

立法會
Legislative Council

LC Paper No. CB(2)1224/20-21
(These minutes have been seen by
the Administration)

Ref : CB2/BC/6/20

Bills Committee on Employment (Amendment) Bill 2021

**Minutes of second meeting
held on Friday, 21 May 2021, at 9:00 am
in Conference Room 1 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 attending : Hon Wilson OR Chong-shing, MH

Member absent : Dr Hon CHENG Chung-tai

Public Officers attending : Item I

Mr Raymond LIANG
Assistant Commissioner for Labour (Labour Relations)

Ms Jade WONG
Chief Labour Officer (Labour Relations)
Labour Department

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

Mr Wallance NG
Acting Senior 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

Miss Lulu YEUNG
Clerical Assistant (2) 1

I. Meeting with the Administration

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

Draft amendments proposed by members

2. Members were briefed by Mr LUK Chung-hung, Mr WONG Kwok-kin, Ms Alice MAK, Mr KWOK Wai-keung and Mr POON Siu-ping on their respective proposed amendments to the Employment (Amendment) Bill 2021 ("the Bill"). Mr POON also suggested that his proposed amendments to the Bill be adopted as the proposed amendments of the Bills Committee.

3. Given there were several sets of proposed amendments to the Bill concerning the pace of the alignment exercise, the Chairman suggested that the Bills Committee would not deal with the question on whether the Chairman would move certain amendments on behalf of the Bills Committee, and individual members might consider proposing amendments to the Bill under their own names. Members raised no objection to the proposed arrangement.

II. Any other business

4. The Chairman concluded that the Bills Committee had completed the scrutiny of the Bill. The Administration would advise on the proposed date for resumption of the Second Reading debate on the Bill in due course.

(Post-meeting note: Members were informed vide LC Paper No. CB(2)1184/20-21 issued on 15 June 2021 that the Administration intended to resume the Second Reading debate on the Bill at the Council meeting of 7 July 2021. The Chairman of the Bills Committee would report the deliberations of the Bills Committee to the House Committee on 18 June 2021.)

5. There being no other business, the meeting ended at 10:23 am.

Council Business Division 2
Legislative Council Secretariat
23 June 2021

**Proceedings of second meeting of the
Bills Committee on Employment (Amendment) Bill 2021
held on Friday, 21 May 2021, at 9:00 am
in Conference Room 1 of the Legislative Council Complex**

Time marker	Speaker	Subject(s) / Discussion	Action Required
000443 - 000511	Chairman	Opening remarks	
000512 - 001038	Chairman Admin	The Administration's consolidated response to written submissions on the Employment (Amendment) Bill 2021 ("the Bill") (LC Paper No. CB(2)1093/20-21(01)).	
001039 - 001131	Chairman	The Chairman's advice that the purpose of the meeting was to consider individual members' proposed amendments to the Bill.	
001132 - 001352	Chairman Mr LUK Chung-hung	Briefing by Mr LUK Chung-hung on his proposed amendments to the Bill (LC Paper No. CB(2)1095/20-21(03)). Mr LUK's view that the legislative proposal would take unduly long time to achieve the alignment of statutory holidays ("SHs") with general holidays ("GHs") i.e. increasing an additional day of 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 GHs. He proposed to shorten the timeframe of alignment to three years' time.	
001353 - 001659	Chairman Mr WONG Kwok-kin	Briefing by Mr WONG Kwok-kin on his proposed amendments to the Bill (LC Paper No. CB(2)1095/20-21(04)). Mr WONG expressed regret that the Government put forth the legislative proposal in the absence of consensus among members of the Labour Advisory Board. The labour sector considered that the proposed timeframe for the alignment of SHs with GHs was unacceptable. Members belonging to the Hong Kong Federation of Trade Unions ("HKFTU") therefore prepared various sets of proposed amendments to shorten the timeframe for the alignment exercise.	
001700 - 001942	Chairman Ms Alice MAK	Briefing by Ms Alice MAK on her proposed amendments to the Bill (LC Paper No. CB(2)1095/20-21(05)).	

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		<p>Ms MAK's grave concern and query 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> <p>Ms MAK's criticism that the Administration's proposal would delay the pace of the alignment exercise and appealed to members to support her proposed amendments to the Bill so as to respond to the labour sector's call as early as possible.</p>	
001943 - 002213	Chairman Mr KWOK Wai-keung	<p>Briefing by Mr KWOK Wai-keung on his proposed amendments to the Bill (LC Paper No. CB(2)1095/20-21(06)).</p> <p>Mr KWOK's elaboration on the various sets of proposed amendments from Members belonging to HKFTU, which sought to expedite the pace of alignment to benefit employees currently being granted SH only as early as practicable.</p>	
002214 - 002519	Chairman Mr POON Siu-ping	<p>Briefing by Mr POON Siu-ping on his proposed amendments to the Bill (LC Paper No. CB(2)1095/20-21(07)).</p> <p>Mr POON shared HKFTU's view that the unduly long time to be taken for alignment of SHs with GHs was unreasonable for employees currently being granted SHs only.</p>	
002520 - 002550	Chairman	The Chairman's advice that the admissibility of a proposed amendment to the long title of the Bill was a matter to be decided by the President of the Legislative Council ("LegCo").	
002551 - 003429	Chairman Admin	Briefing by the Administration on its consolidated response to the proposed amendments from individual members, which was tabled at the meeting (LC Paper No. CB(2)1095/20-21(08)).	
003430 - 004514	Chairman ALA3	Regarding members' concern about the proposed amendments to the long title of the Bill, ALA3 advised that rule 58(9) of the Rules of Procedure ("RoP") provided that if any amendment to the title of the bill was made necessary by an amendment to the bill, it should be made at the conclusion of the proceedings detailed in RoP 58. Hence, an amendment to the	

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		<p>proposed long title of a bill could only be made if an amendment made to the provisions in the bill made it necessary to do so or there were some other technical reasons such as to improve the language or to clarify a certain point which was within the scope of the bill. By virtue of RoP 58(9), any amendment to the long title of a bill which had the effect of widening the scope of the Bill was inadmissible. Besides, the admissibility of the proposed amendment is a matter to be decided by the President.</p> <p>ALA3's further advice on the legal and drafting aspects of the draft amendments proposed by Mr LUK Chung-hung, Mr WONG Kwok-kin, Ms Alice MAK, Mr KWOK Wai-keung and Mr POON Siu-ping respectively.</p>	
004515 - 005404	Chairman Mr SHIU Ka-fai	<p>Mr SHIU Ka-fai's remarks that the Liberal Party was not in support of the amendments proposed by the five members to expedite the pace of the alignment exercise.</p> <p>Mr SHIU's view that further improving employees' rights and benefits would increase the cost for business operation and thus undermine Hong Kong's competitiveness. Besides, it was a matter of individual's choice to take up an employment with either SH or GH entitlement.</p> <p>Mr SHIU's further remarks that many employers of foreign domestic helpers ("FDHs") had grave concern about the applicability of the legislative proposal to FDHs working in Hong Kong.</p>	
005405 - 005630	Chairman Mr CHAN Kin-por	<p>Mr CHAN Kin-por considered that the legislative proposal was a positive step to improve the leave entitlements of more than one million of employees who were currently granted SHs only. Given the staff cost of the additional SHs was to be borne by employers and that many FDH employers expressed grave concern about the impact of the legislative proposal on their households while their FDHs were on additional SHs, he would abstain from voting in the event that the question on whether the Bills Committee supported individual members' proposed amendments to the Bill was put to vote.</p>	

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005631 - 005740	Chairman Mr Vincent CHENG	Mr Vincent CHENG's remarks that Members belonging to Democratic Alliance for the Betterment and Progress of Hong Kong ("DAB") were inclined to support the legislative proposal, which they considered had struck a proper balance between improving employees' benefits and facilitating employers to make corresponding adjustments in a progressive manner.	
005741 - 010021	Chairman Mr WONG Kwok-kin	Mr WONG Kwok-kin reiterated his view that the unfair arrangement for a considerable number of employees currently being granted SHs only should be addressed. Arrangement of providing alternative or substituted SHs to FDHs under the Employment Ordinance (Cap. 57) ("EO").	
010022 - 010319	Chairman Mr LUK Chung-hung	Mr LUK Chung-hung pointed out that besides grassroots employees, many employees engaged in different work types were also currently granted with SHs only. As a whole, the labour sector called for alignment of SHs with GHs as soon as practicable. Mr LUK's view that increasing SH entitlement for employees who were currently granted SHs only 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 impact to be brought about by increasing five days of SHs. Mr LUK appealed to members to support any proposed amendments put forth by Members belonging to HKFTU so as to expedite the pace of the alignment exercise.	
010320 - 010729	Chairman Mr WONG Kwok-kin	Arrangement of providing alternative or substituted SHs and rest days to FDHs under EO.	
010730 - 011124	Chairman Ms Alice MAK	Ms Alice MAK's view that it was an unfair arrangement that a considerable number of employees were granted SHs only over the years. Ms MAK's criticism of the Administration's saying that compressing the commencement date of the five additional SHs from eight years to two to three years would be unfair to employers. Ms MAK's suggestion that FDH employers might hire local part-time domestic helpers to take up household	

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		chores and caring duties while their FDHs were on holidays.	
011125 - 011652	Chairman Mr SHIU Ka-fai Admin	<p>Mr SHIU Ka-fai's reiteration of his earlier view that it was a matter of individual's choice to take up employment with either SH or GH entitlement.</p> <p>Mr SHIU's enquiries and the Administration's clarification regarding the following:</p> <p>(a) whether an employer could make payment to an employee in lieu of granting an SH under EO; and</p> <p>(b) whether an FDH could work for another employer as a part-time helper while on SHs.</p>	
011653 - 011730	Chairman Mr Vincent CHENG	Mr Vincent CHENG reiterated that DAB was in support of the pace of increasing the five additional SHs as proposed in the Bill, and had reservations about any proposed amendments to the Bill.	
011731 - 011941	Chairman Mr POON Siu-ping Admin	<p>Mr POON Siu-ping sought information on the estimated annual additional cost on the Government for each additional day of SH in respect of the wages to workers engaged under outsourced government service contracts.</p> <p>The Administration advised that the financial and civil service implications of the legislative proposal were detailed in Annex D to the LegCo Brief on the Bill. In gist, the additional cost in relation to the implementation of the proposal of granting additional SHs to workers under outsourced government service contracts would be reflected in the bidding prices ultimately.</p>	
011942 - 012311	Chairman Mr KWOK Wai-keung	<p>Mr KWOK Wai-keung pointed out that the labour sector had called for aligning SHs with GHs over the years and considered that the disparity in holiday entitlement was discriminatory for those employees who were currently granted SHs only. The Administration should address the issue sooner or later.</p> <p>Mr KWOK further called on the Administration to expedite the pace of the alignment exercise so as to benefit some 1.2 million employees who were currently granted SHs only as soon as practicable.</p>	

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012312 - 012454	Chairman	The Chairman advised that in addition to the proposal of Mr POON Siu-ping for adoption of his proposed amendments to the Bill as the proposed amendments of the Bills Committee, four other members had also provided their respective draft proposed amendments to the Bill for the consideration of the Bills Committee. Given there were several sets of proposed amendments from members concerning the pace of the alignment exercise, the Chairman suggested that the Bills Committee would not deal with the question on whether the Chairman would move amendments on behalf of the Bills Committee, and individual members might consider proposing amendments to the Bill under their own names. Members raised no objection to the proposed arrangement.	
012455 - 012713	Chairman Admin	Completion of scrutiny of the Bill	

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