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Panel on Manpower

**Background brief prepared by the Legislative Council Secretariat
for the meeting on 20 November 2008**

**Wage Protection Movement and
establishment of a statutory minimum wage in Hong Kong**

Purpose

This paper summarises past discussions by the Panel on Manpower (the Panel) on Wage Protection Movement (WPM) and the establishment of a statutory minimum wage (SMW) in Hong Kong.

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 a SMW in Hong Kong.
3. On 11 October 2006, the Chief Executive (CE) announced in his Policy Address the launching of 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 a 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 a SMW for security guards and cleaning workers as early as possible in the 2008-2009

legislative session.

Deliberations of the Panel on Manpower

Whether a minimum wage should be established in Hong Kong

5. At its meeting on 29 October 1998, the Panel on Manpower received the views of organisations on the proposal for a minimum wage in Hong Kong. While some organisations expressed support for the establishment of a minimum wage system in Hong Kong, some other organisations objected to such a system. The Administration was of the view that it was not worthwhile to tinker with the market-determined wage mechanism by setting up any form of minimum wage system in Hong Kong. Wages should be set by the market in close relation to employees' productivity. It was undesirable to push wages artificially by statutory means.

6. The Panel asked the Research and Library Services Division (RLSD) of the Legislative Council (LegCo) Secretariat to conduct a research study on the minimum wage systems in other places.

7. At its meetings on 27 May and 22 July 1999, the Panel discussed the report of RLSD on "Minimum Wage Systems" and the Administration's response. Some members considered that a minimum wage system should be established. Some other members, however, considered that wages should be determined by market forces of supply and demand.

8. The Administration responded that the RLSD report did not provide strong grounds for setting up a statutory minimum wage system in Hong Kong. It considered that wages should be determined by market forces of supply and demand.

9. The proposal for a minimum wage in Hong Kong was further discussed at the Panel meeting on 4 November 2004.

10. Some members expressed support for introducing a minimum wage in Hong Kong. They considered that a minimum wage could provide adequate income protection for elementary workers, better protect the livelihood of low income workers, and alleviate the problem of poverty. Some of these members suggested that a minimum wage should be set for workers in the cleansing, security and catering trades first. Another member considered that a statutory minimum wage should be introduced for all trades.

11. Some other members, however, pointed out that while employers attached great importance to the rights and benefits of employees and were willing to assist those in need, introducing a minimum wage was not the only

way to safeguard the benefits of employees. These members considered that before the issue was deliberated by the Labour Advisory Board (LAB), the pre-condition of introducing a minimum wage should not be imposed.

12. The Administration responded that the issue of minimum wage was complicated and had far-reaching implications on the future socio-economic development of Hong Kong. The Administration had an open mind on the issue, and would explore in depth the feasibility and desirability of introducing a statutory minimum wage in Hong Kong. It would also fully assess the socio-economic implications of the proposal, analyse and draw on the experience of overseas countries with minimum wage policies. The Administration stressed that it was important to secure consensus among employers, employees and the Government before the proposal could be taken forward. As a first step, the issue would be put to LAB for deliberation.

13. The issue of minimum wage was raised at the Panel meeting on 20 January 2005 during the briefing by the Secretary for Economic Development and Labour on the Chief Executive's 2005 Policy Address.

14. Some members considered that the Administration should provide a timetable for LAB's deliberation on the issue. A member expressed the view that the Administration should take the lead in introducing a minimum wage instead of referring the issue to LAB for discussion. Another member, however, indicated that the catering industry opposed the introduction of a minimum wage.

15. The Administration responded that the issue was referred to LAB because it was the recognised and proven tripartite consultative mechanism for labour matters.

View of deputations and academics on the establishment of a minimum wage

16. Between April and June 2007, the Panel held three meetings to receive the views of deputations and academics on the issue of SMW for cleaning workers and security guards, and whether there should be special arrangements on minimum wage for different categories of people, such as youth without working experience, people with disabilities and recipients of Comprehensive Social Security Assistance (CSSA) allowance.

Minimum wage for different categories of people

17. Deputations who attended the Panel meeting on 19 April 2007 expressed support for the introduction of a SMW. 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.

SMW for cleaning workers and security guards

18. Representatives of employees' groups who attended the Panel meeting on 17 May 2007 urged the Administration to introduce legislation to set up a minimum wage system for all trades. Some representatives suggested that a minimum wage should be set at a level no less than \$30 per hour or no lower than the level of the monthly allowance of CSSA, so as to enable elementary workers to maintain a basic standard of living and alleviate the problem of working poverty.

19. Representatives of employers' groups objected to the enactment of legislation for a minimum wage. They considered that a minimum wage would increase the cost of employers, affect the competitiveness of enterprises, and impair the efficient allocation of labour by market forces, thus leading to a reduction of employment opportunities among less-competitive workers. Hong Kong Small and Medium Enterprises Association, however, informed members that according to a survey conducted by the Association, 83% of its members supported the introduction of SMW for cleaning workers and security guards.

20. At its meeting on 21 June 2007, the Panel received the views of academics on the introduction of a SMW. Professor HO Lok-sang of the Department of Economics of Lingnan University considered that a SMW, if implemented effectively, could end up benefiting the whole economy, as it could provide CSSA recipients with an incentive for work. The minimum wage level should be set at a reasonable level. On the other hand, there were other better alternatives, such as provision of wage subsidies to employees across-the-board, than SMW.

21. Professor Francis LUI of the Department of Economics and Director of the Center for Economic Development of the Hong Kong University of Science and Technology held the view that in considering whether a SMW system should be implemented in Hong Kong, the possible effects of minimum wage on employment, such as the overall effect on the employment opportunities of low-skilled workers, youth without working experience and disabled persons, had to be thoroughly assessed. He considered it inappropriate for the Government to set up any form of minimum wage in Hong Kong, as any move

to interfere with private sector decisions on wage setting was bound to be counter-productive. For some industries, a minimum wage would increase the labour cost.

22. Dr Andy CHAN, Associate Professor of the Department of Management & Marketing of the Hong Kong Polytechnic University supported the introduction of a SMW. He suggested that, to start with, the Administration could consider providing wage protection to cleaning workers and security guards, and the minimum wage rates should not be set at a very high level. They should be pitched at a level which offered real benefits to low-income workers, with reference to the poverty line and the cost-of-living level.

Wage Protection Movement

23. Following announcement by CE in his Policy Address on 11 October 2006 that WPM would be launched for employees in the cleansing and guarding services sectors, the Administration briefed members on the modus operandi of WPM. Under WPM, enterprises pledged to offer market wage rates to workers of the two specified occupations who should be suitably compensated if they were required to work beyond contractual working hours. The Administration advised that it would conduct a mid-term review of WPM in October 2007 and an overall review in October 2008 to evaluate the effectiveness of WPM. If it was found in the overall review that WPM failed to yield satisfactory results, the Government would introduce into LegCo legislation for a minimum wage for the two specified occupations.

Progress of the preparatory work

24. At the Panel meeting on 21 February 2008, the Administration briefed members on the progress of the preparatory work for introducing a SMW for cleaning workers and security guards should WPM eventually failed to yield satisfactory results. The Administration informed members that the Labour Department (LD) had identified the following key issues to be tackled in the event of the introduction of a SMW -

- (a) definition of cleaning workers and security guards;
- (b) special measures for vulnerable groups;
- (c) definition of a SMW;
- (d) mechanism for setting and adjusting the minimum wage level;
and
- (e) enforcement and penalty in relation to the implementation of a SMW.

25. The Administration advised that in taking forward the study of the key issues, LD would draw on relevant experiences in other places with SMW while bearing in mind the characteristics of Hong Kong. To expedite progress and noting the widespread implications of SMW, LD had in parallel drawn expertise from the Department of Justice (DoJ) and the Government Economist while maintaining a close dialogue with relevant stakeholder groups and LAB.

Key issues to be tackled in the event of introduction of a statutory minimum wage

Definition of cleaning workers and security guards

26. At the Panel meeting on 24 April 2008, members were consulted on the definitions of "cleaning workers" and "security guards" and the type of workers to be benefited, if a SMW was to be introduced. The Administration advised that entitlements to legal rights and the responsibilities of employers and employees should be clearly spelt out in the SMW legislation should it be put in place, as a breach would entail criminal liability. As gauged from LD's consultations with the security and guarding industries, views were diverse on the categories of security guards to be covered by SMW. If all the security personnel permit categories were to be covered in the definition of security guards, cleaning workers would need to be defined with a scope wider than that specified under WPM.

27. The Administration advised that under WPM, cleaning workers and security guards were defined as specified under the Labour Earning Survey of C&SD. The Administration would continue to deliberate on the definitions of the two occupations and seek the advice of DoJ. LAB noted that the definitions of the two occupations would involve complex issues such as diversity in skill levels, remuneration and work arrangements within the two occupations. LAB would continue discussion on the issue.

28. Some members considered that as the aim of a SMW was to address the problem of working poverty, the definitions of cleaning workers and security guards should be as wide as possible to cover as many workers as possible. For instance, in the case of cleaning workers, those whose work involved an element of cleaning, such as vegetable washing, car cleaning and hair-washing, should be covered. It would not be necessary to impose a requirement on the percentage or number of hours of cleaning work to avoid unnecessary dispute. Security guards of all the four security personnel permit categories should be covered by SMW. A member was of the view that domestic helpers who were provided with free accommodation should be excluded from the definition of cleaning workers for the purpose of SMW. The member also pointed out that no security personnel permit was required for those car park attendants responsible for collection of parking fees, and their duties might not

be much different from some security guards under the security personnel permit categories. A SMW definition of security guards should also include job type of this nature.

Definition of a statutory minimum wage

29. At its meeting on 27 May 2008, the Administration informed the Panel that overseas experience suggested that SMW could be set on an hourly, daily or monthly basis, with hourly basis being most commonly found. The Administration favoured the adoption of an hourly rate approach for assessing the wage level. This would help forestall exploitation of employees by ensuring that their pay would be commensurate with the duration of work, with wages no lower than the SMW level. The Administration proposed to align the definition of wages for the purpose of SMW closely with that under the Employment Ordinance (Cap. 57) (EO). Eligible employees' commission, tips and service charge, and overtime pay would be included under the proposed definition for SMW.

30. Some members considered the hourly-rate approach acceptable, but queried how the Administration would determine the rate of SMW, given that there was no standard working hours in Hong Kong. They enquired how an hourly rate for SMW was to be derived and what parameter would be adopted in estimating employee's weekly and monthly working hours.

31. The Administration advised that should a SMW assessed on an hourly basis be put in place, employment records would be required to be kept in a way that could show the hourly wage rate payable to eligible employees. Accordingly, employees' monthly or weekly salary should be calculated based on the specified hourly wage rate.

Setting the statutory minimum wage level

32. At the Panel meeting on 19 June 2008, members considered in general that the level of SMW should not be lower than the monthly allowance under the CSSA Scheme and should enable the low income groups to maintain a basic living standard. A member suggested that SMW should be set at a level that could support the living of two persons. The member considered that in tandem with the introduction of a SMW, a system similar to that implemented in US and UK providing financial subsidy for low-income workers outside the CSSA Scheme should be introduced, so that the problem of working poverty could be tackled thoroughly.

33. The Administration advised that while the CSSA level could be used as a reference in setting the SMW level, it should be noted that the level of CSSA was calculated in the light of the living cost of a family unit. Its nature was different from SMW which was an employee's entitlement in respect of work

done. In setting the SMW level, the Administration would take into consideration a basket of factors including the cost of living and inflation rate. The Administration informed the Panel that C&SD would study the SMW regimes in UK and other places and find out whether data used to calculate the cost of living for the purpose of setting a minimum wage rate level in other places would be applicable to Hong Kong.

Review mechanism

34. At the Panel meeting on 19 June 2008, some members suggested that a review of SMW should be conducted at least once a year, and the review mechanism should allow flexibility and specify the circumstances under which adjustment could be made on an ad hoc basis, such as at times of high inflation. A member suggested that an overall review at every five to six years should be included in the review mechanism. Another member suggested that an independent statutory body should be established for conducting such reviews.

35. The Administration advised that the decision on the frequency and timing of regular reviews should take into account the time required to collect the relevant data for conducting impact assessment and avoid causing confusion or disruption to enforcement agencies. Overseas experience indicated that reviews of the minimum wage rate were usually conducted on an annual basis. The Administration advised that LAB would further discuss the review mechanism in detail.

Enforcement and penalty

36. Some members considered that sufficient penalty level should be imposed to deter non-compliance with the requirements under SMW. They agreed with the Administration that the relevant provisions should be in line with EO. A member, however, considered that section 64B of EO should be amended so as to reverse the onus of proof or impose an evidential burden on the defendant director regarding his not having knowledge of or consented to the offence. The Administration should draw reference to similar provisions under the Copyright Ordinance (Cap. 528) and consider introducing amendments to section 64B of EO. Other members considered that the issue of false self-employment would need to be tackled in the enforcement of SMW.

37. The Administration advised that the provisions of EO or SMW legislation would be applicable wherever an employer-employee relationship was established. For those residential buildings which had procured outsourced cleansing and guarding services, it would be the contractors providing the services who should be responsible for their employees' entitlement and benefits under EO or SMW legislation. As regards the need to amend section 64B, DoJ had advised that the addition of the two elements,

namely, "act without reasonable excuse" and "failure to act without reasonable excuse" would not in any way lessen the burden of proof on the prosecution for invoking section 64B offences to prosecute the responsible persons of a body corporate. The Administration considered that the issue concerned was more on investigation strategies rather than the relevant provisions in legislation. As for the issue of unscrupulous employers requiring employees to become self-employed, it was a prevailing problem irrespective of whether or not SMW was to be introduced and should be addressed separately.

38. The Administration informed the Panel that LD would further study issues related to the enforcement of SMW legislation targeting at residential buildings and the possible impact it would have on owners' corporations (OCs) and buildings without management companies and OCs. Apart from the need to encourage OCs to engage management companies in light of the future implementation of the Mandatory Building Inspection Scheme, if a SMW was to be implemented, there might be a need to establish a transitional period for residential buildings and launch publicity campaign to enhance the awareness of OCs to comply with SMW legislation. The Administration assured the Panel that it would keep an open mind on the issue and consider the views and suggestions of members.

Views on an across-the-board statutory minimum wage

39. At the Panel meeting on 8 July 2008, some members expressed the view that the Administration should adhere strictly to the timetable for introducing SMW legislation and consider implementing an across-the-board SMW since some representatives of employers' associations had recently expressed support for an across-the-board SMW should the overall review of WPM found it unsatisfactory.

40. The Administration advised that as the comments of the relevant employers' associations were based on the assumption that a SMW legislation would be introduced, it would not be appropriate to advance the discussion on SMW legislation for all trades before the overall review on WPM. LD had consistently liaised with the business sector through LAB. The Administration would consider an across-the-board SMW should the majority of the community shared a consensus.

41. The Administration assured the Panel that it would adhere to the timetable set out in CE's 2007-2008 Policy Address. It would introduce a bill on a SMW for the two specified occupations as early as possible in the 2008-2009 legislative session, if it was found in the overall review that WPM was ineffective.

Updated research report on minimum wage system in selected places

42. At the request of the Panel, RLSA had updated its research report of 1999 on minimum wage systems. The updated research report, which was discussed at the Panel meeting on 20 March 2008, covered the following aspects of the minimum wage systems of 10 places -

- (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) characteristics of minimum wage workers;
- (f) enforcement and penalty; and
- (g) empirical studies evaluating the impact of the minimum wage system.

43. The relevant table in the updated research report setting out a comparison of the minimum wage systems in 10 places is in **Appendix I**.

Latest development

44. At the Panel meeting on 23 October 2008, the Administration advised that it had presented the findings of the overall review of WPM for cleaning workers and security guards to members of LAB in October 2008. The findings revealed that only 52% of the relevant workers benefited from WPM, and their wage increases were only slightly higher than that of other low-skilled workers. Members of LAB generally agreed that there were indeed limitations in promoting wage protection through voluntary participation and that the outcome of WPM was unsatisfactory, notwithstanding the positive impacts which WPM had in creating wage growth and increasing the number of workers benefiting from WPM.

45. 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 draft bill for Members' scrutiny in the 2008-2009 legislative session.

Relevant papers

46. Members may wish to refer to the list of minutes of meetings and papers in **Appendix II**.

Council Business Division 2
Legislative Council Secretariat
14 November 2008

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 persons such as 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 II

List of relevant papers on Wage Protection Movement and establishment of a statutory minimum wage

Minutes

- (a) minutes of meeting of the Panel on Manpower on 29 October 1998 [LC Paper No. CB(2)920/98-99];
- (b) minutes of meeting of the Panel on Manpower on 4 November 2004 [LC Paper No. CB(2)321/04-05];
- (c) minutes of meeting of the Panel on Manpower on 16 November 2006 [LC Paper No. CB(2)673/06-07];
- (d) minutes of meeting of the Panel on Manpower on 21 December 2006 [LC Paper No. CB(2)838/06-07];
- (e) minutes of meeting of the Panel on Manpower on 18 January 2007 [LC Paper No. CB(2)1274/06-07];
- (f) minutes of meeting of the Panel on Manpower on 15 March 2007 [LC Paper No. CB(2)1581/06-07];
- (g) minutes of meeting of the Panel on Manpower on 19 April 2007 [LC Paper No. CB(2)1829/06-07];
- (h) minutes of meeting of the Panel on Manpower on 17 May 2007 [LC Paper No. CB(2)2174/06-07];
- (i) minutes of meeting of the Panel on Manpower on 21 June 2007 [LC Paper No. CB(2)2688/06-07];
- (j) minutes of meeting of the Panel on Manpower on 5 July 2007 [LC Paper No. CB(2)2636/06-07];
- (k) minutes of meeting of the Panel on Manpower on 15 November 2007 [LC Paper No. CB(2)629/07-08];
- (l) minutes of meeting of the Panel on Manpower on 21 February 2008 [LC Paper No. CB(2)1354/07-08];
- (m) minutes of meeting of the Panel on Manpower on 20 March 2008 [LC Paper No. CB(2)1663/07-08];

- (n) minutes of meeting of the Panel on Manpower on 24 April 2008 [LC Paper No. CB(2)2013/07-08];
- (o) minutes of meeting of the Panel on Manpower on 27 May 2008 [LC Paper No. CB(2)2716/07-08];
- (p) minutes of meeting of the Panel on Manpower on 19 June 2008 [LC Paper No. CB(2)2734/07-08];
- (q) minutes of meeting of the Panel on Manpower on 8 July 2008 [LC Paper No. CB(2)2755/07-08];

Papers

- (r) Administration's paper entitled "The Administration's Views on the 'Proposal on minimum wage in Hong Kong' put forward by the Hong Kong Social Security Society" for the meeting of the Panel on Manpower on 29 October 1998 [LC Paper No. CB(2)495/98-99(05)];
- (s) Research report entitled "Minimum Wage Systems" [RP08/98-99] prepared by the Research and Library Services Division of the LegCo Secretariat for the meeting of the Panel on Manpower on 29 May 1999;
- (t) Administration's paper entitled "The Proposal for a Minimum Wage in Hong Kong" for the meeting of the Panel on Manpower on 4 November 2004 [LC Paper No. CB(2)129/04-05(03)];
- (u) Administration's paper entitled "Wage Protection Movement for Cleansing Workers and Security Guards" for the meeting of the Panel on Manpower on 16 November 2006 [LC Paper No. CB(2)333/06-07(04)];
- (v) Administration's paper entitled "Progress of the Wage Protection Movement for Cleaning Workers and Security Guards" for the meeting of the Panel on Manpower on 18 January 2007 [LC Paper No. CB(2)840/06-07(03)];
- (w) Administration's papers entitled "Wage Level Used under the Wage Protection Movement for Cleaning Workers and Security Guards" and "Preparatory Work for Introducing a Statutory Minimum Wage for the Cleansing and Guarding Services Sectors if the Wage Protection Movement Fails to Yield Satisfactory Results" for the meeting of the Panel on Manpower on 15 March 2007 [LC Paper Nos. CB(2)1273/06-07(03) and CB(2)1304/06-07(01)];
- (x) 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)];

- (y) Administration's paper entitled "Progress of the Wage Protection Movement for Cleaning Workers and Security Guards" for the meeting of the Panel on Manpower on 17 May 2007 [LC Paper No. CB(2)1828/06-07(12)];
- (z) Administration's paper entitled "Progress of the Wage Protection Movement for Cleaning Workers and Security Guards" for the meeting of the Panel on Manpower on 5 July 2007 [LC Paper No. CB(2)2355/06-07(01)];
- (aa) Administration's paper entitled "Mid-term Review of the Wage Protection Movement for Cleaning Workers and Security Guards" for the meeting of the Panel on Manpower on 15 November 2007 [LC Paper No. CB(2)310/07-08(05)];
- (bb) 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" for the meeting of the Panel on Manpower on 21 February 2008 [LC Paper No. CB(2)1072/07-08(04)];
- (cc) Research report entitled "Minimum wage system in selected places" [RP04/07-08] prepared by the Research and Library Services Division of the LegCo Secretariat for the meeting of the Panel on Manpower on 20 March 2008;
- (dd) 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 - Definitions of Cleaning Workers and Security Guards" for the meeting of the Panel on Manpower on 24 April 2008 [LC Paper No. CB(2)1662/07-08(05)];
- (ee) 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 - Definition of A Statutory Minimum Wage" for the meeting of the Panel on Manpower on 27 May 2008 [LC Paper No. CB(2)2012/07-08(05)];
- (ff) Administration's papers 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 - Enforcement and penalty in relation to the implementation of a statutory

minimum wage", "Preparatory Work for Introducing a Statutory Minimum Wage for Cleaning Workers and Security Guards if the Wage Protection Movement Fails to Yield Satisfactory Results - Setting of the Wage Level of the Statutory Minimum Wage" , and "Preparatory Work for Introducing a Statutory Minimum Wage for Cleaning Workers and Security Guards if the Wage Protection Movement Fails to Yield Satisfactory Results - Mechanism for Reviewing the Level of the Statutory Minimum Wage" for the meeting of the Panel on Manpower on 19 June 2008 [LC Paper Nos. CB(2)2274/07-08(03), (04) and (05)];

- (gg) 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)];
- (hh) supplementary information note on the minimum wage system in Germany [IN20/07-08] prepared by the Research and Library Services Division of the LegCo Secretariat in response to members' request at the meeting of the Panel on Manpower on 20 March 2008;
- (ii) information note on the Australian Fair Pay Commission [IN23/07-08] prepared by the Research and Library Services Division of the LegCo Secretariat in response to members' request at the meeting of the Panel on Manpower on 20 March 2008;
- (jj) supplementary information note on minimum wage system in selected places [IN24/07-08] prepared by the Research and Library Services Division of the LegCo Secretariat in response to members' request at the meeting of the Panel on Manpower on 20 March 2008;
- (kk) information note on remedies for unfair dismissal in selected places [IN25/07-08] prepared by the Research and Library Services Division of the LegCo Secretariat in response to members' request at the meeting of the Panel on Manpower on 20 March 2008; and
- (ll) information note on collective bargaining system in selected places [IN28/07-08] prepared by the Research and Library Services Division of the LegCo Secretariat in response to members' request at the meeting of the Panel on Manpower on 20 March 2008.

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