to 40% would benefit from the legislative proposal.</p>	

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011756 - 011900	Chairman Mr CHAN Kin-por	Members agreed to invite public views on the Bill.	
011901 - 012258	Chairman Admin ALA3	<u>Clause-by-clause examination of the Bill</u> Members raised no questions on the long title, clauses 1 to 3 of the Bill. ALA3 affirmed that there was no discrepancy between the Chinese and English versions of the Bill in respect of the legal and drafting aspects. Completion of the clause-by-clause examination of the Bill. Meeting arrangement of the next meeting.	
012259 - 012326	Chairman	Closing remarks	

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