

立法會
Legislative Council

LC Paper No. CB(2)402/20-21
(These minutes have been seen
by the Administration)

Ref : CB2/SS/7/20

**Subcommittee on Employment (Amendment) Ordinance 2020
(Commencement) Notice**

**Minutes of second meeting
held on Tuesday, 10 November 2020, at 10:45 am
in Conference Room 3 of the Legislative Council Complex**

Members present : Dr Hon Helena WONG Pik-wan (Chairman)
Hon James TO Kun-sun
Hon Abraham SHEK Lai-him, GBS, JP
Prof Hon Joseph LEE Kok-long, SBS, JP
Hon WU Chi-wai, MH
Hon Kenneth LEUNG
Hon KWOK Wai-keung, JP
Dr Hon Fernando CHEUNG Chiu-hung
Hon IP Kin-yuen
Hon POON Siu-ping, BBS, MH
Hon LUK Chung-hung, JP
Hon Jeremy TAM Man-ho

Members absent : Hon LEUNG Yiu-chung
Dr Hon KWOK Ka-ki
Hon Dennis KWOK Wing-hang
Hon Alvin YEUNG
Hon Andrew WAN Siu-kin
Hon KWONG Chun-yu
Hon Vincent CHENG Wing-shun, MH, JP

[According to the announcement made by the Hong Kong Special Administrative Region Government on 11 November 2020 pursuant to the Decision of the Standing Committee of the National People's Congress on Issues Relating to the Qualification of the Members of the Legislative Council of the Hong Kong Special Administrative Region, Kenneth LEUNG, KWOK Ka-ki, Dennis KWOK Wing-hang and Alvin YEUNG were disqualified from being a member of Legislative Council on 30 July 2020.]

**Public Officers
attending** : Item I

Mr Raymond LIANG Lok-man
Assistant Commissioner for Labour (Labour Relations)

Mr Raymond HO Kam-biu, JP
Assistant Commissioner for Labour (Development)

Ms Rebecca CHAN Ka-pik
Senior Labour Officer (Maternity Leave Pay)
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

Miss Lulu YEUNG
Clerical Assistant (2) 1

I. Meeting with the Administration

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

2. The Chairman instructed the Clerk to circulate for members' reference the supplementary information provided by the Administration to the Finance Committee in respect of discussion on the implementation of the Reimbursement of Maternity Leave Pay Scheme at its meeting on 3 July 2020.

(Post-meeting note: The above-mentioned supplementary information (LC Paper No. FC303/19-20(01)) was issued to members vide LC Paper No. CB(2)213/20-21 on 10 November 2020.)

3. The Subcommittee had completed examination of the provisions of the Employment (Amendment) Ordinance 2020 (Commencement) Notice ("the Commencement Notice"). The Chairman concluded that the Subcommittee had completed the scrutiny of the Commencement Notice.

4. Members noted that as agreed at the meeting on 2 November 2020, the Chairman would move a motion at the Council meeting of 11 November 2020 to extend the scrutiny period of the Commencement Notice to the Council meeting of 2 December 2020. Members also noted that if the scrutiny period was extended, the deadline for giving notice of amendment, if any, was 25 November 2020. The Chairman would report the deliberations of the Subcommittee to the House Committee at its meeting on 20 November 2020.

II. Any other business

5. There being no other business, the meeting ended at 11:50 am.

Council Business Division 2
Legislative Council Secretariat
26 November 2020

**Proceedings of the second meeting of the
Subcommittee on Employment (Amendment) Ordinance 2020
(Commencement) Notice
held on Tuesday, 10 November 2020, at 10:45 am
in Conference Room 3 of the Legislative Council Complex**

Time marker	Speaker	Subject(s) / Discussion	Action Required
000413 - 000605	Chairman	Opening remarks	
000606 - 000739	Admin	Briefing by the Administration on the Employment (Amendment) Ordinance 2020 (Commencement) Notice ("Commencement Notice") and related matters.	
000740 - 001222	Chairman Mr LUK Chung-hung Admin	<p>Mr LUK Chung-hung pointed out that the Administration's proposal to create one permanent post of Chief Labour Officer (D1) ("CLO post") in the Labour Department ("LD") to take forward various new measures to enhance statutory maternity leave ("ML") ("the staffing proposal") was negated by the Finance Committee ("FC") at its meeting on 3 July 2020. Mr LUK expressed concern about its impact on the implementation the Employment (Amendment) Ordinance 2020 ("Amendment Ordinance") and the operation of the new Reimbursement of Maternity Leave Pay Scheme ("the RMLP Scheme").</p> <p>The Administration responded that:</p> <p>(a) despite outsourcing of the administration of the RMLP Scheme to a private sector processing agent, there would be long-term need for creation of the CLO post for overseeing the policy and implementation of the RMLP Scheme. LD planned to re-submit the staffing proposal to the Legislative Council ("LegCo") for consideration in the 2020-2021 session; and</p> <p>(b) LD had set up the Preparatory Office for Reimbursement of Maternity Leave Pay ("PORMLP") in the second quarter of 2020 to coordinate and commence the preparatory work for the RMLP Scheme. Through concerted efforts of colleagues pending creation of the CLO post, PORMLP strove to issue the tender documents for the RMLP Scheme with a view to appointing the processing agent by the end of</p>	

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		<p>2020. The target was to implement the RMLP Scheme as soon as practicable in the first half of 2021.</p> <p>Mr LUK's view that public money should be used in a prudent manner and that the need for the CLO post could be reviewed in the light of the implementation of the Amendment Ordinance and the RMLP Scheme.</p> <p>Mr LUK's further view that employees should be entitled to ML with full pay and the Administration should regularly review the statutory ML duration.</p>	
001223 - 002039	Chairman Dr Fernando CHEUNG Admin	<p>Dr Fernando CHEUNG's query about the circumstantial changes leading to the commencement of the Amendment Ordinance on 11 December 2020, which was one year ahead of the Administration's original schedule. The Chairman raised a similar query.</p> <p>The Administration's explanation that in response to the call for early implementation of the extension of the statutory ML, it had decided to outsource the administration of the RMLP Scheme to a private sector processing agent, instead of direct administration by LD as originally planned, so as to speed up the implementation process.</p>	
002040 - 002750	Chairman Admin	<p>The Chairman sought clarification about the readiness of implementing the RMLP Scheme in the light of the commencement of the Amendment Ordinance and the arrangement for reimbursing the additional four weeks' ML pay ("the additional MLP") to employers.</p> <p>The Administration advised that it was committed to speeding up the implementation process of the RMLP Scheme, so as to benefit the eligible employees at the soonest possible time. With respect to the tendering exercise for the RMLP Scheme being conducted, it was expected that the processing agent would be appointed by end of 2020 with a view to implementing the RMLP Scheme as soon as practicable in the first half of 2021.</p> <p>The Administration further advised that employers would be required under the Employment Ordinance (Cap. 57) ("EO") to pay the additional MLP to eligible employees on the normal pay day and</p>	

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		<p>employers could, by way of reimbursement, apply to the Government under the RMLP Scheme for full reimbursement of the additional MLP that was required to be paid and had been paid under EO.</p>	
002751 - 003349	Chairman Mr KWOK Wai-keung Admin	<p>Mr KWOK Wai-keung's view that the implementation of the RMLP Scheme by an outsourced processing agent was undesirable and his concern about when it would be taken up by government employees.</p> <p>The Administration's response that member's concern was noted. The operation of the RMLP Scheme would be reviewed in due course following its implementation.</p> <p>In response to the Chairman's enquiry, the Administration affirmed that the Disbursement Information System to be developed by the engaged processing agent would be the Government's intellectual property.</p> <p>Mr KWOK's enquiry about whether employers could still seek full reimbursement of the additional MLP from the Government in the event that their business was closed down after they had paid MLP to their employees.</p> <p>The Administration's advice that generally speaking and subject to fulfillment of the relevant requirements, employers would be eligible for reimbursement of the additional MLP that had been paid to their employees under the Amendment Ordinance.</p>	
003350 - 004624	Chairman Dr Fernando CHEUNG Admin	<p>Dr Fernando CHEUNG's enquiry and the Administration's clarification regarding the requirement of employers under the Amendment Ordinance to pay the additional MLP to eligible employees on the normal pay day and in any case not later than seven days after the end of the wage period.</p> <p>Dr CHEUNG's grave concern that employers might incline not to renew employment contracts with pregnant employees, in particular those grassroots employees, as the ML duration was extended to 14 weeks.</p>	

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		<p>The Administration's response that pregnant employees were duly protected by the existing provisions under EO and the Sex Discrimination Ordinance (Cap. 480). The Administration would keep in view whether there would be an increase in the number of cases breaching EO. LD would duly follow up the suspected cases.</p> <p>The Chairman appealed to the Administration to strengthen the public education on employment protection of pregnant employees.</p>	
004625 - 005504	Chairman Admin	<p>The Chairman's enquiries and the Administration's response regarding the establishment of PORMLP and the progress of its preparatory work for the RMLP Scheme.</p> <p>The Chairman's concern and the Administration's response in respect of the delineation of responsibilities between PORMLP and the engaged processing agent for implementing the RMLP Scheme.</p> <p>The Chairman's instruction that the supplementary information provided by the Administration to FC in respect of discussion on the implementation of the RMLP Scheme at its meeting on 3 July 2020 be circulated to members for reference after the meeting.</p>	Clerk
005505 - 010144	Chairman Dr Fernando CHEUNG Admin	<p>Dr Fernando CHEUNG's enquiry and the Administration's response regarding the unit cost for processing a reimbursement application from an employer under the RMLP Scheme.</p> <p>Dr CHEUNG's further enquiry and the Administration's response in respect of the entitlement to extended ML of government employees, including civil servants, non-civil service contract staff and those engaged through employment agencies.</p> <p>The Chairman called on the Administration to consider further improving the statutory ML with full pay to all female employees.</p>	

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010145 - 010311	Chairman Admin ALA3	Examination of the Commencement Notice. ALA's advice that there was no discrepancy between the English and Chinese versions of the Commencement Notice. Members raised no question on the Commencement Notice.	
010312 - 010432	Chairman	Legislative timetable Reporting the deliberations of the Subcommittee to the House Committee.	
010433 - 010815	Chairman Admin	The Administration advised that pending the tender evaluation for the RMLP Scheme and the appointment of a processing agent, it was unable to provide an estimate of the unit cost for processing a reimbursement application from an employer under the RMLP Scheme at this stage.	
010816 - 010914	Chairman	Closing remarks	