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Panel on Manpower

**Background brief prepared by the Legislative Council Secretariat
for the meeting on 19 February 2009**

**Statutory minimum wage - views on special arrangements
for persons with disabilities**

Purpose

This paper summarizes past discussions by the Panel on Manpower (the Panel) on special arrangements for persons with disabilities (PWDs) under the statutory minimum wage (SMW) regime.

Background

2. Following the financial turmoil and economic downturn in late 1997, wage reduction was reported in many industries. There were calls for the establishment of an SMW in Hong Kong.
3. On 11 October 2006, the Chief Executive (CE) announced in his Policy Address the launching of Wage Protection Movement (WPM) for employees in the cleansing and guarding services sectors. Under WPM, business enterprises were encouraged to follow the lead taken by the Government in paying cleansing workers and security guards wages not lower than the average market rate for the relevant industry/occupation published in the latest Quarterly Report of Wages and Payroll Statistics (the Quarterly Report) issued by the Census and Statistics Department (C&SD).
4. On 10 October 2007, CE stated in his Policy Address that if the mid-term review of WPM indicated that the progress was unsatisfactory, the Administration would further promote WPM as well as proceed with the preparatory legislative work on an SMW. If the overall review of WPM conducted in October 2008 found that the movement had failed to yield satisfactory results, the Administration would introduce a bill on an SMW for security guards and cleaning workers as early as possible in the 2008-2009 legislative session.

5. In his Policy Address 2008-2009, CE referred to the review of WPM and concluded that there were indeed limits in promoting wage protection through voluntary participation. As the result of WPM was unsatisfactory, CE announced that the Government was inclined to go for an across-the-board SMW having regard to social justice. The Labour and Welfare Bureau would press ahead with the preparatory work for the SMW legislation. An advisory Minimum Wage Commission, comprising members from the labour sector, business community, academia and government departments, would be established to study the level of minimum wage as well as the review mechanism, to ensure sensible balance between safeguarding the interests of grassroots workers and forestalling the loss of low-paid jobs, while sustaining economic growth and competitiveness. The Administration aimed to introduce a bill for Members' scrutiny in the 2008-2009 legislative session.

Deliberations of the Panel on Manpower on special arrangements under SMW for persons with disabilities

6. The Panel had discussed issues relating to whether there should be special arrangements for PWDs under the SMW regime at its meetings on 19 April 2007, 8 July and 20 November 2008. The deliberations are summarized in the following paragraphs.

7. Among the deputations attending the Panel meeting on 19 April 2007, the Hong Kong Joint Council for People with Disabilities considered that different minimum wage levels should be set for the less-competitive disabled employees and those whose ability was below the market requirement. The Mental Health Association of Hong Kong considered that the Administration should provide wage subsidies to low-income employees working for social enterprises. The Parents' Association of Pre-school Handicapped Children considered that special arrangements could be made when a minimum wage was introduced, taking into account the needs of the disabled in each district. The Cleaning Workers' Union considered that if a minimum wage was to be introduced across-the-board, disabled employees of social enterprises should not be exempted so as to prevent abuse.

8. The Administration advised that as a matter of principle, PWDs should be protected by SMW legislation. The Administration was considering whether special treatment should be introduced for PWDs, whose productive capabilities were impaired by their disabilities, so as to minimize any possible impact of SMW on their employment opportunities.

9. The Administration informed the Panel that the Labour Advisory Board (LAB) had discussed the treatment of PWDs in the light of experience elsewhere and the provision of services to PWDs in the local context. A conclusion had yet to be drawn. The Labour Department (LD) had met informally and on a preliminary basis with rehabilitation groups with a view to gauging their initial views and understanding the nature of their services and

support for the disabled.

10. At the Panel meeting on 20 November 2008, some members pointed out that in preparing SMW legislation, the impact of an SMW on the employment opportunities of PWDs should be thoroughly assessed. They noted that there were two groups of views among those affected. Whilst one side considered that SMW should cover the entire workforce with the Administration adopting one single minimum wage rate, some rehabilitation groups considered that different minimum wage rates should be set for the less-competitive disabled employees and those whose ability was below the market requirement.

11. Some members held the view that the Administration should proceed with the design work of a reliable and objective productivity-based wage assessment system for PWDs. A member considered that the Administration should seriously consider providing disabled employees with wage subsidy.

12. The Administration responded that -

- (a) it had, through meetings with rehabilitation groups, collected the views of PWDs on various minimum wage related issues. LD had met with some 30 rehabilitation groups in mid November 2008, and would continue to meet with more groups in the rehabilitation sector in the next month or so. All views and suggestions received would be referred to LAB for consideration; and
- (b) on the issue of how PWDs should be treated under SMW legislation, initial feedback from the rehabilitation groups indicated that some flexible arrangements for PWDs should be allowed. These rehabilitation groups took the view that PWDs whose disabilities did not affect their productivity should be paid at least the minimum wage. Those whose productive capabilities were impaired by their disabilities should be allowed to receive a reduced minimum wage. If the productive capabilities of PWDs were very low, PWDs and their employers should be allowed to negotiate their own wages. This approach would require the introduction of some form of productivity assessment which was not available in Hong Kong. As the issue was a complex one, the Administration would need time to work out further details with the concerned parties.

13. The Administration informed the Panel that it had commenced detailed study on issues related to the introduction of a productivity assessment scheme for PWDs. If possible, the scheme would be implemented upon the commencement of the SMW legislation.

Relevant papers

14. Members may wish to refer to the following minutes and papers for further details -

Minutes

- (a) Minutes of meeting of the Panel on Manpower on 19 April 2007 [LC Paper No. CB(2)1829/06-07];
- (b) Minutes of meeting of the Panel on Manpower on 8 July 2008 [LC Paper No. CB(2)2755/07-08];
- (c) Minutes of meeting of the Panel on Manpower on 20 November 2008 [LC Paper No. CB(2)681/08-09];

Papers

- (d) Administration's paper entitled "Preparatory Work for Introducing a Statutory Minimum Wage - Special arrangements on minimum wage for different categories of people" for the meeting of the Panel on Manpower on 19 April 2007 [LC Paper No. CB(2)1580/06-07(03)];
- (e) Administration's paper entitled "Preparatory Work for Introducing a Statutory Minimum Wage for Cleaning Workers and Security Guards if the Wage Protection Movement Fails to Yield Satisfactory Results - Composite Report on the Practical Issues Discussed" for the meeting of the Panel on Manpower on 8 July 2008 [LC Paper No. CB(2)2480/07-08(03)]; and
- (f) Administration's paper entitled "Overall review of the Wage Protection Movement for cleaning workers and security guards, and progress report on preparatory work for introducing a bill on a statutory minimum wage" for the meeting of the Panel on Manpower on 20 November 2008 [LC Paper No. CB(2)290/08-09(04)];

15. The above minutes and papers are also available on the website of the Legislative Council (<http://www.legco.gov.hk>).