



勞工顧問委員會報告 Labour Advisory Board Report 2009 - 2010

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Labour Advisory Board Report
2009 - 2010



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Chapter 1

Membership of Labour Advisory Board

Membership of Labour Advisory Board

From 1 January 2009 to 31 December 2010



Chairman :	Mrs Cherry Tse Ling Kit Ching, JP (front row: middle) [1.1.2009-28.11.2010]	Commissioner for Labour (<i>ex-officio</i>)
	Mr Cheuk Wing Hing, JP [29.11.2010-31.12.2010]	
Members :	Employer Representatives	
	Mr Ho Sai Chu, GBS, JP (front row: 2nd from left)	representing the Chinese General Chamber of Commerce
	Dr Kim Mak Kin Wah, BBS, JP (front row: 1st from left)	representing the Employers' Federation of Hong Kong
	Mr Stanley Lau Chin Ho, BBS, MH, JP (back row: 4th from left)	representing the Federation of Hong Kong Industries
	Mr Stanley Hui Hon Chung, JP (back row: 3rd from left)	representing the Hong Kong General Chamber of Commerce
	Mr Irons Sze, JP (back row: 2nd from left)	representing the Chinese Manufacturers' Association of Hong Kong
	Mr Cheung Sing Hung, BBS (back row: 1st from left)	appointed <i>ad personam</i>
	Employee Representatives	
	Mr Leung Chau Ting (front row: 2nd from right)	elected by registered employee unions
	Ms Ng Wai Yee, MH (front row: 1st from right)	- ditto -
	Mr Chung Kwok Sing (back row: 5th from right)	- ditto -
	Mr Lee Tak Ming (back row: 4th from right)	- ditto -
	Mr Tsui Sai Cheung (front row: 3rd from right)	- ditto -
	Mr Cheng Kai Ming (back row: 2nd from right)	appointed <i>ad personam</i>
Secretary :	Mr Charles Hui Pak Kwan [1.1.2009-1.3.2009]	Senior Labour Officer (Development)
	Mr Raymond Leung Kwok Kee (back row: 1st from right) [2.3.2009-31.12.2010]	



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Chapter 2

Labour Advisory Board

2.1 Introduction

The Labour Advisory Board (LAB) is a non-statutory body appointed by the Chief Executive to advise the Commissioner for Labour on labour matters including legislation and the application of international labour Conventions. The Commissioner for Labour is the ex-officio chairman of LAB. LAB has 12 members, six representing employers and six representing employees.

LAB plays an important part in the formulation of labour policies and gives advice on labour legislation.

2.2 History

1927

LAB was first appointed.

- In its early years, LAB was composed of representatives of large companies, government departments as well as the armed services. There were no employee representatives.

1946

LAB became a tripartite body, with the Labour Officer as the ex-officio chairman.

- There were three members representing European employers, three representing Chinese employers and three representing employees of major companies.
- The Labour Officer was the head of the Labour Office which was originally part of the Secretariat for Chinese Affairs. It became an independent office (the present Labour Department (LD)) in 1946.

1947

The Commissioner of Labour became the ex-officio chairman of LAB.

- The head of LD was retitled from the Labour Officer to the Commissioner of Labour.

1950

LAB was reconstituted and election was introduced for the first time.

- Of the four members representing employers, one was nominated by the Employers' Federation of Hong Kong, one by the Chinese Manufacturers' Union (renamed the Chinese Manufacturers' Association of Hong Kong in 1957), and two were appointed by the Government, one each from European and Chinese employers.
- Of the four members representing employees, two were elected by trade unions by secret ballot, and the other two were appointed by the Government.

1977

The membership of LAB was increased by 4 to 12.

- It was composed of six employer representatives with four nominated by employer organisations and two appointed by the Government.
- There were six employee representatives with three elected by trade unions and three appointed by the Government.

1985

The term of office of LAB was extended from one to two years.

- The number of elected employee representatives was also increased from three to four, and this was offset by a reduction of appointed employee representatives from three to two.

1989

The number of nominated employer representatives and elected employee representatives was increased from four to five.

- This was offset by a reduction in the number of appointed members on both sides to one.

1993

LAB members were entitled to honorarium and could initiate agenda items.

- Non-official members of LAB were eligible for an allowance for each term of office and could initiate agenda items to be discussed at LAB meetings.

2003

The Permanent Secretary for Economic Development and Labour (Labour) became the ex-officio chairman of LAB.

- In July 2003, the Labour Branch of the Economic Development and Labour Bureau merged with LD. The new organisation retained the corporate title of LD and was headed by the Permanent Secretary for Economic Development and Labour (Labour), who also assumed the role of the Commissioner for Labour.

2007

The Commissioner for Labour became the ex-officio chairman of LAB.

- In July 2007, the post of the Commissioner for Labour was reinstated upon the re-organisation of the Government Secretariat. The Commissioner for Labour became the ex-officio chairman of LAB.

2.3 Terms of Reference

LAB advises the Commissioner for Labour on matters affecting labour, including legislation and Conventions and Recommendations of the International Labour Organisation. It may appoint such committees as it considers necessary and include any person not being a member of LAB to serve on such committees.

2.4 Composition

Chairman: Commissioner for Labour (*ex-officio*)

Members: ***Employer representatives***

Five members nominated by major employer associations:

- one representing the Chinese General Chamber of Commerce
- one representing the Employers' Federation of Hong Kong
- one representing the Federation of Hong Kong Industries
- one representing the Hong Kong General Chamber of Commerce
- one representing the Chinese Manufacturers' Association of Hong Kong

One member appointed *ad personam*

Employee representatives

Five members elected by registered employee unions

One member appointed *ad personam*

Secretary: A Senior Labour Officer of the Labour Department

2.5 LAB Election of Employee Representatives 2008

An election, by secret ballot, was held on 25 October 2008 for the registered employee unions to elect employee representatives for the 2009-2010 term. In this election, 11 candidates vied for five seats as employee representatives on LAB. Out of a total of 391 employee unions registered as electors, 368 took part in the election.

On the employer side, the five major employer associations were invited in late 2008 to nominate representatives to sit on LAB. The remaining two members, one representing employers and the other representing employees, were appointed by the Government *ad personam*.

The appointment of the 12 members was published in the Government Gazette.



The Chairman of LAB, Mrs Cherry Tse Ling Kit Ching (3rd from left), and the elected employee representatives.

2.6 Committees of LAB

To enable LAB to cope with the wide range of complex matters requiring its attention, and to encourage greater participation by members and persons outside LAB, five committees on special subject areas have been set up under the auspices of LAB. They are:

- Committee on Employees' Compensation
- Committee on Employment Services
- Committee on the Implementation of International Labour Standards
- Committee on Labour Relations
- Committee on Occupational Safety and Health

LAB members and over 30 persons including employer and employee representatives from outside LAB, academics, professionals, as well as representatives from government departments, public bodies and concern groups, served on the five committees. Details of the terms of reference, composition and work of these committees are given in their relevant chapters. Membership lists of the committees are at [Appendices I to V](#).



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Chapter 3

Activities during the 2009-2010 Term

3.1 Introduction

The Labour Advisory Board (LAB) met 10 times during the period from 1 January 2009 to 31 December 2010. The Chairman of LAB consulted members on labour legislation, administrative and enforcement measures on labour matters as well as other issues.

3.2 Consultation on Labour Legislation

LAB discussed four items of labour legislation relating to the welfare of Hong Kong workers. Details of the items and their position as at 31 December 2010 are listed below:

Employment Ordinance

- To enhance the enforcement of Labour Tribunal / Minor Employment Claims Adjudication Board awards.
 - LAB first endorsed the proposal on 10 December 2008. LAB held discussion again on 12 January 2010 upon gazettal of the Employment (Amendment) Bill 2009 and subsequent deliberations at the Legislative Council (LegCo) Bills Committee.
 - The Employment (Amendment) Bill 2009 was passed by LegCo on 28 April 2010 and became the Employment (Amendment) Ordinance 2010 which has come into operation with effect from 29 October 2010.

Protection of Wages on Insolvency Ordinance

- To expand the scope of the Protection of Wages on Insolvency Fund to cover pay for untaken annual leave and statutory holidays under the Employment Ordinance.
 - LAB endorsed the proposal to cover pay for untaken annual leave on 25 May 2009 and the revised proposal to further cover pay for untaken statutory holidays on 22 March 2010.

Employees' Compensation Ordinance & Pneumoconiosis and Mesothelioma (Compensation) Ordinance

- To increase the amounts of five compensation items under the Employees' Compensation Ordinance (ECO) by 2.34%, in accordance with the review findings of the cumulative growth in the Nominal Wage Index, and to maintain the existing levels of compensation for other items under ECO and the various compensation items under the Pneumoconiosis and Mesothelioma (Compensation) Ordinance that should be revised downwards according to the review findings.
 - LAB endorsed the proposal on 12 January 2010.
 - The amendment resolution made under section 48A of ECO was passed by LegCo on 30 June 2010. The new levels of compensation have come into operation with effect from 1 August 2010.

Minimum Wage Ordinance

- To introduce legislation on a statutory minimum wage (SMW).
 - LAB discussed a series of practical issues relevant to the introduction of SMW including the views of stakeholders on the special arrangement for persons with disabilities, coverage of employees and exemption of employees on student internship under the SMW legislation. LAB visited workplaces of persons with disabilities in February 2009 to enhance understanding on the working situation of different categories of persons with disabilities and the difference in their productivity.
 - LAB supported the proposal regarding the criteria for approved assessors and methods of assessment in relation to the productivity assessment of persons with disabilities on 6 December 2010.
 - The Minimum Wage Ordinance was passed by LegCo on 17 July 2010. The initial SMW rate would come into force on 1 May 2011.

3.3 Consultation on Administrative / Enforcement Measures on Labour Matters

LAB was consulted on the following administrative / enforcement measures on labour matters:

- LAB noted and gave views on the measures adopted by the Labour Department (LD) in tackling false self-employment and the protection for employees so engaged.
- LAB noted the results of the Thematic Survey on Importance of Age Factor in Employment conducted by the Census and Statistics Department (C&SD).
- LAB noted the major findings of the 2009 Annual Earnings and Hours Survey conducted by C&SD. The survey supported the implementation of SMW and provided detailed statistical data on wage, employment and demographic profiles of employees in Hong Kong.
- LAB noted and gave views on the draft reference guidelines on SMW for employers and employees drawn up by LD.

3.4 Consultation on Other Legislation / Measures

LAB was briefed or consulted on other legislation or measures of relevance to labour matters, as given below:

- LAB gave its views on the public consultation paper for the Review of Corporate Rescue Procedure Legislative Proposals, launched by the Financial Services and the Treasury Bureau (FSTB), in respect of, *inter alia*, provisional supervision and the options on the handling of employees' outstanding entitlements.

- LAB gave its views on the public consultation paper for the Companies Ordinance Rewrite – Draft Companies Bill First Phase Consultation, launched by FSTB, in respect of, *inter alia*, the headcount test, disclosure of directors' residential addresses and the identification numbers of directors and company secretaries.
- LAB gave its views on the public consultation document for the Revised Code of Practice on Employment under the Disability Discrimination Ordinance published by the Equal Opportunities Commission.
- LAB gave its views on the review findings of the minimum and maximum relevant income levels for Mandatory Provident Fund Contributions conducted by the Mandatory Provident Fund Schemes Authority.

3.5 Monitoring the Supplementary Labour Scheme

LAB is responsible for monitoring the Supplementary Labour Scheme (SLS) and vetting applications for importation of labour submitted thereunder. Operating on the principle of according priority of employment to local workers, SLS allows the entry of imported workers at technician level or below to take up jobs which cannot be filled locally. During the 2009-2010 term, LAB vetted some 1 100 applications.

Since August 1996, a working group on SLS has been formed under LAB to consider the vetting guidelines for processing applications under SLS and to discuss the applications for which LAB members have differing views during vetting.

To ensure the effective attainment of the policy objective of SLS, the Government, in consultation with LAB, regularly reviews the operation of SLS.

The terms of reference, composition and membership of the working group are at [Appendix VI](#).

3.6 Participating in the International Labour Conference

Apart from advising the Commissioner for Labour on labour matters, LAB members also attend the annual International Labour Conference in Geneva, Switzerland as part of the Chinese delegation.

The Conference provides a valuable forum for LAB members to meet with delegates from different member States of the International Labour Organisation (ILO) so as to exchange views, share experience and establish contacts, thereby enhancing their exposure to and understanding of international labour issues.

The 98th Session of the International Labour Conference

The 98th Session of the International Labour Conference was held from 3 to 19 June 2009. The Hong Kong Special Administrative Region (HKSAR) sent a tripartite team to the Conference as part of the Chinese delegation. Members of the team were:

Government Representatives	Employer Representatives	Employee Representatives
Mr Alan Wong Kwok Lun, JP Deputy Commissioner for Labour (Labour Administration)	Mr Ho Sai Chu, GBS, JP	Ms Ng Wai Yee, MH
Mrs Tonia Leung So Suk Ching, JP Assistant Commissioner for Labour	Mr Stanley Lau Chin Ho, BBS, MH, JP	Mr Tsui Sai Cheung
Mr Raymond Leung Kwok Kee Senior Labour Officer	Mr Cheung Sing Hung, BBS	Mr Cheng Kai Ming
Mr David Tam Siu Mun Labour Officer		
Miss Gloria Kam Wing Yin Labour Officer		



Representatives of the HKSAR attend the 98th Session of the International Labour Conference.



Representatives of the HKSAR attend the plenary session of the International Labour Conference together with the tripartite members of the Chinese delegation, including the Vice Minister of the Ministry of Human Resources and Social Security, Mr Wang Xiaochu (2nd from right in first row), Vice Chairman of All China Federation of Trade Unions, Mr Xu Zhenhuan (2nd from left in the first row), and Vice President of China Enterprise Confederation, Mr Chen Lantong (1st from left in front row).

The Conference was attended by more than 4 000 government, employer and employee delegates and advisers from 183 member States of ILO. The HKSAR representatives attended the ILO Summit of the Global Jobs Crisis, the plenary sessions of the Conference and meetings of the Committee on the Application of Standards, Committee on HIV/AIDS, Committee on Gender Equality and Committee of the Whole on Crisis Responses.

The 99th Session of the International Labour Conference

The 99th Session of the International Labour Conference was held from 2 to 18 June 2010. The HKSAR also sent a tripartite team to the Conference as part of the Chinese delegation. Members of the team were:

Government Representatives	Employer Representatives	Employee Representatives
Mrs Cherry Tse Ling Kit Ching, JP Commissioner for Labour	Mr Ho Sai Chu, GBS, JP	Mr Leung Chau Ting
Mr Byron Ng Kwok Keung, JP Assistant Commissioner for Labour	Mr Stanley Hui Hon Chung, JP	Mr Chung Kwok Sing
Miss Drew Lai Sai Ming Senior Administrative Officer	Mr Irons Sze, JP	Mr Lee Tak Ming
Mr Raymond Leung Kwok Kee Senior Labour Officer		
Mr David Tam Siu Mun Labour Officer		



Representatives of the HKSAR attend the 99th Session of the International Labour Conference.

Over 5 000 government, employer and employee delegates and advisers from 183 member States of ILO participated in the Conference. The HKSAR representatives attended the plenary sessions of the Conference and meetings of the Committee on the Application of Standards, Committee on Domestic Workers, Committee on HIV/AIDS, Committee for the Recurrent Discussion on Employment and Committee on the 1998 Declaration.

3.7 Contacts with ILO

LAB also maintained liaison and interflow with ILO officials.

September 2010

Visit by ILO officials

The Regional Director of ILO Regional Office for Asia and the Pacific, Dr Sachiko Yamamoto, and the Director of ILO Country Office for China and Mongolia, Ms Ann Herbert, visited the HKSAR and shared with LAB members on regional priorities and challenges of the labour scene.



Commissioner for Labour, Mrs Cherry Tse Ling Kit Ching (6th from right), and LAB Members meet the Regional Director of ILO Regional Office for Asia and the Pacific, Dr Sachiko Yamamoto (5th from right), and the Director of ILO Country Office for China and Mongolia, Ms Ann Herbert (6th from left).



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Chapter 4

Committee on Employees' Compensation

4.1 Introduction

The Committee on Employees' Compensation (CEC) has been in place since August 1986 to give advice on the effectiveness of the employees' compensation system and related legislation.

4.2 Terms of Reference

The committee is established to:

- review the employees' compensation system in Hong Kong;
- advise on legislative proposals on employees' compensation and review existing legislation; and
- advise on measures to be adopted by the Labour Department (LD) to improve the administrative machinery related to employees' compensation.

4.3 Composition

Members of CEC are appointed by the Commissioner for Labour. The composition of the committee for the term 2009-2010 is as follows:

- Chairman:** Deputy Commissioner for Labour (Labour Administration)
- Members:**
- Three employer representatives from the Labour Advisory Board
 - Three employee representatives from the Labour Advisory Board
 - An employer representative from outside the Labour Advisory Board
 - An employee representative from outside the Labour Advisory Board
 - A representative nominated by the insurance industry
 - A representative from a concern group on employees' compensation

- A representative nominated by the Hospital Authority
- A representative nominated by the Director of Legal Aid
- Assistant Commissioner for Labour (Employees' Rights and Benefits)
- Occupational Health Consultant (1)

Secretary: A Labour Officer of the Labour Department

The membership list of CEC for the term 2009-2010 is at [Appendix I](#).

4.4 Activities during the 2009-2010 Term

During the 2009-2010 term, CEC discussed the following matters:

Amendments to employees' compensation legislation and work of the Employees' Compensation Division (ECD) of LD

- CEC noted the improvements made to the employees' compensation legislation in 2008 and 2009, as given below:
 - The scope of the Pneumoconiosis (Compensation) Ordinance has been extended to cover cancerous mesothelioma with effect from 18 April 2008. Accordingly, the ordinance has also been re-titled as the Pneumoconiosis and Mesothelioma (Compensation) Ordinance (PMCO).
 - The medical treatment, examination and certification given by registered Chinese medicine practitioners have been recognised for entitlement to certain employees' benefits under the Employees' Compensation Ordinance (ECO) and PMCO with effect from 1 September 2008.
 - The Occupational Deafness (Compensation) Bill 2009 was introduced into the Legislative Council (LegCo) on 3 June 2009 to improve the benefits for persons with occupational deafness and adjust the overall rate and proportions of distribution of the Employees' Compensation Insurance Levy payable under the Employees' Compensation Insurance Levies Ordinance. LegCo then formed a Bills Committee to scrutinise the bill.
- CEC noted the work of ECD in handling employees' compensation claims in 2008 and 2009 as well as its publicity and public education campaigns organised in enhancing public understanding of the rights and responsibilities of employers and employees under ECO.

Review of the levels of compensation under ECO and PMCO

CEC agreed on a proposal to raise the amounts of five compensation items under ECO in line with the findings of the review of the cumulative increase in the wage movement while maintaining the amounts of compensation under ECO and PMCO at their existing levels in respect of those items which, according to the review findings, would have to be adjusted downwards. The proposal was subsequently submitted to the Labour Advisory Board for consideration.



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Chapter 5

Committee on Employment Services

5.1 Introduction

In May 1976, a sub-committee of the Labour Advisory Board was appointed to advise the Commissioner for Labour on matters concerning the operation of the Employment Services Division (ESD) of the Labour Department (LD). The sub-committee was renamed the Committee on Employment Services (CES) in 1978 and its terms of reference were extended to cover the work of all divisions under the Employment Services Programme of LD.

5.2 Terms of Reference

The committee is established to:

- advise on the employment services provided by LD, including those for the able-bodied and people with disabilities, and the careers advisory service for young people;
- advise on legislative provisions relating to the operation of employment agencies; and
- advise on legislative provisions relating to the employment of local workers outside Hong Kong.

5.3 Composition

Members of CES are appointed by the Commissioner for Labour. The composition of the committee for the term 2009-2010 is as follows:

- Chairman:** To be appointed from the non-government sector
- Members:**
- Two[#] employer representatives from the Labour Advisory Board
 - Two[#] employee representatives from the Labour Advisory Board
 - Two employer representatives from outside the Labour Advisory Board

- Two employee representatives from outside the Labour Advisory Board
- A representative of employers who make use of the employment services of the Labour Department
- A representative of people with disabilities who make use of the employment services of the Labour Department
- Not more than two representatives nominated by employment agency associations
- A representative nominated by the Hong Kong Association of Careers Masters and Guidance Masters
- A representative nominated by the Employees Retraining Board
- A representative nominated by the Hong Kong Institute of Human Resource Management
- A representative from one of the social partners of the Labour Department
- A representative from a tertiary educational institution
- Assistant Commissioner for Labour (Employment Services)

Secretary: A Labour Officer of the Labour Department

Only one representative shall be appointed if the chairman has been appointed from this group.

The membership list of CES for the term 2009-2010 is at [Appendix II](#).

5.4 Activities during the 2009-2010 Term

During the 2009-2010 term, CES offered advice on the following employment services and programmes:

Employment services

ESD provides free employment services to able-bodied job seekers. The Employment Information and Promotion Division aims at strengthening the promotion of LD's employment services and the dissemination of job vacancy information through organising publicity and promotional activities. The Selective Placement Division offers specialised placement service to people with disabilities seeking open employment. CES gave valuable suggestions on various programmes and new employment initiatives including the Transport Support Scheme, the Internship Programme for University Graduates and the Recruitment Centre for the Retail Industry, etc.

Youth Pre-employment Training Programme (YPTP) and Youth Work Experience and Training Scheme (YWETS)

YPTP was launched in September 1999 to enhance the competitiveness and employability of young school leavers aged 15-19 through pre-employment training. YWETS was launched in July 2002 to provide on-the-job training to young people aged 15-24 with education attainment below degree level. In September 2009, LD enhanced and integrated YPTP and YWETS into a "through-train" programme - YPTP&YWETS - to provide seamless and comprehensive youth training and employment support. CES noted the progress of the youth programmes and provided valuable suggestions.

Careers Advisory Service

The Careers Advisory Service provides careers education through the provision of careers information to facilitate young people in choosing a career best suited to their talent, interests and abilities. It operates two youth employment resource centres, in the name of Youth Employment Start (Y.E.S.), to provide one-stop advisory and support services on employment and self-employment to young people aged 15-29. CES gave constructive advice on the services and training programmes offered by Y.E.S.

One-stop Employment and Training Centre

LD would set up a pioneer one-stop employment and training centre in Tin Shui Wai to streamline, integrate and enhance existing employment and training / retraining services of LD, the Social Welfare Department and the Employees Retraining Board. CES noted the new employment initiative and provided valuable suggestions on the way forward.



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Chapter 6

Committee on the Implementation of International Labour Standards

6.1 Introduction

In 1976, the International Labour Conference adopted the Tripartite Consultation (International Labour Standards) Convention (No.144) which aims to promote tripartite consultations among governments, employers and workers on matters related to the formulation, review and implementation of international labour standards. This Convention was applied to Hong Kong with modification in 1978. In relation to the application of this Convention, the Committee on the Implementation of International Labour Standards (CIILS) was set up in the same year on the advice of the Labour Advisory Board.

6.2 Terms of Reference

The committee is established to:

- advise on appropriate declarations to be made in respect of the application of international labour Conventions in the Hong Kong Special Administrative Region (HKSAR);
- advise on appropriate measures to be taken to promote the implementation of, or where appropriate, to improve the declarations in respect of, international labour Conventions with the declaration of "applied with modification";
- advise on questions arising out of the reports to be made to the International Labour Office; and
- advise on government replies to questionnaires concerning items on the agenda of the International Labour Conference and government comments on proposed texts to be discussed by the Conference.

6.3 Composition

Members of CIILS are appointed by the Commissioner for Labour. The composition of the committee for the term 2009-2010 is as follows:

- Chairman:** Deputy Commissioner for Labour (Labour Administration)
- Members:**
- Three employer representatives from the Labour Advisory Board
 - Three employee representatives from the Labour Advisory Board
 - Senior Labour Officer (Development)
- Secretary:** A Labour Officer of the Labour Department

The membership list of CIILS for the term 2009-2010 is at [Appendix III](#).

6.4 Activities during the 2009-2010 Term

During the 2009-2010 term, CIILS undertook the following activities:

Reports on the International Labour Conventions (ILCs)

In accordance with Article 22 of the Constitution of the International Labour Organisation, the HKSAR is required to submit reports on the application of ILCs as requested by the International Labour Office. Reports on 16 and 9 ILCs were submitted respectively in 2009 and 2010. The reports were communicated to committee members for comment before they were forwarded to the International Labour Office.

A list of reports on ILCs which were considered by CIILS during the 2009-2010 term is at [Appendix VII](#).

Consultations on the application of ILCs in the HKSAR

During the 2009-2010 term, CIILS discussed and provided advice on the application of ILCs in the HKSAR.

Application of ILCs in the HKSAR

As at 31 December 2010, a total of 41 Conventions were applied to the HKSAR. Among them, 28 were applied without modification (i.e. all provisions of a Convention were fully implemented) and 13 were applied with modification (i.e. a Convention was implemented with modifications in some provisions to suit local conditions).



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Chapter 7

Committee on Labour Relations

7.1 Introduction

The Committee on Labour Relations (CLR) has been in place since May 1985 to advise on the promotion of harmonious labour relations and legislation on employment conditions and labour relations matters.

7.2 Terms of Reference

The committee is established to:

- advise on means to promote amicable relations and mutual understanding between employers and employees, and between their respective organisations;
- advise on legislative proposals on employment conditions and labour relations and review existing legislation; and
- advise on measures to be adopted by the Labour Department (LD) with a view to improving its conciliation service.

7.3 Composition

Members of CLR are appointed by the Commissioner for Labour. The composition of the committee for the term 2009-2010 is as follows:

Chairman: Deputy Commissioner for Labour (Labour Administration)

- Members:**
- Three employer representatives from the Labour Advisory Board
 - Three employee representatives from the Labour Advisory Board
 - Two employer representatives from outside the Labour Advisory Board
 - Two employee representatives from outside the Labour Advisory Board

- A representative of Human Resources Practitioners
- Assistant Commissioner for Labour (Labour Relations)

Secretary: A Labour Officer of the Labour Department

The membership list of the CLR for the term 2009-2010 is at [Appendix IV](#).

7.4 Activities during the 2009-2010 Term

During the 2009-2010 term, CLR provided valuable advice to LD on a range of labour relations matters, including strategies in promoting the Employment Ordinance, good people management practices and family friendly employment practices, as well as ways to tackle wage defaults. CLR was informed of the legislative progress of the Minimum Wage Bill which sought to establish a regime of statutory minimum wage in Hong Kong and the Employment (Amendment) Bill 2009 which sought to introduce a new offence on non-payment of awards made by the Labour Tribunal or the Minor Employment Claims Adjudication Board. It also noted the review on the coverage of the Protection of Wages on Insolvency Fund.



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Chapter 8

Committee on Occupational Safety and Health

8.1 Introduction

The Committee on Occupational Safety and Health (COSH) was set up in January 1997 to advise on occupational safety and health legislation and related matters.

8.2 Terms of Reference

The committee is established to:

- review the standards of occupational safety and health in Hong Kong;
- advise on legislative proposals on occupational safety and health and review existing legislation; and
- advise on the measures to be adopted by the Labour Department (LD) with a view to improving the existing system which enforces occupational safety and health legislation.

8.3 Composition

Members of COSH are appointed by the Commissioner for Labour. The composition of the committee for the term 2009-2010 is as follows:

- Chairman:** Deputy Commissioner for Labour (Occupational Safety and Health)
- Members:**
- Three employer representatives from the Labour Advisory Board
 - Three employee representatives from the Labour Advisory Board
 - Three employer representatives from outside the Labour Advisory Board
 - Three employee representatives from outside the Labour Advisory Board
 - A representative nominated by the Occupational Safety and Health Council

- Three representatives from occupational safety and health organisations
- Assistant Commissioner for Labour (Occupational Safety)
- Occupational Health Consultant (1)
- Chief Occupational Safety Officer (Support Services)

Secretary: A Labour Officer of the Labour Department

The membership list of COSH for the term 2009-2010 is at [Appendix V](#).

8.4 Activities during the 2009-2010 Term

During the 2009-2010 term, COSH advised on the following matters:

Implementation of the second phase certification requirement under the Factories and Industrial Undertakings (Loadshifting Machinery) Regulation

COSH discussed LD's proposed implementation by early 2011 of the second phase certification requirement under the Factories and Industrial Undertakings (Loadshifting Machinery) Regulation. The proposal would bring into force regulatory requirements for operators of five types of loadshifting machines¹ used at construction sites to have undergone relevant training and be in possession of valid certificates. COSH supported LD's proposal.

Review of the Code of Practice for Safe Use of Tower Cranes

To keep pace with the changing environment and in light of experience gained in the enforcement work arising from the issue of the Guidelines on Safety of Tower Cranes (the Guidelines) by the Construction Industry Council, LD initiated a review of the Code of Practice for Safe Use of Tower Cranes (CoP) with the primary objective of incorporating the good practices recommended in the Guidelines into CoP. COSH actively discussed and had provided practical advice on enhancing the safety of tower crane operation through CoP.

Review of the existing Mandatory Safety Training System and the proposed improvement measures

COSH considered LD's proposal for enhancing the existing system of mandatory safety training (MST) put forward after a review of the system. COSH agreed that there was a need to improve the system for monitoring MST, and supported LD's proposed two-phase approach for bringing improvement to the system, including standardising course contents, consolidating guidance notes and issuing central examination papers, to be introduced in Phase 1. It also considered different ways to monitor training course providers and to strengthen disciplinary actions against poor performers to assure the quality standard of such training courses. COSH agreed that there should be more in-depth study and consultation with relevant parties before determining any measures to be implemented in Phase 2.

¹ The five types of loadshifting machines as specified in paragraphs (f) to (j) in Part II of the Schedule to the Regulation include compactors, dumpers, graders, locomotives and scrapers.

Application for review of a Suspension Notice

LD had served on a company a Suspension Notice for work activities inside all electric meter rooms with liftwell rescue doors. The company subsequently applied for a review² of the said notice under section 11(1) of the Occupational Safety and Health Ordinance (OSHO). In deciding the review application, the Commissioner for Labour had taken advice from COSH on the matter. LD eventually upheld the Suspension Notice and rejected the application.

² Under section 11(3) of OSHO, the Commissioner for Labour must determine the application either by confirming the notice or by revoking or varying it within 14 days after receiving the application for review.



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Appendix I: Membership of LAB Committee on Employees' Compensation

From 1 January 2009 to 31 December 2010

Chairman :	Mrs Jenny Chan Mak Kit Ling, BBS [1.1.2009-1.2.2009]	Deputy Commissioner for Labour (Labour Administration)
	Mr Alan Wong Kwok Lun, JP [2.2.2009-31.12.2010]	
Members :	Mr Cheung Sing Hung, BBS	Employer representative from the Labour Advisory Board
	Dr Kim Mak Kin Wah, BBS, JP	- ditto -
	Mr Irons Sze, JP	- ditto -
	Mr Cheng Kai Ming	Employee representative from the Labour Advisory Board
	Mr Lee Tak Ming	- ditto -
	Mr Tsui Sai Cheung	- ditto -
	Mr Stephen Lee Wing Kee	Employer representative from outside the Labour Advisory Board
	Mr Chow Luen Kiu	Employee representative from outside the Labour Advisory Board
	Mr Cheng Kwok Ping	Representative nominated by the insurance industry
	Ms Karen Hui Yu Ling	Representative from a concern group on employees' compensation
	Mr David Rossiter	Representative nominated by the Hospital Authority
	Mr Allan Chan Wing Cho	Representative nominated by the Director of Legal Aid
	Mr Alan Wong Kwok Lun, JP [1.1.2009-1.2.2009]	Assistant Commissioner for Labour (Employees' Rights and Benefits)
	Mr Sunny Siu Lap Kei [2.2.2009-19.2.2009]	

Mrs Tonia Leung So Suk Ching, JP
[20.2.2009-29.8.2010]

Mr Ernest Ip Yee Cheung
[30.8.2010-31.12.2010]

Dr Raymond Leung Lai Man, JP

Occupational Health Consultant (1)

Secretary : Mr John Chong Heung Yu

Labour Officer (Compensation) (Central Services)1



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Appendix II: Membership of LAB Committee on Employment Services

From 1 January 2009 to 31 December 2010

Chairman :	Mr Leung Chau Ting	Employee representative from the Labour Advisory Board
Members :	Mr Chung Kwok Sing	- ditto -
	Mr Ho Sai Chu, GBS, JP	Employer representative from the Labour Advisory Board
	Mr Stanley Lau Chin Ho, BBS, MH, JP	- ditto -
	Ms Miranda Au Yeung Pik Sim	Employer representative from outside the Labour Advisory Board
	Mr Francis Mok	- ditto -
	Mr Fan Pak Tim	Employee representative from outside the Labour Advisory Board
	Ms Marilyn Tang Yin Lee	- ditto -
	Ms Jenny Ng Mei Fung	A representative of employers who make use of the employment services of the Labour Department
	Mr Kwok Yi Lai	A representative of people with disabilities who make use of the employment services of the Labour Department
	Mr Cheung Kit Man	Not more than two representatives nominated by employment agency associations
	Mr Remy Wong Kwan Bo	A representative nominated by the Hong Kong Association of Careers Masters and Guidance Masters
	Ms Rebecca Pun Ting Ting, JP [1.1.2009-31.7.2010]	A representative nominated by the Employees Retraining Board
	Mr Stanley Ng Ka Kwong, BBS [18.10.2010-31.12.2010]	

	Mr David Li Chi Ming	A representative nominated by the Hong Kong Institute of Human Resource Management
	Ms Eliza Fan	A representative from one of the social partners of the Labour Department
	Mr Tom Fong Wing Ho	A representative from a tertiary educational institution
	Mr Stanley Ng Ka Kwong, BBS <i>[1.1.2009-15.4.2010]</i>	Assistant Commissioner for Labour (Employment Services)
	Mr Charles Hui Pak Kwan <i>[16.4.2010-14.9.2010]</i>	
	Mrs Tonia Leung So Suk Ching, JP <i>[15.9.2010-31.12.2010]</i>	
Secretary :	Miss Doris Ng Sin Han <i>[1.1.2009-27.12.2010]</i>	Labour Officer (Employment Services) (Central Services)
	Ms Jessie Lam Choi Ping <i>[28.12.2010-31.12.2010]</i>	



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Appendix III: Membership of LAB Committee on the Implementation of International Labour Standards

From 1 January 2009 to 31 December 2010

Chairman : Mrs Jenny Chan Mak Kit Ling, BBS [1.1.2009-1.2.2009]	Deputy Commissioner for Labour (Labour Administration)
Mr Alan Wong Kwok Lun, JP [2.2.2009-31.12.2010]	
Members : Mr Cheung Sing Hung, BBS	Employer representative from the Labour Advisory Board
Mr Ho Sai Chu, GBS, JP	- ditto -
Mr Stanley Hui Hon Chung, JP	- ditto -
Mr Cheng Kai Ming	Employee representative from the Labour Advisory Board
Mr Chung Kwok Sing	- ditto -
Ms Ng Wai Yee, MH	- ditto -
Mr Charles Hui Pak Kwan [1.1.2009-1.3.2009]	Senior Labour Officer (Development)
Mr Raymond Leung Kwok Kee [2.3.2009-31.12.2010]	
Secretary : Mr David Tam Siu Mun [1.1.2009-31.12.2009]	Labour Officer (Development)
Miss Gloria Kam Wing Yin [1.1.2010-31.12.2010]	



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Appendix IV: Membership of LAB Committee on Labour Relations

From 1 January 2009 to 31 December 2010

Chairman	Mrs Jenny Chan Mak Kit Ling, BBS [1.1.2009-1.2.2009]	Deputy Commissioner for Labour (Labour Administration)
	Mr Alan Wong Kwok Lun, JP [2.2.2009-31.12.2010]	
Members	Mr Stanley Lau Chin Ho, BBS, MH, JP	Employer representative from the Labour Advisory Board
	Dr Kim Mak Kin Wah, BBS, JP	- ditto -
	Mr Irons Sze, JP	- ditto -
	Mr Chung Kwok Sing	Employee representative from the Labour Advisory Board
	Mr Lee Tak Ming	- ditto -
	Ms Ng Wai Yee, MH	- ditto -
	Mr Steve Lo Wong Fung, JP	Employer representative from outside the Labour Advisory Board
	Mr Kenneth Mo Kon Fei	- ditto -
	Mr Ng Chau Pei	Employee representative from outside the Labour Advisory Board
	Mr Sin Kai Ming, MH	- ditto -
	Mr Lai Kam Tong	Representative of Human Resources Practitioners
	Mr Byron Ng Kwok Keung, JP	Assistant Commissioner for Labour (Labour Relations)
Secretary	Miss Christine But Wing Tung [1.1.2009-1.8.2010]	Labour Officer (Labour Relations) (Headquarters) ¹
	Ms Esther Chan Lai Heung [2.8.2010-31.12.2010]	



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Appendix V: Membership of LAB Committee on Occupational Safety and Health

From 1 January 2009 to 31 December 2010

Chairman	: Mrs Erika Hui Lam Yin Ming, JP	Deputy Commissioner for Labour (Occupational Safety and Health)
Members	: Mr Cheung Sing Hung, BBS	Employer representative from the Labour Advisory Board
	Mr Ho Sai Chu, GBS, JP	- ditto -
	Mr Stanley Lau Chin Ho, BBS, MH, JP	- ditto -
	Mr Lee Tak Ming	Employee representative from the Labour Advisory Board
	Mr Leung Chau Ting	- ditto -
	Mr Tsui Sai Cheung	- ditto -
	Mr Thomas Ho On Sing, JP	Employer representative from outside the Labour Advisory Board
	Mr Alkin Kwong Ching Wai, JP	- ditto -
	Mr Henry Wu King Cheong, BBS, JP	- ditto -
	Mr Chan Wai Lun, MH	Employee representative from outside the Labour Advisory Board
	Mr Choi Kam Wah, MH	- ditto -
	Mr Tam Wai To	- ditto -
	Mr Tang Wah Shing	Representative nominated by the Occupational Safety and Health Council
	Dr Edmund Hau Ka Man	Representative from occupational safety and health organisations
	Mr Ivan Lam Kai Wing	- ditto -
	Mrs Virginia Ma Lo Kam Wah	- ditto -
	Mr Tso Sing Hin, JP	Assistant Commissioner for Labour (Occupational Safety)

Dr Raymond Leung Lai Man, JP

Occupational Health Consultant (1)

Mr Ho Tit Ying
[1.1.2009-22.2.2009]

Chief Occupational Safety Officer
(Support Services)

Mr Yam Kim Cheung
[23.2.2009-31.12.2010]

Secretary : Ms Katherine Tsang
[1.1.2009-28.6.2009]

Labour Officer
(Occupational Safety and Health)

Miss Maria Wang Wai Han
[29.6.2009-31.12.2010]



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Appendix VI: Terms of Reference, Composition and Membership of LAB Working Group on the Supplementary Labour Scheme

Terms of Reference

The working group is established to:

- advise on the vetting guidelines for processing applications for importation of labour under the Supplementary Labour Scheme; and
- discuss applications for which members of the Labour Advisory Board (LAB) cannot reach a consensus level as agreed by LAB, and draw up recommendations for endorsement by LAB.

Composition

Members of the working group are appointed by the Commissioner for Labour. The composition of the working group for the term 2009-2010 is as follows:

Chairman : Assistant Commissioner for Labour (Policy Support and Strategic Planning)

Members :

- Two employer representatives from the Labour Advisory Board
- Two employee representatives from the Labour Advisory Board
- A Senior Labour Officer of the Labour Department

Secretary : A Labour Officer of the Labour Department

Membership

The membership of the working group for the term 2009-2010 is as follows:

Chairman	: Mr Fong Ngai	Assistant Commissioner for Labour (Policy Support and Strategic Planning)
Members	: Mr Stanley Hui Hon Chung, JP	Employer representative from the Labour Advisory Board
	Mr Irons Sze, JP	- ditto -
	Ms Ng Wai Yee, MH	Employee representative from the Labour Advisory Board
	Mr Tsui Sai Cheung	- ditto -
	Mr Man Tak Wah	Senior Labour Officer (Job Matching Centre)
Secretary	: Mr Roy Law Tak Yan	Labour Officer (Job Matching) ⁴



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Appendix VII: Reports on International Labour Conventions considered by the LAB Committee on the Implementation of International Labour Standards during 2009-2010

Reports submitted in 2009 under Article 22 of the ILO Constitution

	Convention Number	Title
(1)	8	Unemployment Indemnity (Shipwreck) Convention, 1920
(2)	16	Medical Examination of Young Persons (Sea) Convention, 1921
(3)	22	Seamen's Articles of Agreement Convention, 1926
(4)	23	Repatriation of Seamen Convention, 1926
(5)	74	Certification of Able Seamen Convention, 1946
(6)	87	Freedom of Association and Protection of the Right to Organise Convention, 1948
(7)	92	Accommodation of Crews Convention (Revised), 1949
(8)	98	Right to Organise and Collective Bargaining Convention, 1949
(9)	108	Seafarers' Identity Documents Convention, 1958
(10)	122	Employment Policy Convention, 1964
(11)	133	Accommodation of Crews (Supplementary Provisions) Convention, 1970
(12)	144	Tripartite Consultation (International Labour Standards) Convention, 1976
(13)	147	Merchant Shipping (Minimum Standards) Convention, 1976
(14)	150	Labour Administration Convention, 1978
(15)	151	Labour Relations (Public Service) Convention, 1978
(16)	160	Labour Statistics Convention, 1985

Reports submitted in 2010 under Article 22 of the ILO Constitution

	Convention Number	Title
(1)	2	Unemployment Convention, 1919
(2)	29	Forced Labour Convention, 1930
(3)	81	Labour Inspection Convention, 1947
(4)	97	Migration for Employment Convention (Revised), 1949
(5)	105	Abolition of Forced Labour Convention, 1957
(6)	115	Radiation Protection Convention, 1960
(7)	138	Minimum Age Convention, 1973
(8)	148	Working Environment (Air Pollution, Noise and Vibration) Convention, 1977
(9)	182	Worst Forms of Child Labour Convention, 1999