

Minimum wage system in selected places

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Executive Summary

1. In this study, Australia, France, Guangdong, Shenzhen, Japan, South Korea, Taiwan, the United Kingdom (UK) and the United States (US) all have a minimum wage system in place for regulating pay at the lower end of the labour market, providing a floor for wage levels across the economy. Singapore is the only selected place studied which does not have such a system. Instead, it adopts a flexible wage system in which a tripartite body comprising representatives from the government, employer associations and labour unions advises the government on wages policies and recommends non-binding wage adjustments.
2. Certain categories of workers are not covered under the minimum wage systems, including domestic workers (South Korea, Guangdong and Shenzhen), trainees (Australia, France, Japan and the UK), fishermen (Taiwan and the UK) and professionals (the US).
3. As regards disabled employees, they are not covered under the minimum wage systems in France, Guangdong, Shenzhen and South Korea. In Australia, Taiwan and the US, disabled employees are assessed for their productive capacity and receive wages corresponding to a percentage of the minimum wage rate. In the UK, if a disabled employee is categorized as a "worker", he or she must be paid the minimum wage rate. In Japan, a disabled employee who can perform the job duties is entitled to receive the minimum wage rate.
4. While Australia, France, South Korea, Taiwan and the UK have only one single minimum wage rate for adults, Japan, Guangdong and Shenzhen apply different rates at the regional and local levels. The US has a federal minimum wage rate, but most states also set their own rates, and an employee is entitled to the higher of the two minimum wages.
5. Among the places studied, the percentage of the minimum wage relative to the average wage varies between 28% and 48%, whereas the hourly minimum wage rate for adults ranges from HK\$4.4 to HK\$82.5. Reduced minimum wage rates, ranging from 25% to 90% of the adult rates, are set for apprentices in France and Taiwan, youths in the UK and the US, and workers on probation, security guards and caretakers in South Korea.
6. Among the places studied, only France and Taiwan have relief measures implemented in view of the minimum wage system. In France, companies which pay their employees up to 160% of the minimum wage are eligible for exemption in social security contribution. In Taiwan, the government has recently reduced financial burdens of small- and medium-sized companies engaged in food and beverages, and retail businesses.
7. Apart from Taiwan and the US, the real value of the minimum wage rate among the selected places studied has been appreciating since 2001. In Taiwan, the real value depreciated by 7.3% between 1997 and 2007. In the US, the real value of the minimum wage rate depreciated by 28% from 1979 to 2006.

8. While an independent statutory body is responsible for setting the minimum wage rates in Australia, such responsibility rests upon the legislature in the UK and the US. For all the other places studied, the government is responsible for wage setting. Official advisory bodies are established in France, Japan, South Korea, Taiwan and the UK to provide advice and recommendations to their respective authorities. Although Singapore does not have a minimum wage system, a tripartite body is responsible for recommending wage adjustments to the government.
9. In France, the percentage of minimum wage workers to the total labour force is about 16.8%, while the corresponding ratio is about 13% in South Korea and Taiwan and 5.1% in the UK. In Japan, the number of minimum wage workers is comparatively small. In all the places studied, minimum wage workers are mainly youth and female, and employed in sectors such as food and beverages, retail, hospitality, toys and garments.
10. When determining the minimum wage rate, the authorities of the places studied adopt similar criteria, which include the current economic performance, workers' basic needs, average wage, labour productivity, inflation rate and employment situation. In Guangdong and Shenzhen, the authorities also consider the amount of social security benefits.
11. As regards the frequency of minimum wage adjustment, Australia, France, Guangdong, Shenzhen, Japan, South Korea and the UK adjust their minimum wage rate annually. In Taiwan and the US, such adjustment is not conducted on a regular basis.
12. Australia is the only place studied where an independent statutory agency is responsible for the enforcement of the minimum wage system. In all the other selected places, such responsibility falls onto a government authority on labour matters. The financial penalties for failing to pay the minimum wage rate and making a false report to the enforcement agency vary in this research. In South Korea and the US, conviction of failing to pay the minimum wage rate may result in imprisonment.
13. In Guangdong and Shenzhen, empirical studies indicated that the minimum wage system brought certain benefits to the society. Similarly, in France, studies revealed that the minimum wage system had a positive effect on employment. In Taiwan, the UK and the US, empirical studies showed that the minimum wage system did not have any significant adverse effects on employment, inflation and competitiveness of the economy. However, in Australia, a study suggested that an increase in minimum wage could exacerbate unemployment, and an empirical study in Japan illustrated that the minimum wage rate had certain negative impact on female employment.

Minimum wage system in selected places

Chapter 1 – Introduction

1.1 Background

1.1.1 At the meeting of the Panel on Manpower on 17 May 2007, the Panel requested the Research and Library Services Division (RLSD) to update the research report entitled "Minimum Wage Systems" (RP08/98-99) published in May 1999 to facilitate Members' discussion on the situation in Hong Kong.

1.2 Selection of places studied

1.2.1 As agreed by the Panel, RLSD examines the same 10 places studied in the research report published in May 1999:

- (a) Australia;
- (b) France;
- (c) Guangdong and Shenzhen;
- (d) Japan;
- (e) South Korea;
- (f) Taiwan;
- (g) the United Kingdom;
- (h) the United States; and
- (i) Singapore.

1.2.2 For a better understanding of the background to the development of the minimum wage system in the selected places and Hong Kong, Table 1 presents some selected statistics on their economy and labour market.

Table 1 – Selected 2006 economic and labour statistics in the selected places and Hong Kong

	Population (million)	Labour force (million)	Average unemployment rate (%)	Gross Domestic Product at current market prices (US\$ billion)	Per capita Gross Domestic Product at current market prices (US\$)
Australia	20.7	10.2	4.8	755.7	36,594
France	61.4	25.3 ⁽¹⁾	9.5	2,252.2	36,708
Guangdong	93.0	Not available	2.6 (urban areas only)	325.8	3,503
Shenzhen	8.5	Not available	2.3 (urban areas only)	72.9	8,713
Japan	127.8	66.6	4.1	4,366.5	34,181
South Korea	48.3	23.2 ⁽¹⁾	3.5	884.1	18,306
Taiwan	22.8	10.5	3.9	360.5	15,857
The United Kingdom	60.5	31.4	5.4	2,399.0	39,630
The United States	299.7	152.8	4.6	13,194.7	44,024
Singapore	4.5	2.6	3.4	132.1	29,454
Hong Kong	6.9	3.6	4.8	189.8	27,679

Note: (1) These two International Monetary Fund figures are different from the corresponding figures obtained from the respective government authorities.

Sources: International Monetary Fund (2007), Legislative Council Secretariat (2007), *GDSStats* (2006) and *Shenzhen Statistics* (2006).

1.3 Scope of research

1.3.1 The scope of research covers the following aspects of a minimum wage system:

- (a) development of the minimum wage system;
- (b) coverage of the minimum wage system;
- (c) minimum wage rate;
- (d) process of determining the minimum wage rate;
 - (i) authorities for determining the minimum wage rate;
 - (ii) criteria for determining the minimum wage rate; and
 - (iii) procedures for determining the minimum wage rate;
- (e) characteristics of minimum wage workers;
- (f) enforcement and penalty; and
- (g) empirical studies evaluating the impact of the minimum wage system.

1.4 Research method

1.4.1 This research adopts a desk research method, which involves literature review, documentation analysis, Internet search and correspondence with the relevant authorities.

Chapter 2 – Australia

2.1 Development of the minimum wage system

2.1.1 Australia is a pioneer in establishing the minimum wage system. Minimum wage has been in existence since the beginning of the 20th century. During the ensuing 100 years, the minimum wage system has undergone numerous changes: from a two-tiered wage replaced by one money amount to the passage of the Workplace Relations Act 1996 (WR Act), which establishes a safety net of fair minimum wages, and eventually leads to a uniform federal minimum wage rate across all trades and industries.

WorkChoices reform

2.1.2 There were some shortcomings with the wage system in the last century. Firstly, awards were used in Australia to prescribe minimum rates of pay and conditions for employees. For different occupations (e.g. teachers, plumbers, bus drivers and nurses), there were different awards rates. Despite the introduction of the WR Act and the attempt to reduce the number of awards, awards remained numerous and overly prescriptive, and the related documents were too detailed for employers and workers to understand. Secondly, the then regulatory authority, the Australian Industrial Relations Commission¹, was involved in every collective agreement, even where the parties were in complete agreement. This bureaucratic process resulted in delays and confusion for both businesses and employees, in contrast to what should have been a simple process.²

2.1.3 Starting from 2005, the government has introduced major changes to industrial relations in Australia through the WorkChoices Act and Workplace Relations Regulations 2006. In particular, there is a new standard of workplace relations, known as the Australian Fair Pay and Conditions Standards (the Standard), to provide improved protection for all workers. The Standard consists of five basic entitlements:

- (a) basic rates of pay and casual loading³;
- (b) hours of work;

¹ In 1988, the government established the Australian Industrial Relations Commission, a tribunal which set minimum wages and settled labour disputes.

² For further details on the historical development of the minimum wage system, please see Legislative Council Secretariat (1999).

³ Casual loading refers to loading received by casual employees who are employed on an irregular basis with no set roster or routine as to when they work. Casuals, unlike permanent employees, are employed on an "as needs" basis, and generally receive a loading of at least 20% of the ordinary rate of pay to compensate for lack of employment benefits such as security of employment, sick leave, annual leave and payment for public holidays.

- (c) annual leave;
- (d) personal/carer's and compassionate leave; and
- (e) unpaid parental leave.

2.1.4 Particularly, the basic rates of pay is to be set by the Australian Fair Pay Commission⁴ which was established under the WorkChoices Act in December 2005 as an independent statutory body responsible for setting and adjusting federal minimum wages. The major functions of the Commission are to:

- (a) adjust the standard federal minimum wage;
- (b) determine and adjust minimum classification rates of pay in the Australian Pay and Classification Scales (Pay Scales)⁵;
- (c) determine and adjust special federal minimum wages for employees with disabilities, junior employees and employees to whom training arrangements apply;
- (d) determine and adjust basic periodic rates of pay and basic piece rates of pay payable to employees in general as well as employees of particular classifications; and
- (e) determine and adjust casual loadings.

2.1.5 The Fair Pay Commission consists of five Commissioners, including the Chairman, who are from a range of backgrounds, such as economics, business, social justice, workplace relations, academia and community service. All Commissioners are appointed in a part-time capacity by the government.

⁴ The Commission takes over the wage setting and adjusting functions of the Australian Industrial Relations Commission, which retains its role as a national tribunal dealing with employment disputes.

⁵ A Pay Scale typically contains: (a) a guaranteed basic periodic rate of pay for each "guaranteed hour" that an employee works or a piece rate of pay; (b) classification; and (c) coverage provisions.

2.2 Coverage of the minimum wage system

2.2.1 All workers subject to the WR Act are covered under the Standard which guarantees the workers minimum wages set by the Pay Scales, the standard federal minimum wage or the special federal minimum wage.⁶

Exemption

2.2.2 The following two groups of workers are not covered under the WR Act and are excluded from the minimum wage system:

- (a) workers subject to transitional arrangements, namely those who are covered by pre-WorkChoices awards but not working in constitutional corporations. The Australian Industrial Relations Commission sets and adjusts minimum wages for these employees. The transitional arrangements will operate for up to five years (March 2011) for the employees to be covered by the new federal system or by the relevant state system; and
- (b) workers in non-constitutional corporations who are covered by state awards in the States of New South Wales, Queensland, Western Australia, South Australia and Tasmania.

2.3 Minimum wage rate

2.3.1 For workers covered under the Standard, most of them are covered by the Pay Scales, which guarantee the workers' pay rate in their respective trade. If there is no applicable Pay Scale, an employee will be entitled to the relevant federal minimum wage, of which there are two types:

- (a) the standard federal minimum wage; and
- (b) the special federal minimum wage.

⁶ This category would include most employees in the state of Victoria and all employees whose employer is: (a) a constitutional corporation; (b) the Commonwealth or a Commonwealth authority; (c) a body corporate incorporated in an Australian Territory; or (d) a person or entity that carries on an activity in a Territory.

Standard federal minimum wage

2.3.2 An employee will be entitled to at least the standard federal minimum wage if:

- (a) there is no appropriate Pay Scale that applies to their employment; and
- (b) the employee is not an employee with a disability, not a junior employee, nor an employee to whom a training arrangement applies.

2.3.3 Starting from 1 October 2007, the standard federal minimum wage has increased by A\$0.27 (HK\$1.6)⁷ per hour, i.e. from A\$13.47 (HK\$78.8) to A\$13.74 (HK\$80.4) per hour.

Special federal minimum wage

2.3.4 The special federal minimum wage is a rate of pay for:

- (a) employees with disabilities;
- (b) junior employees; and
- (c) employees to whom a training arrangement applies, if there is no appropriate Pay Scale which otherwise applies to their employment.

Employees with disabilities

2.3.5 In the 2007 Minimum Wage Decision, the Fair Pay Commission announced that from 1 October 2007 onwards, the arrangement for the special federal minimum wage would be as follows:

- (a) the special federal minimum wage is up from A\$13.47 (HK\$78.8) per hour to A\$13.74 (HK\$80.4) per hour for disabled employees who are able to earn full adult, junior or trainee wages as the effects of their disability do not affect their productive capacity; and

⁷ The average exchange rate in 2006 was A\$1 = HK\$5.85.

- (b) for disabled employees who are unable to perform the range of duties to the competence level required because of the effects of disability on their productive capacity, and are not currently covered by a Pay Scale, the minimum hourly rate payable to such an employee is the percentage of the standard federal minimum wage (A\$13.74 (HK\$80.4) per hour from 1 October 2007 onwards) in proportion to his or her assessed productive capacity. For instance, if the assessed productive capacity of a disabled employee is 10%, he or she will receive 10% of the standard federal minimum wage.

Junior employees

2.3.6 Junior rates are minimum rates of pay for people under the age of 21. Where juniors are covered by adult rates in a Pay Scale, they would be eligible to receive the full increase applied to those rates. For juniors covered by junior rates, the Fair Pay Commission has decided that these rates would be increased in a similar way (i.e. generally proportionately) to how they were increased prior to the introduction of the WorkChoices Act. In the event that a Pay Scale does not provide for junior rates of pay, a young worker must be paid at least the minimum adult rate specified in that Pay Scale.

Trainees and apprentices

2.3.7 For trainees under the National Training Wage award, the Commission determines the new rates for that Pay Scale depending on the skill level of the trainees. For other trainees, the rates of pay would generally be increased in accordance with the way they were increased in the past to maintain the relativities in the awards as initially set. For example, before the introduction of the WorkChoices Act, the first-year apprentice rate of a tradesman was specified at 40% of the full tradesman's rate. Under the Commission's 2007 Decision, the apprentice rate is now 40% of the new higher tradesperson's rate.

Wage-setting reviews for juniors and trainees

2.3.8 The Commission announced in the 2007 Decision that it would undertake a specific review on the wage arrangements for junior employees and employees to whom training arrangements apply as part of the planned rationalization of the Pay Scales. It is currently seeking submissions from the public and interested stakeholders to address the various issues related to the review.⁸

⁸ The submission period will end in February 2008.

Real value of the minimum wage rate

2.3.9 Between 1997 and 2006, on only one occasion (in 2001) did the nominal increase in the minimum wage constitute a reduction in real terms when compared to the previous decision. All the nominal increases in the other years led to an increase in real terms.

Minimum wage relative to the average wage

2.3.10 According to the Organisation for Economic Co-operation and Development (2007b), in 2005, the standard federal minimum wage represented 48% of the average wage of manufacturing workers.

2.4 Characteristics of minimum wage workers

2.4.1 According to the Department of Education, Employment and Workplace Relations, there were approximately 101 500 adult employees earning up to and including the standard federal minimum wage as at May 2006.

2.4.2 Based on data from the Fair Pay Commission, most minimum wage workers are likely to be young, without post-school qualifications, and engaging in part-time casual jobs in the retail and hospitality sectors. Minimum wage workers are disproportionately found in the lowest deciles of the distribution of household disposable income.

2.5 Process of determining the minimum wage rate

Authority for determining the minimum wage rate

2.5.1 Under the WR Act, the Australian Fair Pay Commission is in charge of setting the minimum wage rates by conducting wage reviews, and exercising its wage-setting powers as necessary depending on the outcomes of wage reviews.

Criteria for determining the minimum wage rate

2.5.2 In fulfilling its wage-setting function, the Commission must have regard to:

- (a) maintaining the capacity for the unemployed and low-paid to obtain and remain in employment;
- (b) promoting employment and competitiveness across the economy;

- (c) providing a safety net for the low-paid; and
- (d) providing minimum wages for employees with disabilities, junior employees and employees to whom training arrangements apply, and ensuring that those employees are competitive in the labour market.

Procedures for determining the minimum wage rate

2.5.3 The Commission conducts an annual minimum wage review and announces its wage-setting decisions in July each year, with an implementation date set in October of the same year. It determines the scope of particular wage reviews, the manner in which wage reviews are to be conducted, and when wage-setting decisions are to come into effect. For the purposes of performing its wage-setting function, the Commission may, in any way it thinks appropriate:

- (a) undertake or commission research;
- (b) consult with any other person, body or organization; or
- (c) monitor and evaluate the impact of its wage-setting decisions.

2.6 Enforcement and penalty

Enforcement

2.6.1 The Office of the Workplace Ombudsman (formerly known as the Office of Workplace Services) is the independent Commonwealth agency responsible for ensuring employers' compliance with federal workplace law. Its role is to impartially assist both employers and employees and enforce their compliance with workplace laws such as the WR Act and related regulations by appointing Workplace Inspectors to investigate and enforce compliance. Specifically, the Office of the Workplace Ombudsman provides the following services to employees and employers:

- (a) assisting employees and employers to understand their rights and obligations under federal workplace law;
- (b) promoting and monitoring employers' compliance with federal workplace law, such as providing assistance and advice, and disseminating information to both employers and employees;
- (c) investigating complaints and suspected contraventions of federal workplace law;
- (d) inquiring into any act or practice that may be contrary to federal workplace law; and

- (e) instituting proceedings to enforce federal workplace law and representing employees who are, or might become, a party to proceedings under the WR Act.

2.6.2 Workplace Inspectors conduct compliance monitoring activities by investigating formal complaints lodged by members of the public, conducting audits of businesses, investigating alleged breaches of workplace law by interviewing employers, employees and relevant third parties, analyzing employment records and conducting site visits to business premises.

2.6.3 In 2006, 6 475 investigations resulted in alleged breaches of the WR Act, comparing to 4 203 in 2005. The vast majority of the investigations are into claims of underpayment of minimum wage rates.

Penal provisions

2.6.4 If a breach of workplace law is detected, the responsible Workplace Inspector will issue to the related employer a breach notice which allows the employer 14 days to rectify the breach. If the employer does not voluntarily rectify the breach within the 14-day period, the Workplace Ombudsman may issue the employer with a final breach notice, which provides the employer with seven more days to rectify the breach.

2.6.5 If the employer still does not rectify the breach after the seven-day period, the Workplace Inspector, the employee or employee organization concerned can institute legal proceedings against the employer for underpayment of wages. The court may order the employer to pay a specified amount as compensation for damage suffered by the affected employee as a result of the contravention.

2.6.6 The maximum penalty that may be imposed for underpayment of wages is 60 penalty units for an individual, or 300 penalty units for a corporate. Under the Crimes Act 1914, one penalty unit is currently equal to A\$110 (HK\$643).

2.7 Empirical studies on the minimum wage system

2.7.1 In its submission to the Fair Pay Commission's 2006 Minimum Wage Review, the government presented a summary of results from international and Australian studies which investigated the relationship between minimum wage increases and employment. The overwhelming majority of these studies presented by the government revealed that excessive minimum wage increases had a negative impact on employment. For instance, a report of the Department of Employment and Workplace Relations⁹ concluded that the restaurant and catering industry was affected more than any other industries by increases in minimum wages. There were suggestions that increases in minimum wages had caused job loss, erosion of profitability and restaurant closures.

2.7.2 In addition, there were questions regarding whether low-paid workers and casual workers (most of whom were engaged in low-paid jobs) might eventually be offered better jobs. According to the Joint Labor Governments¹⁰ and the Australian Council of Social Service¹¹, the labour market could not guarantee that a person who entered low-paid employment would progress to higher-paid employment over time, nor that a person employed in a casual or part-time capacity would progress to more secure or substantive employment. These organizations opined that if increases in minimum wages led to the reduction of the overall availability of low-paid jobs or the willingness of employers to offer jobs to people who had been out of work for some time, the overall result would exacerbate unemployment in the country.

⁹ The Department of Employment and Workplace Relations is the former name of the current Department of Education, Employment and Workplace Relations.

¹⁰ The Joint Labor Governments comprise the labour governments of the States of Victoria, South Australia, Western Australia and Tasmania, and the Australian Capital Territory and the Northern Territory.

¹¹ The Australian Council of Social Service is an independent non-party political voice within the community services and welfare sector. It promotes socially and economically responsible public policy and action by the governments, communities and businesses.

Chapter 3 – France

3.1 Development of the minimum wage system

3.1.1 Prior to the introduction of a national minimum wage system in France, wages had been regulated primarily through collective bargaining. In the mid-1940s, most industries had collective agreements covering all employees, with minimum wage rates that were legally binding.

3.1.2 The Minimum Wage Law was passed in 1950 to establish a national minimum wage system in France to ensure that low-paid workers could enjoy a certain standard of living. However, the system was complicated by the introduction of a large number of minimum wage rates which varied by region and town. In addition, the minimum wage rates were criticized by labour unions for not being indexed to the inflation rate.

3.1.3 In view of the problems, the government attempted to reform the national minimum wage system in the 1950s and subsequently in the 1960s. In 1952, the government began to adjust the minimum wage rates with reference to changes in price levels due to rising pressure from the labour unions. In 1968, the government simplified the system by merging various minimum wage rates into one single minimum wage rate. Nonetheless, there was increasing dissatisfaction with the system because the minimum wage rate was largely confined to compensating for price inflation, and the disparity between the general wage rate and the minimum wage rate widened progressively.

3.1.4 In the 1970 reform, a new national minimum wage (*Salaires Minimum Interprofessionnel de Croissance*) (SMIC) system was introduced, with the aim of ensuring that low-paid workers would enjoy the benefits of economic growth. The current minimum wage system in France is based on the 1970 framework.

3.2 Coverage of the minimum wage system

3.2.1 SMIC is applicable to employees aged 18 and above in almost all sectors of the economy, including temporary and part-time workers. However, disabled employees and prisoners are not covered under the minimum wage system.

3.3 Minimum wage rate

3.3.1 Since July 2007, SMIC has been €8.44 (HK\$82.5)¹² an hour, up 2.1% from the corresponding rate in 2006-2007. The rates for young workers and apprentices are lower than SMIC.

Young workers

3.3.2 Employers pay a reduced rate at 80% of the minimum wage (or €6.75 (HK\$66)) to young workers aged below 17, and 90% (or €7.60 (HK\$74.3)) to those aged between 17 and 18. However, young workers with six months or more experience in their respective trade are entitled to receive the full rate.

Apprentices

3.3.3 Depending on their age and qualification, the applicable minimum wage rates of apprentices are set at a percentage of SMIC or the conventional minimum wage rate of the trade (whichever is higher).¹³

Table 2 – Minimum wage rates of apprentices

Year of employment	Age		
	15 – 17 years old	18 – 20 years old	21 years old and above
First year	25% of SMIC ⁽¹⁾	41% of SMIC ⁽¹⁾	53% of SMIC ⁽¹⁾
Second year	37% of SMIC ⁽¹⁾	49% of SMIC ⁽¹⁾	61% of SMIC ⁽¹⁾
Third year	53% of SMIC ⁽¹⁾	65% of SMIC ⁽¹⁾	78% of SMIC ⁽¹⁾

Note: (1) A percentage of SMIC or the conventional minimum wage rate of the trade, whichever is higher.

Source: The Ministry for Labour, Labour Relations and Solidarity.

¹² The average exchange rate in 2006 was €1 = HK\$9.77.

¹³ As regards the impact of the introduction of a statutory 35-hour working week on the minimum wage system, please refer to Appendix I.

Relief measures implemented

3.3.4 Since 1993, the French government has adopted a succession of new regulations, enabling companies to claim wage subsidies for minimum wage earners. Companies which pay their employees up to 160% of SMIC are eligible for exemption in employers' social security contributions.¹⁴ According to a study carried out by the Ministry for Labour, Labour Relations and Solidarity, if SMIC rises, companies, which pay above 140% of SMIC to employees, are unlikely to follow suit and increase the pay. On the other hand, some of these companies may become eligible for wage subsidies.¹⁵ In this case, the rise of SMIC is advantageous to such companies.

Real value of the minimum wage rate

3.3.5 Under the French Labour Code (*Code du Travail*), the percentage increase of SMIC cannot be lower than the inflation rate in the same year. For instance, between July 2002 and July 2005, the annual increase of SMIC was around 3% in real terms (i.e. a 5% increase in nominal terms minus 2% inflation rate).

Minimum wage relative to the average wage

3.3.6 Under Article L. 141-5 of the Labour Code, the annual growth in the purchasing power of SMIC cannot be less than half of the average growth in the purchasing power of all earnings. The basis used for representing average earnings is the index of the progression of the gross hourly wage for manual work (*Salaire Horaire de Base Ouvrier*), calculated by the Ministry for Labour, Labour Relations and Solidarity. According to the Organisation for Economic Co-operation and Development (2007b), the value of minimum wage in 2005 was 47% of the average earnings.

3.4 Characteristics of minimum wage workers

3.4.1 According to the information provided by the French Consulate in Hong Kong, there were about 2.5 million minimum wage workers in July 2006, or 16.8% of the labour force. The recent government policy of raising SMIC in real terms has caused the number of minimum wage workers to increase continuously.

¹⁴ Schulten, T. et al. (2006), p.131.

¹⁵ Concialdi, P. (2006). For instance, if a company is paying 180% of SMIC to its employees, it is not eligible for wage subsidy. If SMIC is subsequently increased by 20%, the company will then be eligible for wage subsidy because its paying rate has become 150% of the new SMIC.

3.4.2 According to an article published by Schulten, T. et al. (2006), in 2004, 44.4% of domestic work employees were minimum wage workers, compared to 31.8% in agriculture and 8.1% in public service. Among all minimum wage workers, 36.1% worked in the hotel and restaurant industry, 24.6% in personal services and 23.1% in retail trade.

3.5 Process of determining the minimum wage rate

Authority for determining the minimum wage rate

3.5.1 The Council of Ministers (i.e. the cabinet) is the authority for determining the minimum wage rate.

Advisory body

3.5.2 The National Collective Bargaining Commission (*Commission Nationale de la Négociation Collective*) (NCBC) is an advisory body which provides recommendations on the minimum wage rate for the Council of Ministers to consider. NCBC is a tripartite body consisting of 40 members: four from the government, 18 from five national labour unions and 18 from employer associations. The Minister for Labour, Labour Relations and Solidarity presides as the Chair of NCBC.

Criteria for determining the minimum wage rate

3.5.3 Both the Council of Ministers and NCBC consider the following four criteria when adjusting SMIC:

- (a) the needs of workers and their families;
- (b) the average wage of manual workers;
- (c) inflation rate; and
- (d) economic factors such as the economic situation, productivity and employment levels.

Procedures for determining the minimum wage rate

3.5.4 SMIC is adjusted in a two-stage process. Firstly, SMIC changes in accordance with the movement of the national price index. On 1 July each year, it is adjusted to cover the movement of the national price index since the last adjustment. During the interim period, when the national price index changes by 2% or more, SMIC will be adjusted automatically.¹⁶ In this way, the real value of SMIC will not fall.

3.5.5 Secondly, apart from the inflation-pegged adjustment to SMIC, NCBC holds meetings in June each year to examine the relevant economic reports for potential further adjustments to SMIC. After the examination and taking the inflation adjustment into account, NCBC would recommend an adjusted SMIC to the Council of Ministers for final approval. The Ministry for Labour, Labour Relations and Solidarity is responsible for publishing the final figure.

3.6 Enforcement and penalty

Enforcement

3.6.1 Labour Inspectors of the Ministry for Labour, Labour Relations and Solidarity are responsible for ensuring that employers comply with the law on minimum wage. They handle complaints and carry out regular inspections.

Penal provisions

3.6.2 The standard penal provision of underpaying minimum wage workers is €1,500 (HK\$14,655).

3.7 Empirical studies on the minimum wage system

3.7.1 The effects of SMIC on employment trends have always been hotly debated in France, especially on the consequences of wage subsidies in the low-paid sector. A number of studies on the minimum wage system have been conducted in the past. Laroque and Salanié estimated that a 10% rise in SMIC would lead to the loss of 290 000 jobs whilst, conversely, the wage subsidies paid out in the 1990s would create 500 000 jobs in the long term. Crépon and Desplatz also maintained that 460 000 new jobs were created between 1994 and 1997 alone as a result of wage subsidies in the low-paid sector.¹⁷

¹⁶ RLSD has not been able to ascertain whether SMIC is adjusted downward in case of deflation.

¹⁷ Schulten, T. et al. (2006), p.137.

3.7.2 As a result of the wage subsidies, the rise in SMIC was hardly a burden for employers; instead such an increase directly affected the government's budget. The trend over the past decade was that the state had borne a growing portion of the costs of rises in the purchasing power of low-paid workers through subsidies for employers. Small companies, in particular, benefited the most from the exemption in employers' contribution.¹⁸ Sterdyniak concluded that the cut of social security contribution to wage costs was 5.9% for companies with less than 10 employees; 4.0% for companies with 50 – 99 employees; 3.1% for companies with 250 to 499 employees; and 1.3% for companies with more than 500 employees respectively.¹⁹

3.7.3 As regards the relationship between minimum wage and productivity, Cheron et al. reported that SMIC had an important function in the co-ordination of companies' pay policies, in that it curbed the competitive downward pressure on wages and favoured corporate strategies aiming at boosting productivity. Based on the efficiency wage theory, there was a positive connection whereby higher pay normally stimulated employees' motivation and productivity. Conversely, subsidizing wages at the lower end could have adverse effects on productivity growth, since it reduced the pressure on companies to innovate. From a macro economic perspective, Szpiro reported that SMIC had mainly positive effects on the development of consumer demand and thus indirectly also on the development of economic growth and employment.²⁰

¹⁸ Concialdi, P. (2006).

¹⁹ Observatoire Français des Conjonctures Économiques (2007).

²⁰ Schulten, T. et al. (2006), p.138.

Chapter 4 – Guangdong and Shenzhen

4.1 Development of the minimum wage system

4.1.1 China started to implement the open door policies to restructure the economy in 1978. During the course of economic reform, China witnessed the coexistence of different forms of economic operations, including state-owned, collective, individual and foreign-invested enterprises. In the early 1990s, the number of wage disputes, in particular from the private sector, increased rapidly. Against this background, in 1993, the Ministry of Labour and Social Security promulgated the Minimum Wages Regulations to establish a minimum wage system. The system, which has served as the basic minimum wage framework until today, aims to guarantee the basic living standards of workers and their dependents and protect workers' interests.

4.1.2 Under the Minimum Wages Regulations, the Ministry of Labour and Social Security is responsible for the macro aspect of the system, while the rules for implementing the system and related policies are formulated by the local government of a province, an autonomous region or a municipality.

Guangdong

4.1.3 The Guangdong Bureau of Labour and Social Security implemented its minimum wage system in September 1994.

Shenzhen

4.1.4 The Shenzhen Labour and Social Security Bureau implemented its minimum wage system in November 1994.

4.2 Coverage of the minimum wage system

4.2.1 The coverage of the minimum wage system has expanded continuously since its establishment. Since its introduction in 1994 up to 2003, the minimum wage system covered full-time²¹ employees of various types of establishments, including commercial enterprises, government offices and social bodies, under the Ministry of Labour and Social Security's requirement. At the time, minimum wage rates were calculated on a monthly basis only.

²¹ The statutory working time is eight hours per day, 40 hours per week and 160 hours per month.

4.2.2 In the early 2000s, part-time employment became popular in China because of increased economic activities. In 2003, the Ministry of Labour and Social Security conducted a review to evaluate whether the minimum monthly wage standards laid down in the past could adequately protect workers. After analyzing the findings of the study, in January 2004, the Ministry of Labour and Social Security amended the Minimum Wages Regulations to expand the coverage of the minimum wage system to part-time employees. Since then, minimum wage rates have been available in two forms, i.e. monthly minimum wage rates for full-time workers and hourly minimum wage rates for part-time workers.

4.2.3 According to the revised Regulations, by definition, a part-time employee works for no more than five hours on average a day and not more than 30 hours in a week and is paid on an hourly basis. If the working hours exceed this limit, the employer must enter into a full-time employment contract with the worker and bear all respective responsibilities, which include paying social security fee and unemployment insurance.

4.2.4 Similar to other places in China, in both Guangdong and Shenzhen, disabled workers and domestic workers are not covered by the minimum wage system.

4.3 Minimum wage rate

4.3.1 Under the Minimum Wages Regulations, the Ministry of Labour and Social Security is not required to determine any national monthly and hourly minimum wage rates²². The provincial labour and social security authorities are responsible for determining minimum wage rates for various administrative areas of the municipality on the basis of their specific socio-economic conditions. Hence, minimum wage rates vary from province to province, and even among different areas within a single province, municipality or autonomous region.

Guangdong

4.3.2 There are five monthly and hourly minimum wage rates which are applicable in Guangdong, depending on the extent of development of the locality. The 2008-2009 monthly and hourly minimum wage rates, with effect from April 2008, are about 13% higher than the corresponding figures in 2007-2008, and are presented in Table 3.

²² Minimum wage payment should not include: (a) overtime payment; (b) special allowance for middle shift and night shift; (c) hardship allowance for working in high or low temperatures, mining pits, toxic and hazardous environments; and (d) meal, transport and housing allowances.

Table 3 – The 2008-2009 monthly and hourly minimum wage rates in Guangdong

Categories	Monthly minimum wage rates	Hourly minimum wage rates	Applicable areas
1	RMB860 ⁽¹⁾ (HK\$877)	RMB8.3 (HK\$8.5)	Guangzhou.
2	RMB770 (HK\$785)	RMB7.4 (HK\$7.6)	Zhuhai, Foshan, Dongguan and Zhongshan.
3	RMB670 (HK\$683)	RMB6.5 (HK\$6.6)	Shantou, Huizhou and Jiangmen.
4	RMB580 (HK\$592)	RMB5.6 (HK\$5.7)	Shaoguan, Heyuan, Meizhou, Shanwei, Yangjiang, Chaozhou, Jieyang and Yunfu.
5	RMB530 (HK\$541)	RMB5.1 (HK\$5.2)	Selected counties in northern Guangdong.

Note: (1) The average exchange rate in 2006 was RMB1 = HK\$1.02.

Source: The Guangdong Bureau of Labour and Social Security.

4.3.3 According to the Guangdong Bureau of Labour and Social Security, the hourly minimum wage rate for part-time workers is about 54% higher than that for full-time workers when the full-time workers' minimum monthly wage is converted into an hourly rate²³ mainly because of the following reasons:

- (a) job security of part-time workers is relatively lower;
- (b) part-time workers are not entitled to welfare benefits such as housing provident fund; and
- (c) part-time workers have to make contribution to their retirement fund and medical insurance.

Real value of the monthly minimum wage rate

4.3.4 The real value of the minimum wage rates has been surging since 2000.

²³ For example, in Guangzhou, a minimum wage worker works 160 hours per month and receives a monthly salary of RMB860 (HK\$877). The hourly minimum wage rate should be RMB5.4 (HK\$5.5), which is RMB860 (HK\$877) divided by 160 hours. This example shows that the actual hourly minimum wage rate of RMB8.3 (HK\$8.5) for part-time workers is about 54% higher than the calculated hourly rate for full-time workers.

Monthly minimum wage relative to the average wage

4.3.5 The Guangdong Bureau of Labour and Social Security states that the proper range for the minimum wage should be about 40% – 60% of the average wage. However, the 2007 minimum wage rates applicable in Guangdong were set at about 30% of the average wage.

Shenzhen

4.3.6 There are two monthly and hourly minimum wage rates in Shenzhen, applicable to different localities depending on the extent of their development.²⁴ The 2007-2008 monthly and hourly minimum wage rates, which are about 6% higher than the corresponding figures in 2006-2007, are presented in Table 4.

Table 4 – The 2007-2008 monthly and hourly minimum wage rates in Shenzhen

Categories	Monthly minimum wage rates	Hourly minimum wage rates	Applicable areas
1	RMB850 (HK\$867)	RMB4.9 (HK\$5.0)	Shenzhen Special Economic Zone.
2	RMB750 (HK\$765)	RMB4.3 (HK\$4.4)	Baoan and Longhua.

Source: The Shenzhen Labour and Social Security Bureau.

4.3.7 Unlike the practice in Guangdong, the Shenzhen Bureau of Labour and Social Security has not increased the hourly minimum wage rate for part-time workers. Instead, the actual hourly rate for part-time workers is 8% lower than the calculated hourly rate for full-time workers.²⁵

Real value of the monthly minimum wage rate

4.3.8 The real value of the minimum wage rates has been surging since 2000.

²⁴ Shenzhen consists of three regions: Shenzhen Special Economic Zone, Baoan and Longhua.

²⁵ For example, in the Shenzhen Special Economic Zone, a minimum wage worker works 160 hours per month and receives a monthly salary of RMB850 (HK\$867). The hourly minimum wage rate should be RMB5.3 (HK\$5.4), which is RMB850 (HK\$867) divided by 160 hours. This example shows that the actual hourly minimum wage rate of RMB4.9 (HK\$5.0) for part-time workers is 8% lower than the calculated hourly rate for full-time workers.

Monthly minimum wage relative to the average wage

4.3.9 The Shenzhen Bureau of Labour and Social Security also states that the proper range for the minimum wage should be about 40% – 60% of the average wage. However, as in the case of Guangdong, the 2007 minimum wage rates applicable in Shenzhen were set at about 30% of the average wage.

4.4 Characteristics of minimum wage workersGuangdong

4.4.1 The Guangdong Bureau of Labour and Social Security estimates that Guangdong had some 23 million rural migrant workers receiving the minimum wage in 2007. Most of them were young female workers who worked in labour-intensive industries such as toys, garments, plastics and electrical appliances.

Shenzhen

4.4.2 In 2007, there were more than 4.3 million minimum wage workers in Shenzhen, with roughly one million in the special economic zone and three millions in Baoan and Longhua. Most of them were young female workers who came from inland provinces. They worked in labour-intensive industries such as toys, garments, plastics and electrical appliances.

4.5 Process of determining the minimum wage rateGuangdong*Authority for determining the minimum wage rate*

4.5.1 The Guangdong Bureau of Labour and Social Security is responsible for determining the minimum wage rate.

Advisory bodies

4.5.1.1 While there is no single advisory body on minimum wage issues in Guangdong, the Guangdong Bureau of Labour and Social Security has to consult local trade unions, enterprise unions and entrepreneur associations when determining the minimum wage rate.

Criteria for determining the minimum wage rate

4.5.2 When determining the minimum wage rate, the Guangdong Bureau of Labour and Social Security considers the following criteria:

- (a) minimum living standards of employees and their dependants;
- (b) average wage of workers;
- (c) current economic situation;
- (d) labour productivity;
- (e) local employment situation;
- (f) amount of social security benefits; and
- (g) differences in the level of economic development within the region.

Procedures for determining the minimum wage rate

4.5.3 After consulting the local trade unions, enterprise unions and entrepreneur associations, the Guangdong Bureau of Labour and Social Security may adjust the minimum wage rate. The Ministry of Labour and Social Security will be advised of the revised minimum wage rate, if any, for record purpose.

Shenzhen

Authority for determining the minimum wage rate

4.5.4 The Shenzhen Bureau of Labour and Social Security is responsible for determining the minimum wage.

Advisory bodies

4.5.4.1 There is no single advisory body on minimum wage issues in Shenzhen. Same as the practice in Guangdong, the Shenzhen Bureau of Labour and Social Security determines the minimum wage rate, after consulting the local trade unions, enterprise unions and entrepreneur associations.

Criteria for determining the minimum wage rate

4.5.5 When determining the minimum wage rate, the Shenzhen Bureau of Labour and Social Security considers the same criteria as stated in paragraph 4.5.2 above.

Procedures for determining the minimum wage rate

4.5.6 The Shenzhen Bureau of Labour and Social Security follows the same procedures for determining the minimum wage rate as stated in paragraph 4.5.3 above.

4.6 Enforcement and penalty

Guangdong

Enforcement

4.6.1 The Guangdong Bureau of Labour and Social Security is responsible for enforcing the Minimum Wages Regulations. It may require workers and employers to report matters relating to wage disputes, particularly minimum wage issues. The Guangdong Bureau of Labour and Social Security also employs labour inspectors to enforce the minimum wage law. In order to exercise the authority, labour inspectors may enter workplaces, demand presentation of accounting books and documents, inspect work articles and question workplace compliance.

Penal provisions

4.6.2 Any person who fails to pay the minimum wage rate to eligible workers is punishable by a fine, ranging from RMB5,000 (HK\$5,100) to RMB50,000 (HK\$51,000).

4.6.3 Where the fine remains unpaid after a person has received the demand for payment by the Guangdong Bureau of Labour and Social Security, the case may be referred to the People's Court for compulsory execution.

Shenzhen

Enforcement

4.6.4 The Shenzhen Bureau of Labour and Social Security is responsible for enforcing the Minimum Wages Regulations in Shenzhen. It implements same enforcement measures as stated in paragraph 4.6.1 above.

Penal provisions

4.6.5 The penal provisions imposed in Shenzhen are the same as those in Guangdong.

4.7 Empirical studies on the minimum wage system

Guangdong

4.7.1 In 2006, Professor Han Xiu Zhou²⁶ published a research report entitled *Wages and social security – An investigation into Guangdong minimum wages and research on the statistical estimate model*. In conducting the research, Professor Han Xiu Zhou employed more than 100 university graduates to collect information from over 2 500 interviewees²⁷, who were minimum wage workers, employees, employers, government officials, representatives of trade unions/enterprise unions/entrepreneur associations, professors, social policy researchers and social workers. The major findings of his study are summarized as follows:

- (a) The minimum wage system served the following purposes:
 - (i) playing the role of a safety net by offering minimum acceptable protection for workers and ensuring a minimum standard of living for them and their families;
 - (ii) narrowing the income gap between the rich and the poor to reduce social tensions and promote harmonious socio-economic development; and
 - (iii) compelling employers to restructure their businesses to enhance technical efficiency, raise labour productivity and promote the development of high-value added products.

²⁶ He is a professor of the Department of Economics and Statistics of the Jinan University.

²⁷ The survey was conducted between January and March 2005.

- (b) The minimum wage system did not have any significant impact on the competitiveness of the enterprises studied and their export performance.
- (c) The minimum wage rates were considered low, compared to the average wage. Nonetheless, if the Guangdong Bureau of Labour and Social Security considered raising the minimum wages rates, some enterprise owners were worried that the rise in the minimum wage rates might drive up operating costs, forcing enterprises with low profit margins to close down their businesses or relocate to areas outside Guangdong.
- (d) The Minimum Wages Regulations had not been effectively enforced. In Guangdong, the problem of underpaying minimum wage workers was serious. The Guangdong Bureau of Labour and Social Security was encouraged to step up the enforcement, employing more labour inspectors to inspect records of wage payments of employers, deal with illegal acts and educate workers about their labour rights.

Shenzhen

4.7.2 The Shenzhen Bureau of Labour and Social Security has conducted internal evaluations on the minimum wage system. The 2006 findings showed that a minimum wage system could bring much benefit to the society, which included:

- (a) guaranteeing workers to have an acceptable minimum standard of living;
- (b) preventing employers from exploiting low-skilled workers;
- (c) increasing consumer purchasing power, through raising the incomes of low-wage workers;
- (d) reducing the tensions between employers and employees; and
- (e) narrowing the income gap between the rich and the poor to reduce social tensions and promote harmonious socio-economic development.

Chapter 5 – Japan

5.1 Development of the minimum wage system

5.1.1 In 1957, the government established the Minimum Wage Council, which consisted of government officials, academics and representatives of employers and workers, to study the feasibility of implementing a minimum wage system. After a thorough research, the Minimum Wage Council recommended in 1958 that the government should introduce a minimum wage system to ensure that eligible workers would maintain minimum standards of living. The minimum wage system was implemented in 1959 through enacting the Minimum Wage Law.

5.2 Coverage of the minimum wage system

5.2.1 Minimum wage requirements apply to all employees, regardless of nature of employment (e.g. regular, temporary and part-time). Disabled workers who can perform the job duties are entitled to receive the minimum wage. However, trainees are not covered by the minimum wage system.

5.3 Minimum wage rates

Prefectural minimum wages

5.3.1 There are prefectural²⁸ and industrial minimum wages in Japan. Prefectural minimum wages apply to eligible workers in a specific prefecture. The prefectural minimum wage rates may vary, depending on the cost of living and the level of economic development of individual prefectures.

5.3.2 The national average hourly²⁹ prefectural minimum wage in 2007-2008 is ¥673 (HK\$45), a 2.1% increase over the corresponding figure in 2006-2007. In 2007-2008, the highest hourly rate is ¥719³⁰ (HK\$48.1) in Tokyo, Osaka and Kanagawa, while the lowest hourly rate is ¥610 (HK\$40.8) in Miyagi, Iwate and Okinawa.

²⁸ There are 47 prefectures in Japan.

²⁹ The statutory working hours are eight hours per day and 40 hours per week.

³⁰ The average exchange rate in 2006 was ¥1 = HK\$0.0669.

Industrial minimum wages

5.3.3 The respective prefectural labour bureau has established industrial minimum wages for specified industries in those prefectures where the industries have operation. Altogether, there are 297 industrial minimum wages in effect. In case a worker is eligible for both prefectural and industrial minimum wages, the worker will receive the higher rate.

5.3.4 The national average hourly industrial minimum wage in 2007-2008 is ¥766 (HK\$51.2), with the highest hourly rate of ¥910 (HK\$60.9) for truck drivers in Kochi and the lowest hourly rate of ¥616 (HK\$42.5) for ceramic ware workers in Saga.

Real value of the minimum wage rates

5.3.5 The real value of the minimum wage rates has been appreciating since 2000.

Average prefectural minimum wage relative to the average wage of manufacturing workers

5.3.6 In 2007, the average prefectural minimum wage as a percentage of the average wage of manufacturing workers was about 32%.

5.4 Characteristics of minimum wage workers

5.4.1 In 2007, the number of minimum wage workers was small compared to the total working population and most of them were elderly female workers employed in small-sized companies.

5.5 Process of determining the minimum wage rates

Authority for determining the minimum wage rates

5.5.1 The prefectural labour bureau is responsible for determining both the prefectural and industrial minimum wages.

Advisory body

5.5.2 Under the Minimum Wage Law, a prefectural labour bureau has to consult the prefectural minimum wage council concerned before determining the final rate for the particular prefecture. Members of a prefectural minimum wage council may come from the government, employer associations, labour unions, academic institutions and social welfare organizations, and are appointed by the prefectural labour bureau for a term of one year, with the possibility of renewal. The number of members in such councils varies between 15 and 20 persons, depending on the size of the prefecture.

Criteria for determining the minimum wage rates

5.5.3 When a prefectural minimum wage council makes the recommendation on the minimum wage rate and the prefectural labour bureau approves the proposed minimum wage rate, both of them would consider the following criteria:

- (a) cost of living;
- (b) consumer price index;
- (c) economic performance; and
- (d) wages of comparable workers.

Procedures for determining the minimum wage rates

5.5.4 Each year, the prefectural minimum wage councils deliberate the prefectural and industrial minimum wage adjustments in August. The deadline for the decision is normally 9 August. As the deadline is approaching, each of the prefectural minimum wage councils would usually agree on a proposed adjustment rate. Otherwise, decisions are taken by a majority vote. The prefectural labour bureau considers the proposed rate and makes the final decision by 1 September. The new prefectural and industrial minimum wages usually come into force on 1 October.

5.6 Enforcement and penalty

Enforcement

5.6.1 The prefectural labour bureau is responsible for enforcing the minimum wage system. The prefectural labour inspectors of the prefectural labour bureau may enter workplaces, demand presentation of accounting books and documents, inspect work articles and question workplace compliance.

5.6.2 The prefectural labour bureau carries out a range of publicity activities, centring on an annual ten-day campaign to distribute leaflets on minimum wages (1 – 10 October) to employees and employers and hold briefings to make the minimum wage rates known to the public. In addition to informing workers of the revisions, supervision and guidance are provided in an effort to ensure payment of minimum wages to eligible workers.

Penal provisions

5.6.3 Any person who violates the provisions of paying minimum wages to eligible workers is liable to a fine of not exceeding ¥20,000 (HK\$1,338)³¹ per worker.

5.6.4 Any person who falls under any one of the following categories is liable to a fine of not exceeding ¥10,000 (HK\$669) per worker:

- (a) failing to inform workers of the new minimum wages;
- (b) making a false report to the prefectural labour bureau; and
- (c) refusing, impeding or evading an inspection.

5.7 Empirical study on the minimum wage system

5.7.1 In January 2007, Dr Daiji Kawaguchi and Dr Ken Yamada³² published a research paper entitled *The impact of the minimum wage on female employment in Japan* in the economic journal *Contemporary Economic Policy*.³³ This article examined the impact of the minimum wage on employment in Japan, using data collected between 1993 and 1999.

5.7.2 In the study, there were two groups of low-wage workers. Group A consisted of workers whose wage was originally above the new adjusted minimum wage rate and therefore who were not affected by the minimum wage adjustment. Group B consisted of workers whose wage was below the revised minimum wage rate but above the prevailing minimum wage rate so that they would benefit from the adjustment. To estimate the effect of the minimum wage on employment, the authors compared the percentage of workers losing their jobs in a period of one year within the two groups.

³¹ There are discussions in Japan to raise the penalty on employers who fail to pay minimum wages to eligible workers from the current ¥20,000 (HK\$1,338) to ¥500,000 (HK\$33,450) per worker.

³² Dr Daiji Kawaguchi is an associate professor at the Faculty of Economics of the Hitotsubashi University, while Dr Ken Yamada is a faculty member of the Department of Economics of the University College London.

³³ The impact of the minimum wage on female employment in Japan. In: *Contemporary Economic Policy*. Vol. 25, pp.107 – 118, January 2007.

5.7.3 The result of the study indicated that workers in Group B were about 20 – 30% more likely to become unemployed in the year following the minimum wage adjustment than those in Group A. However, the authors admitted that the result would be sensitive to the composition of the two groups of workers. In other words, the result of the study might not be the same if workers with characteristics different from the sample were chosen for the study.

Chapter 6 – South Korea

6.1 Development of the minimum wage system

6.1.1 The debate on the establishment of a minimum wage system in South Korea began in the mid-1980s. With the rise in workers' education and income levels, they started to question whether government policies aimed at protecting the interests of employers only. At the same time, the government was increasingly concerned with the criticism that its export production mainly relied on low-cost labour and poor working conditions. Accordingly, the government decided to introduce a minimum wage system, which was intended to ensure that workers would achieve minimum standards of living.

6.1.2 The Minimum Wage Act was adopted in 1986. When the minimum wage system was initially introduced, employers were worried about the possible negative effects, remarking that it would push up the wage level and impose heavy financial burden on their businesses. In view of this, employers demanded that the introduction of the system should be postponed to allow enough time for companies to prepare for it. As a result, the Minimum Wage Act entered into force in 1988.

6.2 Coverage of the minimum wage system

6.2.1 The coverage of the minimum wage system has expanded continuously since its establishment. In 1988, the minimum wage system initially covered only manufacturing establishments with 10 or more employees. In 1989, the coverage was expanded to mining and construction establishments employing 10 or more employees. In 1990, the minimum wage system was further extended to cover all industrial establishments employing 10 or more employees. Since 2000, all establishments, regardless of the number of employees employed, have been under the coverage of the minimum wage system.

6.2.2 However, disabled workers and domestic workers are not covered by the minimum wage system.

6.3 Minimum wage rate

6.3.1 The minimum wage rate is determined by the government on an annual basis. For the general class of workers, the hourly³⁴ minimum wage rate in 2008 is 3,770 won³⁵ (HK\$30.5), an increase of 8.3% over the corresponding figure in 2007. Youths and apprentices are entitled to receive the full minimum wage rate.

6.3.2 Workers on probation receive 90% of the hourly minimum wage rate (3,393 won or HK\$27.5). Security guards and caretakers only receive 80% of the hourly minimum wage rate (3,016 won or HK\$24.4).

Real value of the minimum wage rate

6.3.3 The real value of the minimum wage rates has been appreciating since 2000 under the deflationary and low inflation economic environment.

Minimum wage relative to the average wage

6.3.4 In 2007, the minimum wage as a percentage of the average wage was about 28%.

6.4 Characteristics of minimum wage workers

6.4.1 In 2007, there were some 2.1 million minimum wage workers, or about 13.8% of the labour force. The minimum wage workers were mainly middle-aged and elderly female workers, who were engaged in the manufacturing and retail sectors.

6.5 Process of determining the minimum wage rate

Authority for determining the minimum wage rate

6.5.1 The Minister of Labour is the authority for determining the minimum wage rate.

³⁴ The statutory working time is not more than 44 hours per week and eight hours per day. The government has plans to shorten statutory working hours from 44 hours to 40 hours a week by 2010.

³⁵ The average exchange rate in 2006 was 1 won = HK\$0.0081.

Advisory body

6.5.2 The Minimum Wage Council, an advisory body, is established under the Ministry of Labour. Its main duty is to prepare and submit the proposal of any minimum wage rate adjustment to the Minister of Labour for approval.

6.5.3 The Minimum Wage Council is composed of 27 members (including the chairman and vice-chairman): nine labour union representatives, nine employer association representatives and nine independent members representing the public interests. The chairman and vice-chairman of the Council must be elected from and among the independent members, who come from socio-economic fields such as economics, sociology, social welfare and industrial relations.

6.5.4 The Minimum Wage Council members are all appointed by the Minister of Labour for a three-year term, with the possibility of renewal. The members representing workers are nominated by the Federation of Korean Trade Unions, while those members representing employers by the Korea Employers' Federation. Meanwhile, the appointments of the independent members require the endorsement of both trade unions and employer associations.

Criteria for determining the minimum wage rate

6.5.5 When the Minimum Wage Council makes the recommendation on the minimum wage rate and the Minister of Labour approves the proposed minimum wage rate, both of them would take the following criteria into account:

- (a) cost of living;
- (b) economic growth rate;
- (c) average wage level;
- (d) labour productivity;
- (e) employment rate;
- (f) consumer price index; and
- (g) income distribution.

Procedures for determining the minimum wage rate

6.5.6 Each year between 1 April and 29 June (i.e. 90 days), the Minimum Wage Council would deliberate on the minimum wage adjustment and submit its proposal to the Minister of Labour. In theory, decisions in the Minimum Wage Council are taken by a two-thirds majority vote. In practice, the employers' representatives and the workers' representatives would bargain over the minimum wage adjustment, with independent members acting as moderators. The votes of independent members are decisive because the other two categories of members seldom reach agreement.

6.5.7 The Minister of Labour only has the legal authority to accept or reject the Minimum Wage Council's proposal, but not to alter it. The Minister of Labour may send the adjustment proposal back to the Minimum Wage Council for reconsideration within 20 days. Then the Minimum Wage Council has 10 days to prepare and submit a revised proposal to the Minister of Labour. This tight schedule ensures that the adjusted rate can be determined and published by the Minister of Labour by 5 August. The new minimum wage rate will be applicable to the period of January to December of the following year.

6.6 Enforcement and penalty

Enforcement

6.6.1 The Ministry of Labour, which is responsible for enforcing the Minimum Wage Act, may require workers and employers to report matters relating to wage disputes, particularly minimum wage issues. The Ministry of Labour also employs labour inspectors to enforce the minimum wage law. In order to exercise the authority, the labour inspectors may enter workplaces, demand presentation of accounting books and documents, inspect work articles and question workplace compliance.

6.6.2 In addition, employers are required to inform workers of the applicable minimum wage rates by displaying the notice at conspicuous places or using other appropriate means.

Penal provisions

6.6.3 Any person who fails to pay the minimum wage rate to eligible workers is punishable by imprisonment for not more than three years or a fine not exceeding 20 million won (HK\$162,000), or both.

6.6.4 Any person who falls under any of the following categories is punishable by a fine not exceeding one million won (HK\$81,600):

- (a) failing to inform workers of the applicable minimum wage rates;
- (b) failing to provide records of paying workers the minimum wage; and
- (c) refusing, interfering with, or evading the demand or inspection, or making a false statement on the questions raised by a labour inspector.

6.7 Empirical study on the minimum wage system

6.7.1 As at the publication of this research report, RLSD has not been able to obtain the required information.

Chapter 7 – Taiwan

7.1 Development of the basic wage system

7.1.1 In 1956, Taiwan enacted the Minimum Wage Act, under which a minimum wage system was established. In 1984, the Labour Standards Act was passed to supersede the Minimum Wage Act. The objectives of the Labour Standards Act are to formulate a new minimum wage (or basic wage³⁶) system, specify minimum standards for working conditions, and protect workers' rights and interests.

7.1.2 Under the Labour Standards Act, there are provisions on wages (including the basic wage), labour contracts, working hours³⁷, and rights and obligations of workers and employers. No terms and conditions of a labour contract concluded between an employer and a worker are allowed to fall below the minimum standards provided in this Act.

7.1.3 In 1985, the Council of Labour Affairs of the Executive Yuan issued the regulations on the procedure of determining the basic wage. The framework of the basic wage system has not been changed since the mid-1980s.

7.2 Coverage of the basic wage system

7.2.1 The basic wage system applies to most workers, including disabled workers who are assessed for their productive capacity and receive wages corresponding to a percentage of the minimum wage rate. However, fishermen are not entitled to receive the basic wage.

7.3 Basic wage rate

7.3.1 In July 2007, the hourly basic wage was revised to NT\$97³⁸ (HK\$23.5), an increase of 9.1% over the corresponding figure of NT\$66³⁹ (HK\$17.4) in effect since September 1997. The Council of Labour Affairs stated that the basic wage rate had not been adjusted in over 10 years because of the fear that higher labour costs might affect the competitiveness of the economy.

³⁶ Taiwan uses the term "basic wage" as the de facto minimum wage.

³⁷ According to Article 30 of the Labour Standards Act, a worker shall not have regular working time in excess of eight hours a day and 84 hours every two weeks.

³⁸ The average exchange rate in 2006 was NT\$1 = HK\$0.242.

³⁹ The average exchange rate in 1997 was NT\$1 = HK\$0.263.

7.3.2 The basic wage for apprentices is set to be not less than 70% of the adult rate, which is equivalent to NT\$67.9 (HK\$16.4) per hour. Disabled workers also have a lower basic wage rate.⁴⁰

Relief measures implemented

7.3.3 Against the recent 9.1% increase in the basic wage, the business and industrial sectors demanded the Council of Labour Affairs to provide relief measures to lessen the financial impacts on employers. Under such circumstances, in July 2007, the Council of Labour Affairs implemented relief measures to reduce financial burdens of small- and medium-sized companies engaged in food and beverages, and retail businesses. The major relief measures are that:

- (a) companies with fewer than 50 employees, during a trial period of one year, receive a subsidy of NT\$10 (HK\$2.4) per hour for each employee;
- (b) companies which hire disabled workers for a consecutive period of three months or longer receive a subsidy of NT\$5,000 (HK\$1,210) per month or NT\$10 (HK\$2.4) per hour for each disabled worker for a year; and
- (c) companies may reimburse up to 80% of the cost of employee training.

Real value of the basic wage rate

7.3.4 Between September 1997 and June 2007, the consumer price index rose by 7.3%. As the basic wage was not adjusted during that period, its real value depreciated.

Basic wage relative to the average wage of manufacturing workers

7.3.5 In 2007, the ratio of the basic wage to the average wage of manufacturing workers was about 42%.

⁴⁰ RLSD has not been able to obtain the basic wage rate for disabled workers.

7.4 Characteristics of basic wage workers

7.4.1 In 2007, there were some 1.4 million basic wage workers in Taiwan, accounting for about 13.3% of the labour force. About 65% of the basic wage workers were women, who were mainly in the age groups of 16 to 20, and 55 or above. The basic wage workers were mostly engaged in food and beverages, and retail businesses.

7.5 Process of determining the basic wage rate

Authority for determining the basic wage rate

7.5.1 The Council of Labour Affairs is the authority for determining the basic wage rate.

Advisory body

7.5.2 The Basic Wage Deliberation Committee is an advisory body established under the Council of Labour Affairs for the deliberation of basic wage and other related matters.

7.5.3 The chairman of the Basic Wage Deliberation Committee must be a director from the Council of Labour Affairs. According to the Labour Standards Act, the members of the Committee comprise:

- (a) one representative from the Council of Labour Affairs (i.e. the chairman of the Committee);
- (b) one representative from the Ministry of Economic Affairs;
- (c) one representative from the Ministry of Finance;
- (d) one representative from the Ministry of Transportation and Communication;
- (e) one representative from the Council for Economic Planning and Development;
- (f) one representative from the Directorate General of Budget, Accounting and Statistics of the Executive Yuan;
- (g) one representative from the Export Processing Zone Administration of the Ministry of Economic Affairs;

- (h) four representatives from the employer associations;
- (i) four representatives from the labour unions; and
- (j) one to seven representatives from academic and business research fields.

7.5.4 The Committee currently has 22 members. The term of office of a member is two years, with the possibility of renewal.

Criteria for determining the basic wage rate

7.5.5 When the Basic Wage Deliberation Committee makes the recommendation on the basic wage rate and the Council of Labour Affairs approves the proposed basic wage rate, both of them would take the following criteria into account:

- (a) current economic performance;
- (b) consumer price index;
- (c) employment situation;
- (d) labour productivity;
- (e) workers' wages in different industries; and
- (f) survey and statistical figures on household income and expenditures.

7.5.6 According to the Council of Labour Affairs, among these factors, the current economic performance, consumer price index and labour productivity carry more weight.

Procedures for determining the basic wage rate

7.5.7 The Basic Wage Deliberation Committee is responsible for deliberating and submitting the adjusted basic wage to the Council of Labour Affairs for consideration, with the latter being empowered to determine the final rate. If the employers' and the workers' representatives in the Committee cannot reach a compromise on the rate, the Committee may propose more than one rate to the Council of Labour Affairs for consideration.

7.6 Enforcement and penalty

Enforcement

7.6.1 In order to enforce the labour laws and regulations, the Council of Labour Affairs has established a labour inspection system. No business entity may reject visits of inspection. In case of rejection by an employer, an inspector may enforce the visit in conjunction with the police.

7.6.2 In the course of an official visit, an inspector may require an employer to produce reports, records, books of account and other relevant documents or written explanations.

7.6.3 A worker may file a complaint to the Council of Labour Affairs or the inspectorate about any violation by an employer of labour laws and regulations.

Penal provisions

7.6.4 An employer who fails to pay the basic wage to eligible workers is punishable by a fine of not less than NT\$2,000 (HK\$484) but not exceeding NT\$20,000 (HK\$4,840).

7.6.5 Any person who rejects, avoids or obstructs a labour inspector in the performance of his official duties is punishable by a fine of not less than NT\$10,000 (HK\$2,420) but not exceeding NT\$50,000 (HK\$12,100).

7.6.6 Where the fine remains unpaid after a person has received the demand note for payment by the Council of Labour Affairs, the case may be referred to the court for compulsory execution.

7.7 Empirical study on the basic wage system

7.7.1 In December 2001, Professor Huang Jen Te⁴¹ published a research report entitled *The Effects of Basic Wage on the Labour Market in Taiwan*. The period of the study covered 1991 to 1998. Professor Huang Jen Te stated that he encountered several problems when analyzing the effects of the basic wage on the economy.

7.7.2 Firstly, there were no readily available statistics to analyze the effects of the basic wage changes on employment, inflation and competitiveness of the economy. Far from ideal inputs were employed for the analysis.

⁴¹ He serves at the Department of Economics of the National Chengchi University.

7.7.3 Secondly, it was very difficult to quantify the precise impact of the basic wage changes and separate it from influences of the other economic variables such as the prevailing economic situation. Since such influences could rarely be assumed to remain constant, Professor Huang's study could not determine to what extent the observed changes were attributable to the basic wage changes relative to the other causes. For instance, if the employment level was found to have risen following an increase in the basic wage, it did not necessarily mean that there had been no adverse employment effect, as it was conceivable that had there been no change in the basic wage, the employment level might have increased even more substantially.

7.7.4 Thirdly, the analysis was made more complicated by the fact that all the effects of the basic wage changes were not likely to be immediate. With the passage of time, the delayed effects might become more difficult to separate from those resulting from the other economic variables.

7.7.5 Based on the econometric model formulated, Professor Huang Jen Te observed that the implementation of the basic wage system did not have any significant adverse effects on employment, inflation and competitiveness of the economy. In addition, there was no statistical evidence to show that the basic wage exerted any negative impact on the employment level of low-wage workers and youths.

Chapter 8 – The United Kingdom

8.1 Development of the minimum wage system

8.1.1 Statutory support for minimum wages in the United Kingdom (UK) dates back to 1891. In fact, minimum wages had been in force until 1993 when the UK government abolished the Wages Councils which were responsible for setting a legally enforceable minimum wage in an industry.⁴² Following the abolition, there was growing evidence of jobs being offered below the old minimum rates.⁴³ Contrary to the original intention of raising employment, there was little evidence of increased employment. Instead, the removal of minimum wages led to a loss of jobs, particularly in the retail and catering sectors.

8.1.2 Following the election in May 1997, the new Labour Government promised in the Queen's Speech to uphold its manifesto commitment by introducing legislation on a new national minimum wage system. During the summer of 1997, a preliminary non-statutory Low Pay Commission was established to start taking evidence on the level of a new national minimum wage. In November of the same year, the National Minimum Wage Bill was introduced in Parliament and subsequently enacted as the National Minimum Wage Act in 1998, giving the Commission a statutory footing. With the passage of the Act, the new minimum wage system has been in force since 1 April 1999.

Low Pay Commission

8.1.3 The primary aim of the Low Pay Commission is to advise the government on the coverage of the minimum wage system and the initial minimum wage rate. It undertakes the following activities to form its expert advice:

- (a) commissioning research projects;
- (b) analyzing relevant data and actively encouraging the Office of National Statistics to carry out better estimates of the incidence of low pay;
- (c) carrying out surveys of firms in low-paying sectors;
- (d) consulting employers, workers and their representatives;

⁴² For further details on the historical development of the minimum wage system, please see Legislative Council Secretariat (1999).

⁴³ A Low Pay Network study analyzed almost 6 000 jobs offered at Jobcentres in the catering, retailing, clothing manufacturing and hairdressing sectors in April and May 1994. Over a third of the jobs paid less than the rates set by the now defunct Wages Council.

- (e) taking written and oral evidence from a wide range of organizations; and
- (f) paying fact-finding visits throughout the UK to meet employers, employees and representative organizations.

8.1.4 The nine members of the Low Pay Commission (including the Chairman) are drawn from employers associations, labour unions and the academic field. All the Commissioners serve in an individual capacity and not as representatives of the organizations for which they work, and are appointed by the government.

8.2 Coverage of the minimum wage system

8.2.1 The minimum wage system applies to most of the UK workers.⁴⁴ Nonetheless, there are several categories of people who are not entitled to receive the minimum wage, and they are:

- (a) genuinely self-employed or company directors (unless they have a contract of employment);
- (b) school children below school-leaving age⁴⁵;
- (c) family members working in family businesses;
- (d) individuals living and working within the family, such as au pairs and nannies;
- (e) students attending higher education courses requiring attendance for a period of work experience;
- (f) trainees on government-funded schemes⁴⁶;
- (g) members of the armed forces;
- (h) share fishermen⁴⁷;
- (i) prisoners working under prison rules; and
- (j) voluntary workers.

⁴⁴ Agricultural workers have separate minimum pay rates set by the Agricultural Wages Board.

⁴⁵ The definition of "compulsory school age" varies slightly in England, Wales, Scotland and Northern Ireland. Generally speaking, in the UK, the "compulsory school age" starts at age five and ends at age 16.

⁴⁶ Some of these schemes are: (a) Entry to Employment in England; (b) Get Ready for Work in Scotland; (c) Access in Northern Ireland; and (d) Skillbuild in Wales.

⁴⁷ Share fishermen are fishermen who receive a share of the profit or gross earning of a fishing boat.

Disabled employees

8.2.2 The entitlement to minimum wage applies to all workers regardless of individual levels of ability, productivity or effectiveness. Therefore, if a disabled person is a "worker"⁴⁸, he or she must be paid at least the minimum wage rate. However, for disabled people who undertake work-related activities for therapeutic reasons and have no contractual obligation to work or right to any payment or other reward, they will not count as workers and will not be entitled to minimum wage.

8.3 Minimum wage rate

8.3.1 There are three minimum wage rates applicable to workers of different ages. Starting from 1 October 2007, the rates have been as follows:

- (a) full rate of £5.52 (HK\$79.1)⁴⁹ an hour for adults (people aged 22 or above);
- (b) development rate of £4.6 (HK\$65.9) an hour for workers aged 18 to 21 inclusive; and
- (c) development rate of £3.4 (HK\$48.7) an hour for workers aged 16 to 17 inclusive.

Accommodation Offset

8.3.2 While accommodation payments received by a worker may count towards the minimum wage rates, there is a limit on the amount of such payments. That limit is known as the Accommodation Offset, which is set at £4.30 (HK\$61.6) per day from 1 October 2007. However, benefits in kind such as meals, cars and fuel do not count towards the minimum wage rates.

⁴⁸ A worker is defined as someone who has a contract of employment, or in the case where there is no contract of employment, someone who does work personally for someone else and is not genuinely self-employed.

⁴⁹ The average exchange rate in 2006 was £1 = HK\$14.33.

Fair piece rate

8.3.3 Under the National Minimum Wage Regulations 1999 (Amendment) Regulations 2004, from 1 October 2004 onwards, employers are required to pay either their workers at least the minimum wage rate for every hour they work or the fair piece rate for each piece produced or task performed, determined by reference to the rate of performance of an average worker. The fair piece rate is set in such a way that workers of average speed could earn the minimum wage rate. From 6 April 2005 onwards, the fair piece rate has increased by 120% of the rate set in October 2004.⁵⁰

Real value of the minimum wage rate

8.3.4 Before the introduction of the current minimum wage system, the rise in the wages of the lowest-paid had often lagged behind the increases in inflation and the average wage. With the new national minimum wage in force, except for the first two years of its introduction, the minimum wage rate has surged in real terms, rising faster than the increases in retail price inflation. Since 2004, it has been increasing faster than average earnings as well. By December 2006, the value of the adult hourly rate of minimum wage had increased by 49% since its introduction. In comparison, the Retail Price Index had increased by 23% and average earnings by 36% over the same period.

Minimum wage relative to the average wage

8.3.5 Since 2000, the minimum wage has increased more than the average pay. In 2005, the ratio of the minimum wage to the average wage was 35%, compared to that of 32% in 2000.

8.4 Characteristics of minimum wage workers

8.4.1 The Low Pay Commission estimated that in 2006 the total number of minimum wage workers was around 1.3 million, or 5.1% of the labour force. Two-thirds of the minimum wage workers were women and 60% of minimum wage jobs were part-time in nature.

⁵⁰ For example, from 1 October 2004 to March 2005, if a worker, who was paid the prevailing minimum wage of £4.85 (HK\$69.5), worked at the average speed produced 10 items an hour, the fair piece rate for that particular item would be 48.5p (HK\$6.9). From April 2005 onwards, this fair piece rate has increased by 120%, i.e. 48.5p (HK\$6.9) x 120% = 58.2p (HK\$8.3).

8.5 Process of determining the minimum wage rate

Authority for determining the minimum wage rate

8.5.1 The UK government is responsible for determining the minimum wage rates with the advice of the Low Pay Commission, subject to Parliament's approval.

Criteria for determining the minimum wage rate

8.5.2 According to the Low Pay Commission, the minimum wage rates are not decided on the basis of a rigid formula. Instead, they are determined according to the prevailing economic circumstances. The minimum wage rates must balance the aim to address low pay with the need to ensure that the rates are manageable for businesses and the economy. In general, the criteria for adjusting the minimum wage rates include: economic conditions, pay differentials, business costs, competitiveness of the economy, inflation rate and employment level.

Procedures for determining the minimum wage rate

8.5.3 The UK government is empowered to determine the minimum wage rates with the advice of the Low Pay Commission. After the government has made a decision on the rates for the ensuing year, it puts forward the determined adjustments to Parliament via regulations. These regulations are subject to affirmative resolution, and debated in Parliament which can agree to the regulations or otherwise. In practice, Parliament has not overturned any recommendations made by the government on the minimum wage rates. The adjustment of the minimum wage rates, if any, usually takes place in October of a given year.

8.6 Enforcement and penalty

Enforcement

8.6.1 Her Majesty's Revenue and Customs (HMRC) has operational responsibility for enforcing the minimum wage system through the following combination of measures:

- (a) publicizing employer obligations and employee rights, principally through direct advertisements, the employment right website and the minimum wage helpline;
- (b) requiring employers to keep minimum wage records;

- (c) investigating complaints about non-payment of minimum wage. Compliance officers of HMRC will visit employers thought likely to be paying below the minimum wage rates and take enforcement actions when necessary⁵¹; and
- (d) assisting individuals in taking action through an employment tribunal or the civil court.

Compliance statistics

8.6.2 Table 5 shows that over 61 000 enquiries were received by the HMRC Helpline during 2005-2006, an increase of 7% over 2004-2005 and 15% over 2003-2004. More than 2 100 complaints about non-payment of minimum wage were received in 2005-2006, an increase of 10% over 2004-2005 and 7% over 2003-2004. In 2005-2006, HMRC completed around 4 900 investigations on minimum wage underpayment, which arose either from complaints made by workers or third parties, or were identified through its risk assessment of employers who were considered most likely to be non-compliant. The UK government has stated that the decline in the number of completed investigations in each of the last three years was largely due to the increased complexity and technical nature of the investigations undertaken.

8.6.3 The incidence of non-compliance found during HMRC investigations has fallen over recent years: from 39% in 2003-2004 to 32% in 2005-2006. The value of underpayment identified has fluctuated significantly between years: underpayment totalling £2.5 million (HK\$35.8 million) was identified in 2003-2004, rising to nearly £3.8 million (HK\$54.5 million) in 2004-2005, but subsequently dropping to £3.3 million (HK\$47.3 million) in 2005-2006. The average value of underpayment per worker in 2005-2006 was £130 (HK\$1,863), considerably lower than in the previous two years, mainly due to an increase in the number of workers involved in the non-compliance cases concerned. In particular, there were 2 211 cases of non-compliance reported in 2003-2004, involving a total of 9 428 workers, whereas there were 1 582 cases in 2005-2006, involving 25 314 workers.

⁵¹ The targeted low-paying sectors include: hairdressing, childcare, agriculture, and food processing and packing sectors.

Table 5 – National minimum wage: enquiries and complaints to the Inland Revenue/HMRC, and enforcement action taken, 2003-2006

	2003-2004	2004-2005	2005-2006
Enquiries received by HMRC helpline	53 226	57 733	61 355
Complaints of underpayment	1 969	1 910	2 100
Visits to employers ⁽¹⁾	5 541	5 155	4 904
Enforcement notices issued	45	32	81
Penalty notices issued	3	0	1
Value of underpayments identified	£2.5 million (HK\$35.8 million)	£3.8 million (HK\$54.5 million)	£3.3 million (HK\$47.3 million)

Note: (1) These figures are for the number of cases closed with an inspection having been made.
Source: Low Pay Commission (2007).

Penal provisions

8.6.4 The penalties for non-compliance are set out in the National Minimum Wage Act, ranging from financial penalties of twice the hourly minimum wage rate per worker⁵² per day for continuous non-payment of minimum wage to prosecution with fines of a maximum of £5,000 (HK\$71,650) for specific criminal offences, which include:

- (a) underpaying minimum wage workers;
- (b) failing to keep minimum wage records;
- (c) producing and keeping false minimum wage records; and
- (d) refusing to give minimum wage records to the enforcement agency.

⁵² An adult minimum wage rate of £5.52 (HK\$79.1) is applied in the calculation.

8.7 Empirical studies on the minimum wage system

8.7.1 In its 2007 report submitted to the UK government, the Low Pay Commission reported the findings of several research studies on the impact of the minimum wage system in terms of pay differentials, employment, number of working hours and second job holding, amongst others.

8.7.2 Denvir and Loukas found that the recent minimum wage upratings had affected company pay structures, removing pay grades and squeezing differentials. However, in an empirical study, Lam, Ormerod, Ritchie and Vaze looked at the impact of minimum wage on company pay policies. They found that when minimum wage was introduced and had been uprated, companies generally responded by maintaining the cash differentials between different pay grades. The implication was that wage inequalities would be reduced as the percentage increase in earnings would be higher for those at minimum wage.⁵³ They noted that minimum wage *"does appear to be reducing inequality at the bottom of the wage distribution"*.⁵⁴

8.7.3 Stewart used a variety of data sources to look at the impact of minimum wage on individual employment probabilities. In all three studies, he found no significant effects of the introduction of minimum wage or its initial upratings on employment for men, women, adults or young workers. Dickens and Draca also found no employment effects when they investigated the 2003 minimum wage upratings.⁵⁵

8.7.4 Studies conducted by Experian, and Galindo-Rueda and Pereira found evidence to suggest that the introduction of minimum wage and its subsequent upratings had slowed employment growth in those counties or regions where wages needed to adjust the most in order to comply with the minimum wage system. However, these effects were generally small. On the other hand, a comprehensive study conducted by Stewart found no evidence of any adverse employment effects at the area level. In the study, statistically insignificant positive effects were recorded even for those groups most affected by the implementation of minimum wage.⁵⁶

⁵³ For example, Employee A receives the minimum wage rate, i.e. £5.52 (HK\$79.1), and Employee B receives £1 (HK\$14.3) more than the minimum wage rate, i.e. £6.52 (HK\$93.4). According to the study, if the minimum wage rate is to increase by 10% and becomes £6.07 (HK\$87), the employer will maintain the cash differentials by still paying Employee B £1 (HK\$14.3) more than the minimum wage rate, i.e. £7.07 (HK\$101.3). Therefore, the percentage increase in earnings will be higher for Employee A (10%) when compared to that of Employee B (8.4%).

⁵⁴ Low Pay Commission (2007).

⁵⁵ Ibid.

⁵⁶ Ibid.

8.7.5 Minimum wage does not appear to have much impact on the aggregate number of hours worked in the economy. Connolly and Gregory investigated how the hours of low-paid women had been affected by the introduction of minimum wage. They found that the three-year effect was greater than the one-year effect, albeit both were insignificant. This longer run effect was also picked up by Stewart and Swaffield. They found no statistically significant evidence of an immediate impact of minimum wage but, allowing for longer-run adjustments, the result did suggest that the introduction of minimum wage had led to reductions in the working week of about one to two hours for both male and female workers covered by minimum wage.⁵⁷

8.7.6 In an analysis of second job holding, Robinson and Wadsworth concluded that minimum wage had neither caused individuals to give up, or reduced hours in, their second jobs (due to increased earnings in their first jobs), nor encouraged more people to take additional jobs (if hours in their main job had been reduced).⁵⁸

⁵⁷ Low Pay Commission (2007).

⁵⁸ Ibid.

Chapter 9 – The United States

9.1 Development of the minimum wage system

9.1.1 The first state in the United States (US) to pass the state minimum wage law is Massachusetts, with the legislation being passed in 1912. By 1923, 17 states had adopted minimum wage legislation, mainly for women and minors in a variety of industries and occupations. However, in that year, the US Supreme Court made a decision, declaring the minimum wage law in the District of Columbia unconstitutional on the ground that it violated the principle of liberty of contract in personal employment. Therefore, during the ensuing decade, the movement for such legislation almost came to a halt.

9.1.2 The economic depression of the 1930s aroused concerns for job security and working conditions for all workers in the country. There were two events occurred in the late 1930s that were considered especially significant for the development of a minimum wage system. The US Supreme Court, in 1937, upheld the constitutionality of state minimum wage laws, reversing its former decision. Then in 1938, the Fair Labor Standards Act (FLSA) was enacted, which established a national minimum wage at US\$0.25. The Act was applicable to all employees engaged in interstate commerce and the production of goods for interstate commerce.

9.1.3 Over the years, FLSA has been revised to uprate the minimum wage and extend its coverage to some additional categories of employees⁵⁹, amongst other amendments⁶⁰, with the Wage and Hour Division of the Department of Labor being responsible for administering and enforcing the Act. In August 1996, FLSA was amended to provide a one-time two-step increase in the minimum wage and a sub-minimum wage was also established for employees under 20 years of age.

9.1.4 In early January 2007, the newly elected Democratic leadership of the 110th Congress brought in a new bill proposing the first federal minimum wage increase in a decade. The bill was eventually reconciled and passed in the two Houses. In May 2007, President George Bush signed a spending bill that amended FLSA to increase the federal minimum wage in three steps: to US\$5.85 (HK\$45.4)⁶¹ per hour effective July 2007; to US\$6.55 (HK\$50.9) per hour effective July 2008; and to US\$7.25 (HK\$56.3) per hour effective July 2009.

⁵⁹ The coverage has since been extended to employees in retail and service enterprises, local transit, construction and gasoline service stations, state and local government employees, workers in retail and service trades, domestic workers and workers under the age of 20.

⁶⁰ Apart from establishing the minimum wage, FLSA also provides for overtime pay, record keeping, and child labour standards affecting full-time and part-time workers in the private sector and in the federal, state and local governments.

⁶¹ The average exchange rate in 2006 was US\$1 = HK\$7.768.

9.2 Coverage of the minimum wage system

9.2.1 There are two mechanisms under which an employee can be covered by FLSA: enterprise coverage and individual coverage.

Enterprise coverage

9.2.2 Employees who work for the following businesses or organizations having at least two employees are covered by FLSA:

- (a) firms with an annual turnover of at least US\$500,000 (HK\$3.88 million); and
- (b) hospitals, businesses which provide medical or nursing care for residents, institutions primarily engaged in the care of the sick, the aged, or the mentally ill or defective who reside in the premises, schools (including schools for disabled children) and preschools, and government agencies.

Individual coverage

9.2.3 Where there is no enterprise coverage, some employees can be covered by FLSA if they engage in the production of goods and services for commerce. In addition, domestic service workers such as day workers, housekeepers, chauffeurs, full-time baby-sitters, and cooks are covered by law.

Exemption

9.2.4 Under FLSA, some employees are not covered by the minimum wage system, such as:

- (a) executive, administrative, professional, outside sales and computer employees;
- (b) employees of certain seasonal amusement or recreational establishments;
- (c) employees of certain small newspapers and switchboard operators of small telephone companies;
- (d) seamen employed on foreign vessels;
- (e) employees engaged in fishing operations;

- (f) employees engaged in newspaper delivery;
- (g) farm workers employed in small farms (i.e. farms employing less than 500 man-days of farm labour in any calendar quarter of the preceding calendar year); and
- (h) casual baby-sitters and persons employed as companions to the elderly or infirm.

9.3 Minimum wage rates

Federal minimum wage

9.3.1 Starting from July 2007, the federal minimum wage has been US\$5.85 (HK\$45.4) per hour. It will be US\$6.55 (HK\$50.9) per hour effective July 2008; and US\$7.25 (HK\$56.3) per hour effective July 2009.

State minimum wages

9.3.2 Apart from the federal minimum wage provisions prescribed by FLSA, many states have enacted their own minimum wage laws. The federal FLSA provides a floor for wages, whereas the states, where conditions permit, are allowed to go beyond the federal statute and enact higher standards. In cases where an employee is subject to both the state and federal minimum wage laws, the employee is entitled to the higher of the two minimum wages.

9.3.3 Currently, 31 states and the District of Columbia have minimum wage rates which exceed the federal minimum wage. Their hourly minimum rates are between US\$6.15 (HK\$47.8) and US\$7.93 (HK\$61.6).

Youth minimum wage

9.3.4 A minimum wage of not less than US\$4.25 (HK\$33) an hour is permitted for employees under 20 years of age during their first 90 consecutive calendar days of employment with a new employer, as long as their work does not displace other workers. After 90 consecutive days of employment or when the employee reaches 20 years of age, whichever comes first, the employee is eligible to receive the federal minimum wage.

Sub-minimum wages

9.3.5 To prevent loss of employment opportunities for some individuals, FLSA authorizes employers to pay certain individuals at wage rates below the statutory minimum after obtaining authorizing certificates from the Wage and Hour Division. Such individuals include:

- (a) vocational education students. Employers who hire these students (high school students of at least 16 years old) must pay them not less than 75% of the federal minimum wage;
- (b) full-time students employed in retail or service establishments, agriculture or institutions of higher education. Employers who hire these students must pay them not less than 85% of the federal minimum wage. The certificate also limits the hours that students may work up to eight hours a day, no more than 20 hours a week when school is in session and 40 hours when school is out, and requires employers to follow child labour law⁶²; and
- (c) workers with disabilities. They are individuals whose earning or productive capacity "*for the work being performed*" is impaired by a physical or mental disability, including those relating to age or injury. The fact that a worker may have a disability is not in and of itself sufficient to warrant the payment of a sub-minimum wage. Disabilities which may affect productive capacity include blindness, mental illness, mental retardation, cerebral palsy, alcoholism and drug addiction.⁶³

9.3.6 These sub-minimum wages must be commensurate wage rates based on the workers' individual productivity, no matter how limited, in proportion to the wage and productivity of experienced workers who do not have disabilities performing essentially the same type, quality, and quantity of work in the geographic area from which the labour force of the community is drawn. The key elements in determining the commensurate wage rates are:

- (a) determining the standard for those workers who do not have disability, which is the objective gauge against which the productivity of the workers with disability is measured;

⁶² Child labour law prohibits persons younger than 18 years old from working in certain jobs, and also sets rules concerning the hours and times employees under 16 years of age may work.

⁶³ The followings, taken by themselves, are not considered to be disabilities eligible for sub-minimum wages: education disabilities, chronic unemployment, receipt of welfare benefits, non-attendance at school, juvenile delinquency, and correctional parole or probation.

- (b) determining the prevailing wage, which is the wage paid to those experienced workers who do not have disability for the same or similar work and who are performing such work in the area; and
- (c) evaluating the quantity and quality of the productivity of the workers with disability.⁶⁴

9.3.7 For employers without an authorizing certificate, they must pay the workers with disability at least the applicable minimum wage regardless of the productivity of the workers.

Tipped employees

9.3.8 Tipped employees are those who customarily receive more than US\$30 (HK\$233) a month in tips. The employer may consider tips as part of wages, but direct wages must account for at least US\$2.13 (HK\$16.6) an hour. If an employee's tips combined with the employer's cash wage do not equal to the minimum hourly wage, the employer must make up the difference.

Real value of the federal minimum wage rate

9.3.9 In real terms, the value of the federal minimum wage rate has been on a downward slope due to inflation – it fell about 28% between 1979 and 2006, with the real value in 2006 being the lowest since 1955.

Federal minimum wage relative to the average wage

9.3.10 The ratio of the federal minimum wage to the average wage had been in steady decline, from 40% in 1998 to 31% in 2006, with the latter being the lowest level since 1947.

⁶⁴ Sub-minimum wages are reviewed and adjusted, if appropriate, at periodic intervals. At a minimum, the productivity of hourly paid workers is re-evaluated every six months and a new prevailing wage survey is conducted at least every 12 months.

9.4 Characteristics of minimum wage workers

9.4.1 According to the Bureau of Labor Statistics under the Department of Labor, 76.5 million American workers in 2006 were paid at hourly rates, representing 59.7% of all wage and salary workers. Of those paid by the hour, 409 000 workers were reported as earning exactly US\$5.15 (HK\$40), the prevailing federal minimum wage then. Some 1.3 million workers were reported as earning wages below the minimum wage. Together, these 1.7 million workers with wages at or below the minimum wage made up 2.2% of all hourly-paid workers.

9.4.2 The minimum wage workers tend to be young. In 2006, about half of those workers earning US\$5.15 (HK\$40) or less were under 25 years of age, and about one-fourth of workers earning at or below the federal minimum wage were aged 16 – 19. Among men and women, about 3% of women paid hourly rates reported receiving wages at or below the prevailing federal minimum, compared with fewer than 2% of men.

9.4.3 By major occupational group, the highest proportion of workers earning at or below the federal minimum wage in 2006 was in service occupations, at about 7% among workers who were paid at hourly rates. Nearly three in four workers earning US\$5.15 (HK\$40) or less were employed in service occupations, mostly in food preparation and service jobs. Less than 1% of hourly-paid workers in management and professional occupations and in natural resources, construction and maintenance occupations earned at or below the federal minimum wage.

9.5 Process of determining the minimum wage rates

Authorities for determining the minimum wage rates

9.5.1 Congress determines the federal minimum wage rate, whereas the individual state legislatures set their state minimum wage rates which can be higher than the federal minimum wage rate.

Criteria for determining the federal minimum wage rate

9.5.2 Under FLSA, the value of the federal minimum wage rates is adjusted according to the changes in the cost of living, productivity and the level of wages in manufacturing, and the ability of employers to absorb wage increases.

Procedures for determining the federal minimum wage rate

9.5.3 When it is determined that the prevailing federal minimum wage needs to be changed, Congress can introduce a bill to effect such an adjustment. The use of this approach is on the ground that it permits any minimum wage decision to be taken with the participation of the highest authority and with close scrutiny ensured by legislative hearings and debates.

9.5.4 The federal minimum wage is not adjusted on a regular basis. There were only seven adjustments in the period of 1980-2007.

9.6 Enforcement and penalty

Enforcement

9.6.1 The Wage and Hour Division enforces FLSA through various measures to ensure employers' compliance with the Act's requirements. Investigators from the Wage and Hour Division conduct investigations and gather information on wage-related matters. Where violations are found, investigators may recommend changes in employment practices, and through court action if necessary, to recover wages for the employees that have been underpaid.

9.6.2 In addition, for a worker with disability paid at the sub-minimum wage, he/she or his/her parents may petition the Administrator of the Wage and Hour Division for a review of his or her special wage rate by a Department of Labor Administrative Law Judge.

Penal provisions

9.6.3 Fines of up to US\$11,000 (HK\$85,448) per violation may be assessed against employers who violate the youth employment provisions of the law and up to US\$1,100 (HK\$8,545) per violation against employers who willfully or repeatedly violate the minimum wage or overtime pay provisions. Willful violations may also be prosecuted criminally and fined up to US\$10,000 (HK\$77,680). A second conviction may result in imprisonment.

9.7 Empirical studies on the minimum wage system

9.7.1 A series of studies in the 1990s challenged the prior consensus of the employment effects resulting from the minimum wage that if one raised the cost of employing the lowest-skilled workers by increasing the minimum wage, employers would demand fewer of them. In particular, the study conducted by David Card and Alan Krueger found evidence that employment in fast-food restaurants actually rose after a minimum wage hike. Other studies though, particularly those by David Neumark and William Wascher, consistently found the opposite. Neumark argued that employers spent less on training their workers as the labour costs rose; that more students dropped out of school, being lured by fatter pay-packets; and that workers in their late 20s earned less if they had been exposed to high minimum wages as teenagers. In any event, the recent consensus seemed to be that raising minimum wages had minor negative effects at worst. Lawrence Katz, an economist at Harvard University, agreed that *"most reasonably well-done estimates show small negative effects on employment among teenagers."*

9.7.2 According to a recent article published in the Economist (2006), most economists agreed that a higher minimum wage did not do much to relieve poverty because many minimum wage workers were not poor and many poor people would not gain since they did not work. Supporters of an increase in minimum wages, though, argued that once the "spillover" effects were included on workers who earned just above the minimum wage (whose wage would rise as a result), the income gains from a hike benefited mostly the poor families.

Chapter 10 – Singapore

10.1 Background

10.1.1 Singapore has no minimum wage law. The country has a flexible wage system in which the National Wage Council (NWC) advises the government on wage policies and recommends non-binding wage adjustments on an annual basis.

10.2 National Wage Council

Historical background

10.2.1 In 1970, there were labour shortages and indications of a possible wage explosion in Singapore. The government, unwilling to allow wages and fringe benefits to rise substantially for fear of retarding industrial growth, attempted to increase labour supply by encouraging female workers to enter the labour force, and allowing foreign workers to be imported. Despite these efforts, labour shortages persisted. Firms started to offer higher wage to workers. Faced with a tight labour market and unwilling to rely excessively on foreign workers, the government set up NWC in 1972 to regulate wages in Singapore.

Function

10.2.2 NWC is a tripartite body comprising a Chairman from the academic field and representatives from the government, employers and unions as its members. In 2007-2008, NWC comprises 18 members: the Chairman, six union representatives, six employer representatives and five government representatives. NWC serves as an advisory body to:

- (a) formulate the yearly wage guidelines for implementation by employers, unions and the government;
- (b) recommend necessary adjustments in wage structures to facilitate business growth, reward workers for their efforts and help strengthen Singapore's long-term economic competitiveness; and
- (c) advise the adoption of strategic measures for the promotion of market efficiency, higher productivity and human resources development.

Non-mandatory guidelines

10.2.3 Every year in May, NWC releases wage guidelines which are derived based on the principle of consensus and unanimity, i.e. the guidelines have to be accepted by all council members. The guidelines are recommendations only, and are non-mandatory in the sense that they do not have the force of law.

10.2.4 In deciding the wage recommendations, NWC takes into consideration factors like domestic economic growth, productivity growth, Singapore's international competitiveness, domestic employment and unemployment situations, productivity, unit labour cost, inflation and the world economic situation. The NWC guidelines apply to all employees in both domestic and foreign firms, and across the private and public sectors. Although these guidelines are not compulsory, they serve as a basis for wage negotiations between employers and unions and are widely implemented.

10.3 Study on minimum wage

10.3.1 As at the publication of this research report, RLSD has not been able to obtain any information relating to minimum wage discussion in Singapore.⁶⁵

⁶⁵ RLSD has enquired the Ministry of Manpower of Singapore to provide the necessary information. Thus far, the Ministry has not replied.

Chapter 11 – Analysis

11.1 Introduction

11.1.1 Based on the findings in the previous chapters, this chapter highlights the following aspects to facilitate Members' deliberation on the minimum wage systems in Australia, France, Guangdong, Shenzhen, Japan, South Korea, Taiwan, the United Kingdom (UK), the United States (US) and Singapore:

- (a) development of the minimum wage system;
- (b) coverage of the minimum wage system;
- (c) minimum wage rate;
- (d) process of determining the minimum wage rate;
- (e) enforcement and penalty; and
- (f) empirical studies on the minimum wage system.

11.1.2 Apart from Singapore, all the other selected places studied have established a minimum wage system for regulating pay at the lower end of the labour market, thus providing a floor for wage levels across the economy. Since Singapore does not have a minimum wage system in place, it would not be included in the discussion of the various aspects of the minimum wage system. Nonetheless, the role of the National Wage Council of Singapore would be discussed in comparison with the role of the wage-setting authorities in the other selected places.

11.1.3 To facilitate Members' discussion, Table 6 on pages 68 – 71 presents an overall comparison of the main features of the minimum wage systems of the selected places studied. Table 7 on page 72 highlights the major findings of empirical studies on the minimum wage system.

11.2 Development of the minimum wage system

11.2.1 In this study, nine places have established their own minimum wage system, which aims to guarantee the basic living standards of workers and their dependents and protect workers' interests. Australia is a pioneer in establishing the minimum wage system (as early as in 1907), followed by the US (1938), France (1950), Taiwan (1956), Japan (1959), South Korea (1988), Guangdong (1994) and Shenzhen (1994).

11.2.2 In the case of the UK, statutory support for minimum wage dates back to 1891. Minimum wages had been in force until 1993 when it was abolished by the prevailing government. In 1997, when the Labour Party was elected to power, it re-introduced the minimum wage system in 1999.

11.2.3 In all these selected places, the establishment of the minimum wage systems was by means of legislation.

11.3 Coverage of the minimum wage system

11.3.1 In the selected places studied, the minimum wage system covers most workers, rather than only certain categories of workers. In particular, in Guangdong, Shenzhen, South Korea and the US, the coverage of the minimum wage system has expanded continuously since their establishment. For instance, in South Korea, the minimum wage system initially covered only manufacturing establishments with 10 or more employees in 1988. Since 2000, all establishments, regardless of the number of employees employed, have been under the coverage of the minimum wage system.

11.3.2 In Guangdong and Shenzhen, between 1994 and 2003, the minimum wage system covered only full-time workers. Since 2004, the coverage of the minimum wage system has been expanded to part-time workers.

11.3.3 In the US, the coverage was initially applicable to employees engaged in interstate commerce when the Fair Labor Standards Act was enacted in 1938. Over the years, the coverage has been extended to employees in retail and service enterprises, local transit, construction and gasoline service stations, state and local government employees, workers in retail and service trades, domestic workers and youths under the age of 20.

Disabled employees

11.3.4 In France, Guangdong, Shenzhen and South Korea, disabled employees are not covered under the minimum wage system, whereas in Australia, Japan, Taiwan, the UK and the US, they are included in the system.

11.3.5 In Australia, Taiwan and the US, disabled employees are assessed for their productive capacity and receive wages corresponding to a percentage of the minimum wage rate. In particular, employers in the US are required to apply for an authorizing certificate before they can pay sub-minimum wages to disabled employees. In the case of the UK, if disabled employees are categorized as "workers", they must be paid the minimum wage rate. In Japan, disabled employees who can perform the job duties are entitled to receive the minimum wage rate.

11.4 Minimum wage rate

11.4.1 Among the selected places which have a minimum wage system in place, Australia, France, South Korea, Taiwan and the UK set a single minimum wage rate for adults. Japan, Guangdong and Shenzhen, however, while having an overall national legal framework, set different rates at the regional and local levels. The US has a federal minimum wage rate, whereas the individual states set their own minimum wage rates which can be higher than the federal minimum wage rate.

11.4.2 The hourly minimum wage rate for adults ranges from HK\$4.4 to HK\$82.5 among the places studied. In most cases, reduced minimum wage rates (62% – 90% of the adult rates) are set for youths and apprentices, e.g. apprentices in Taiwan, youths in the UK and the US, and workers on probation, security guards and caretakers in South Korea. France, in particular, has set a wide range of minimum wage rates for apprentices, from 25% to 78%, depending on their age and qualification.

Relief measures implemented

11.4.3 Among the places studied, only France and Taiwan have relief measures implemented in view of the minimum wage system. In France, the government has adopted regulations enabling companies to claim wage subsidies for minimum wage workers. Such companies are eligible for exemption in social security contribution. In Taiwan, the government provided one-off financial measures to reduce financial burdens of small- and medium-sized companies engaged in food and beverages, and retail businesses. The major relief measures included providing financial subsidies to employers and reimbursing up to 80% of the cost of employee training.

Real value of the minimum wage rate

11.4.4 Among the places studied, apart from Taiwan and the US, the real value of the minimum wage rate has been appreciating since 2001. In Taiwan, the real value depreciated by 7.3% between 1997 and 2007. In the US, the real value of the minimum wage rate depreciated by 28% from 1979 to 2006, with the real value in 2006 being the lowest since 1955.

Minimum wage relative to the average wage

11.4.5 Among the places studied, the percentage of the minimum wage relative to the average wage varies between 28% and 48%. France is the only place studied where the ratio of the real growth of the minimum wage rate to the real increase in average earnings is stipulated to be greater than 50% in legislation.

11.5 Process of determining the minimum wage rate

Authority for determining the minimum wage rate

11.5.1 In the places studied, three different types of authorities are responsible for determining the minimum wage rates in their respective jurisdictions. In Australia, an independent, statutory body is responsible for setting the minimum wage rates. In the UK and the US, such responsibility rests upon the legislature. For all the other places, the government is responsible for setting the minimum wage rates.

11.5.2 Official advisory bodies are established in France, Japan, South Korea, Taiwan and the UK to provide advice and recommendations to their respective minimum wage setting authorities. Their members may come from the government, employer associations, labour unions, and academic and business research fields.

11.5.3 In Singapore, there is no minimum wage system in place. The country has a flexible wage system in which a tripartite body (comprising members from the government, employer associations and labour unions) recommends non-binding wage adjustments to the government.

Criteria for determining the minimum wage rate

11.5.4 When determining the minimum wage rate, the authorities of the places studied adopt similar criteria, which include the current economic performance, workers' basic needs, average wage, labour productivity, inflation rate and employment situation. In Guangdong and Shenzhen, the authorities also consider the amount of social security benefits.

Frequency of minimum wage adjustment

11.5.5 As regards the frequency of minimum wage adjustment, Australia, France, Guangdong, Shenzhen, Japan, South Korea and the UK adjust their minimum wage rates annually. For Taiwan and the US, such adjustment is done on an irregular basis.

11.5.6 In Taiwan, the minimum wage rate was not adjusted between September 1997 and June 2007. In July 2007, the government raised the minimum wage by 9.1%. Similarly in the US, the federal minimum wage rate was not adjusted for almost 10 years. In July 2007, the government raised the rate by 13.6% and legislated to further raise the rate by 12% in 2008 and 10.7% in 2009 respectively.

11.6 Enforcement and penalty

11.6.1 Australia is the only place studied where an independent statutory agency is responsible for the enforcement of the minimum wage system. In all the other selected places, such responsibility falls onto a government authority on labour matters. In practice, labour inspectors in all the places studied are empowered to enter workplaces, demand presentation of accounting books and documents, inspect work articles and question workplace compliance.

11.6.2 The financial penalties for failing to pay the minimum wage and making a false report to the enforcement agency vary in this research. In South Korea and the US, conviction of failing to pay the minimum wage may result in imprisonment.

11.7 Empirical studies on the minimum wage system

11.7.1 The findings of the empirical studies surveyed showed that there was no consensus on the precise impact of the minimum wage system on the economy. In Guangdong and Shenzhen, the empirical studies revealed that the minimum wage system played the role of a safety net by offering minimum acceptable protection for workers and ensuring a minimum standard of living for them and their families.

11.7.2 In France, a study indicated that the minimum wage might have positive effect on the development of consumer demand and employment. Another study showed that the wage subsidies provided by the French government created new jobs in the low-paid sector at the expense of the government and had adverse effects on productivity growth with companies having reduced pressure to innovate.

11.7.3 In Taiwan, the UK and the US, empirical studies showed that the minimum wage system did not have any significant adverse effects on employment, inflation and competitiveness of the economy. In the UK, studies found that the introduction of minimum wage had no significant effects on the employment for men, women, adults or young workers, the aggregate number of hours worked in the economy, or the number of second job holding. In the US, recent studies seemed to suggest that raising minimum wage had minor negative effects at worst, and that a higher minimum wage did not do much to relieve poverty.

11.7.4 On the other hand, in Australia, studies showed that excessive minimum wage increases had a negative impact on employment, especially for the restaurant and catering industry. Such increases could lead to job loss and erosion of profitability. In Japan, an empirical study revealed that minimum wage increases had certain negative impact on female employment.

Table 6 – Overall comparison of the minimum wage system in selected places

	Australia	France	Guangdong	Shenzhen	Japan	South Korea	Taiwan	The United Kingdom	The United States	Singapore
Introduction of the current minimum wage system										
Year of establishing the current minimum wage system	1907.	1950.	1994.		1959.	1988.	1984.	1999.	1938.	Not applicable.
Legislation for establishing the current minimum wage system	Conciliation and Arbitration Act.	Minimum Wage Law.	Minimum Wages Regulations.		Minimum Wage Law.	Minimum Wage Act.	Labour Standards Act.	National Minimum Wage Act.	Fair Labor Standards Act.	Not applicable.
Coverage of the minimum wage system										
Eligibility of minimum wage	The minimum wage system applies to most workers, excluding workers who are not covered under the Workplace Relations Act 1996.	The minimum wage system applies to most workers, excluding trainees, apprentices and prisoners.	The minimum wage system applies to most workers, excluding domestic workers.		The minimum wage system applies to most workers, excluding trainees.	The minimum wage system applies to most workers, excluding domestic workers.	The minimum wage system applies to most workers, excluding fishermen.	The minimum wage system applies to most workers, excluding persons such as nannies, trainees, fishermen and prisoners.	The minimum wage system applies to most workers, excluding professionals and fishermen.	Not applicable.
Whether the minimum wage system covers disabled employees	Yes, a disabled employee is assessed for his or her productive capacity and receives wages corresponding to a percentage of the federal minimum wage rate.	No.	No.		Yes, a disabled employee who can perform the job duties is entitled to receive the minimum wage rate.	No.	Yes, a disabled employee is assessed for his or her productive capacity and receives wages corresponding to a percentage of the minimum wage rate.	Yes, if a disabled employee is categorized as a "worker", he or she must be paid the minimum wage rate.	Yes, a disabled employee is assessed for his or her productive capacity and receives wages corresponding to a percentage of the federal minimum wage rate.	Not applicable.

Table 6 – Overall comparison of the minimum wage system in selected places (cont'd)

	Australia	France	Guangdong	Shenzhen	Japan	South Korea	Taiwan	The United Kingdom	The United States	Singapore
Minimum wage rate and characteristics of minimum wage workers										
Hourly minimum wage rate	In 2007, hourly minimum wage rate: HK\$80.4. A percentage of the hourly minimum wage rate for junior employees, trainees and apprentices.	In 2007, hourly minimum wage rate: HK\$82.5. A percentage of the hourly minimum wage rate for young workers and apprentices.	In 2008-2009, five monthly minimum wage rates which range between HK\$541 and HK\$877. Five hourly minimum wage rates which range between HK\$5.2 and HK\$8.5.	In 2007-2008, two monthly minimum wage rates: HK\$765 and HK\$867. Two hourly minimum wage rates: HK\$4.4 and HK\$5.0.	In 2007-2008, hourly national prefectural minimum wage rate: HK\$45.0. Hourly national industrial minimum wage rate: HK\$51.2.	In 2008, hourly minimum wage rate: HK\$30.5. HK\$27.5 for workers on probation. HK\$24.4 for security guards and caretakers.	In 2007-2008, hourly minimum wage rate: HK\$23.5. HK\$16.4 for apprentices.	In 2007, hourly minimum wage rate: HK\$79.1. HK\$65.9 for workers aged 18 to 21. HK\$48.7 for workers aged 16 to 17.	Higher of the federal minimum wage rate and the state minimum wage rate: (a) in 2007, federal hourly minimum wage rate: HK\$45.4; and (b) state hourly minimum wage rate ranges between HK\$45.4 and HK\$61.6. For youth employees, HK\$33.0. For students, a percentage of the federal minimum wage rate.	Not applicable.
Whether relief measures are implemented	No.	Yes, companies are eligible for exemption in social security contribution.	No.		No.	No.	Yes, major relief measures included: (a) providing financial subsidies to employers; and (b) reimbursing up to 80% of the cost of employee training.	No.	No.	Not applicable.
Real value of the minimum wage rate	Has been appreciating since 1997, except for year 2001.	Appreciated between 2002 and 2005. Under law, the percentage increase of the minimum wage rate cannot be lower than the inflation rate.	Has been appreciating since 2000.		Has been appreciating since 2000.	Has been appreciating since 2000.	Depreciated between 1997 and 2007.	Has been appreciating since 2001.	Depreciated between 1979 and 2006.	Not applicable.
Minimum wage relative to the average wage	Minimum wage relative to the average wage of manufacturing workers: 48% in (2005).	Minimum wage relative to the average wage: 47% (in 2005).	Minimum wage relative to the average wage: about 30% (in 2007).		Average prefectural minimum wage relative to the average wage of manufacturing workers: 32% (in 2007).	Minimum wage relative to the average wage: 28% (in 2007).	Minimum wage relative to the average wage of manufacturing workers: 42% (in 2007).	Minimum wage relative to the average wage: 35% (in 2005).	Minimum wage relative to the average wage: about 31% (in 2006).	Not applicable.
Number of minimum wage workers	101 500 minimum wage workers.	About 2.5 million minimum wage workers (16.8% of the labour force).	About 23 million minimum wage workers.	More than 4.3 million minimum wage workers.	Small number of minimum wage workers.	About 2.1 million minimum wage workers (13.8% of the labour force).	About 1.4 million minimum wage workers (13.3% of the labour force).	About 1.3 million minimum wage workers (5.1% of the labour force).	About 1.7 million minimum wage workers.	Not applicable.
Characteristics of minimum wage workers	Mainly young workers without post-school qualifications and engaging in part-time casual jobs in the retail and hospitality sectors.	About 44% of the minimum wage workers employed in domestic work, 32% in agriculture.	Mainly rural migrant workers; most of them are young female workers who work in labour-intensive industries such as toys, garments, plastics and electrical appliances.	Mainly young female workers who come from inland provinces; employed in labour-intensive industries such as toys, garments, plastics and electrical appliances.	Mainly elderly female workers employed in small-sized companies.	Mainly middle-aged and elderly female workers who are engaged in the manufacturing and retail sectors.	About 65% of the minimum wage workers are women who are mainly in the age groups of 16 to 20, and 55 or above; employed in food and beverages, and retail businesses.	About 66% of the minimum wage workers are women and 60% of the minimum wage jobs are part-time in nature.	Mainly young workers who are employed in service occupations, mostly food preparation and service jobs.	Not applicable.

Table 6 – Overall comparison of the minimum wage system in selected places (cont'd)

	Australia	France	Guangdong	Shenzhen	Japan	South Korea	Taiwan	The United Kingdom	The United States	Singapore
Process of determining the minimum wage rate										
Authority for determining the minimum wage rate	Australian Fair Pay Commission.	Council of Ministers.	Guangdong Bureau of Labour and Social Security.	Shenzhen Labour and Social Security Bureau.	Prefectural labour bureau determining both the prefectural and industrial minimum wages.	Minister of Labour.	Council of Labour Affairs of the Executive Yuan.	Parliament.	Congress determining the federal minimum wage rate. Individual state legislatures setting their own minimum wage rates.	Not applicable.
Advisory body	None.	National Collective Bargaining Commission.	Local trade unions, enterprise unions and entrepreneur associations, but no single advisory body.		Prefectural minimum wage council.	Minimum Wage Council.	Basic Wage Deliberation Committee.	Low Pay Commission.	None.	Not applicable.
Membership of the advisory body	Not applicable.	40 members: four from the government, 18 from five national labour unions and 18 from employer associations.	Information not available.		15 – 20 members who come from the government, employer associations, labour unions, academic institutions and social welfare organizations.	27 members: nine employer association representatives, nine labour union representatives and nine independent members representing the public interests.	17 – 23 members who come from the government, employer associations, labour unions, academic and business research fields.	Nine members who come from employer associations, labour unions and the academic field.	Not applicable.	Not applicable.
Criteria for determining the minimum wage rate	Four criteria: (a) cost of living; (b) consumer price index; (c) economic performance; and (d) wages of comparable workers.	Four criteria: (a) needs of workers; (b) wages of comparable workers; (c) inflation rate; and (d) economic performance.	Seven criteria: (a) minimum living standards of employees and their dependants; (b) average wage of workers; (c) current economic situation; (d) labour productivity; (e) local employment situation; (f) amount of social security benefits; and (g) differences in the level of economic development within the region.		Four criteria: (a) cost of living; (b) consumer price index; (c) economic performance; and (d) wages of comparable workers.	Seven criteria: (a) cost of living; (b) economic growth rate; (c) average wage level; (d) labour productivity; (e) employment rate; (f) consumer price index; and (g) income distribution.	Six criteria: (a) current economic performance; (b) consumer price index; (c) employment situation; (d) labour productivity; (e) workers' wages in different industries; and (f) survey and statistical figures on household income and expenditures.	Six criteria: (a) economic conditions; (b) pay differentials; (c) business costs; (d) competitiveness of economy; (e) inflation rate; and (f) employment level.	Three criteria: (a) cost of living; (b) productivity and wages of comparable workers; and (c) ability of employers to absorb wage increases.	Not applicable.
Procedures for determining the minimum wage rate	The Commission conducts an annual minimum wage review.	The minimum wage rate is adjusted in accordance with changes of the national price index every July. During the interim period, if the nation price index changes by 2% or more, the minimum wage rate will be adjusted automatically.	The provincial labour and social security authorities may adjust the minimum wage rate. The revised minimum wage rate, if any, will be provided to the Ministry of Labour and Social Security for record purpose.		The prefectural minimum wage council recommends the adjusted prefectural and industrial minimum wages for the prefectural labour bureau for approval.	The Minimum Wage Council proposes an adjusted rate to the Minister of Labour for approval.	The Basic Wage Deliberation Committee submits the adjusted basic wage to the Council of Labour Affairs for final approval.	The government determines the minimum wage rates with the advice of the Low Pay Commission, subject to Parliament's approval.	The federal minimum wage rate is adjusted by legislation and any Congressman can introduce a bill to effect an adjustment.	Not applicable.
Frequency of adjustment	Annual basis.	Annual basis.	Annual basis.		Annual basis.	Annual basis.	Irregular adjustment.	Annual basis.	Irregular adjustment.	Not applicable.

Table 6 – Overall comparison of the minimum wage system in selected places (cont'd)

	Australia	France	Guangdong	Shenzhen	Japan	South Korea	Taiwan	The United Kingdom	The United States	Singapore
Enforcement and penalty										
Enforcement agency	Office of the Workplace Ombudsman.	Ministry of Labour, Labour Relations and Solidarity.	Guangdong Bureau of Labour and Social Security.	Shenzhen Bureau of Labour and Social Security.	Prefectural labour bureau.	Ministry of Labour.	Council of Labour Affairs.	Her Majesty's Revenue and Customs.	Department of Labor.	Not applicable.
Penalty for failing to pay the minimum wage rate	For individuals, not exceeding HK\$38,580; for corporations, not exceeding HK\$192,900.	Standard penalty of HK\$14,655.	Between HK\$5,100 and HK\$51,000.		Not exceeding HK\$1,338 per worker.	Not exceeding HK\$162,000 or imprisonment for not more than three years, or both.	Between HK\$484 and HK\$4,840.	Not exceeding HK\$71,650.	Not exceeding HK\$85,448; with a second penalty possibly resulting in imprisonment.	Not applicable.
Penalty for making a false report to the enforcement agency	Information not available.	Information not available.	Information not available.		Not exceeding HK\$669 per worker.	Not exceeding HK\$81,600.	Between HK\$2,420 and HK\$12,100.	Information not available.	Information not available.	Not applicable.

Table 7 –Major findings of empirical studies on the minimum wage system

Australia	Major findings of empirical studies submitted to the Australian Fair Pay Commission's 2007 Minimum Wage Review revealed that: (a) minimum wage increases could exacerbate unemployment; and (b) excessive minimum wage increases had a negative impact on employment.
France	Major findings of empirical studies revealed that: (a) the minimum wage system brought the benefits of: (i) curbing the competitive downward pressure on wages; and (ii) favouring corporate strategies aiming at boosting productivity; and (b) the wage subsidies: (i) created new jobs in the low-paid sector; (ii) directly affected the government's budget; and (iii) had adverse effects on productivity growth with companies having reduced pressure to innovate.
Guangdong	Major findings of the empirical study entitled <i>Wages and social security – An investigation into Guangdong minimum wages and research on the statistical estimate mode</i> (2006) revealed that: (a) the minimum wage system brought the benefits of: (i) playing the role of a safety net by offering minimum acceptable protection for workers and ensuring a minimum standard of living for them and their families; (ii) narrowing the income gap between the rich and the poor to reduce social tensions and promote harmonious socio-economic development; and (iii) compelling employers to restructure their businesses to enhance technical efficiency, raise labour productivity and promote the development of high-value added products; and (b) the minimum wage system did not have any significant impact on the competitiveness of the enterprises studied and their export performance.
Shenzhen	Major findings of an internal empirical study conducted in 2006 revealed that: (a) the minimum wage system brought the benefits of: (i) guaranteeing workers to have an acceptable minimum standard of living; (ii) preventing employers from exploiting low-skilled workers; (iii) increasing consumer purchasing power, through raising the incomes of low-wage workers; (iv) reducing the tensions between employers and employees; and (v) narrowing the income gap between the rich and the poor to reduce social tensions and promote harmonious socio-economic development.
Japan	Major finding of the empirical study entitled <i>The impact of the minimum wage on female employment in Japan</i> (2007) revealed that: (a) the minimum wage adjustment had certain negative impact on female employment.
South Korea	Information not available.
Taiwan	Major findings of the empirical study entitled <i>The Effects of Basic Wage on the Labour Market in Taiwan</i> (2001) revealed that: (a) the minimum wage system did not have any significant adverse effects on employment, inflation and competitiveness of the economy; and (b) there was no statistical evidence showing that the minimum wage exerted any negative impact on the employment level of low-wage workers and youths.
The United Kingdom	Major findings of empirical studies revealed that: (a) there was no significant effect of the introduction of minimum wage or its increases on employment for men, women, adults or young workers; (b) the introduction of minimum wage did not have much impact on the aggregate number of hours worked in the economy; and (c) the introduction of minimum wage had neither caused individuals to give up their second jobs nor encouraged more people to take additional jobs.
The United States	Major findings of empirical studies revealed that: (a) raising minimum wages had minor negative effects; and (b) a higher minimum wage did not relieve poverty.
Singapore	Information on a proposed minimum wage system is not available.

Appendix I**Impact of the introduction of a statutory 35-hour working week
on the minimum wage system**

A.I.1 In the late 1990s, there were discussions in France on whether the government should reduce the statutory weekly working hours to raise the incomes of workers⁶⁶ and increase the employment level⁶⁷. After deliberation in Parliament, in June 1998, France passed a law (i.e. the Aubry Act) reducing the statutory working week from 39 hours to 35 hours. The Aubry Act was implemented in two phases:

- (a) companies having more than 20 employees would implement the 35-hour working week after 1 February 2000; and
- (b) companies having fewer than 20 employees and the government would adopt the 35-hour working week after 1 January 2002.

A.I.2 At the time, the government took the view that the monthly incomes of some low-paid workers might fall because of the reduced statutory weekly working hours. Hence, in addition to the hourly SMIC⁶⁸, the government set two "guaranteed monthly wage" rates for workers who worked 35 hours a week and 39 hours a week respectively to maintain their pay levels⁶⁹.

A.I.3 In view of the wage rates, many employers raised the concerns that:

- (a) the minimum wage system was complicated as there were different rates in effect; and
- (b) the costs of running businesses in France were subsequently higher.

A.I.4 Under such circumstances, the government agreed to re-use a single hourly SMIC rate from July 2002 onwards.

⁶⁶ Hours worked in excess of statutory working hours are counted as overtime. Every hour of overtime is payable at 10% – 50% higher than the normal hourly rate, depending on the cumulative total overtime hours worked.

⁶⁷ The rationale was that companies might employ more people to share the jobs.

⁶⁸ The hourly SMIC rate was applied to part-time workers and full-time workers who worked overtime.

⁶⁹ When workers switched to the 35-hour week, employees on SMIC were paid the wage that they would have received if they worked 39 hours.

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