

LEGISLATIVE COUNCIL BRIEF

Census and Statistics Ordinance (Chapter 316)

Census and Statistics (Annual Earnings and Hours Survey) Order

INTRODUCTION

The Secretary for Financial Services and the Treasury made the Census and Statistics (Annual Earnings and Hours Survey) Order (“the AEHS Order”) at Annex on 18 January 2010 under Section 11 of the Census and Statistics Ordinance (Cap. 316) (“the Ordinance”) to provide for the introduction of a mandatory annual survey for the collection of data relating to the wage level and distribution, and employment and demographic characteristics of employees in Hong Kong.

JUSTIFICATIONS

Existing Practice

2. The Census and Statistics Department (“C&SD”) launched a new Annual Earnings and Hours Survey (“AEHS”) in May 2009 to collect wage, employment and demographic information of employees from about 10 000 business undertakings in Hong Kong. The information is required to compile statistics on (i) the level and distribution of wages of employees in Hong Kong, including mean, median, quartiles and deciles spread of wage rates; and (ii) the employment characteristics (e.g. whether full-time or part-time workers, and permanent or contract staff) and demographics (e.g. sex, age, educational attainment) of employees. These statistics are essential inputs for analyses related to the implementation of the Statutory Minimum Wage (“SMW”), in particular the setting of the initial rate of SMW and the subsequent reviews of its

level. They are also useful for studies on labour-related topics by the private sector, non-governmental organisations and the Government.

3. To enable early collection of relevant data for commencing statistics analytical work, the 2009 AEHS was launched in May 2009 as a voluntary survey as notified in the Gazette¹ in accordance with section 11A of the Ordinance.

Proposal

4. AEHS will be carried out as part of the regular annual programme of C&SD. Given that employee wage data obtained through AEHS have irreplaceable reference value in analyses related to SMW, C&SD recommends that AEHS should be conducted as a mandatory statistical survey from 2010 onwards in order to align with the established practice adopted in Hong Kong and other statistically advanced economies that in order to ensure adequate response from selected business undertakings across all sectors and the quality of the data obtained, statistical surveys being carried out regularly and bearing much significance for policy formulation should be conducted on a mandatory basis. In particular, for the AEHS which involves sampling of employees from individual sampled business undertakings and collection of detailed data of individual selected employees, a mandatory survey should help to enhance co-operation from the business undertakings concerned.

5. Specifically, the proposal will bring AEHS in step with other economy-wide surveys conducted by C&SD such as data collection for the compilation of business operating characteristics, balance of payments, business innovation, and employment statistics. It is also in line with international practices in conducting SMW-related surveys. For example, the Office for National Statistics in the United Kingdom and the Australian Bureau of Statistics both collect data necessary for the implementation of SMW through mandatory surveys on business undertakings.

6. The AEHS Order seeks to implement the proposal.

¹ G.N. 2052 published on 3 April 2009

THE SURVEY ORDER

7. The AEHS Order contains nine sections and one schedule and provides for the conduct of an annual survey by the Commissioner for Census and Statistics ("the Commissioner") for the purpose of compiling statistics relating to the wage level and distribution, as well as the employment and demographic characteristics of employees in Hong Kong.

LEGISLATIVE TIMETABLE

8. The legislative timetable is as follows -

Publication in the Gazette	22 January 2010
Tabling at the Legislative Council for negative vetting	27 January 2010

IMPLICATIONS OF THE AEHS ORDER

9. The AEHS Order is in conformity with the Basic Law including the provisions concerning human rights. It will not affect the current binding effect of the Ordinance. It has no financial, productivity, environmental or sustainability implications. Additional workload arising from the implementation of the Order, if any, will be absorbed within the existing resources of C&SD. The AEHS Order should also have no economic implications as it is unlikely to increase business costs of the sampled business undertakings significantly.

PUBLIC CONSULTATION

10. Under the AEHS Order, the sampled business undertakings will be subject to a legal obligation to supply the required employee data to C&SD. In November 2009, C&SD has written to about 700 key stakeholders covering major employer associations, employee unions,

chambers of commerce, associations of small and medium enterprises, societies of human resource professionals and relevant statutory bodies to gauge their views on the legislative proposal. A great majority of the respondents did not raise any objection.

11. C&SD consulted the Statistics Advisory Board² (“SAB”) on the proposal at its meeting on 4 December 2009. Members of SAB expressed strong support for turning AEHS into a mandatory survey. Members of the Provisional Minimum Wage Commission³ (“PMWC”) also raised no objection to the proposal when C&SD briefed them at its meeting on 11 December 2009.

PUBLICITY

12. C&SD will issue a press release upon commencement of the AEHS Order.

ENQUIRIES

13. Enquiries can be addressed to Miss Suzanna Leung, Assistant Secretary for Financial Services and the Treasury (Financial Services)(3)1, at 2528 9133; or Miss Cindy Yim, Senior Labour Officer (Statutory Minimum Wage)2, at 2852 3013.

Financial Services and the Treasury Bureau

Labour and Welfare Bureau

20 January 2010

² The Statistics Advisory Board (“SAB”) is a non-statutory advisory body comprising a balanced mix of representatives from the academia, the business sector and the general community. The SAB is chaired by the Commissioner for Census and Statistics.

³ The Provisional Minimum Wage Commission (“PMWC”) is an independent consultative body with members drawn from the business community, labour sector, academia and relevant government bureaux to advise the Chief Executive on the initial statutory minimum wage rate.

CENSUS AND STATISTICS (ANNUAL EARNINGS AND HOURS SURVEY) ORDER

(Made by the Secretary for Financial Services and the Treasury under section 11 of the Census and Statistics Ordinance (Cap. 316))

1. Commencement

This Order comes into operation on 18 March 2010.

2. Interpretation

In this Order –

“business undertaking” (業務事業單位) means an undertaking carrying on business in Hong Kong, including a non-profit-making body and a statutory body;

“survey” (調查) means the statistical survey referred to in section 3;

“survey period” (調查期) means the survey period specified in section 6.

3. Annual earnings and hours survey

The Commissioner must carry out a statistical survey every year in respect of business undertakings in Hong Kong for the purpose of compiling statistics relating to the wage level and distribution and the employment and demographic characteristics of employees in Hong Kong in the survey period.

4. Matters in respect of which information is required to be given

(1) The matters in respect of which information must be given in a survey are the matters specified in the Schedule.

(2) The information must be given to the Commissioner –

- (a) by completing such schedule as the Commissioner may issue for that purpose; and
- (b) by completing that schedule within such period as may be specified in the schedule.

5. Persons required to give information

The following persons must give information in respect of a business undertaking for the purpose of a survey, if so requested by the Commissioner –

- (a) if the business undertaking is a body corporate, any director, secretary or other person concerned in the management of the body corporate;
- (b) if the business undertaking is a partnership, any partner of the partnership;
- (c) in any other case, the proprietor of the business undertaking.

6. Survey period

The survey period, in relation to a survey, is the period beginning on 1 April and ending on 30 June of the calendar year in which the survey is carried out.

7. Sampling methods may be used

The Commissioner may use sampling methods in the collection of statistical information under this Order.

8. Application of Order

This Order applies to a business undertaking that carried on business during the whole of a survey period or any part of it, regardless of whether the business undertaking commenced business before or after the commencement of the survey period and regardless of whether or not the business undertaking ceased to carry on business during the survey period.

9. Date for destruction of completed schedules

All completed schedules collected or received for a survey and all copies of the schedules must be destroyed not later than 24 months after the end of the survey period covered by that survey.

SCHEDULE

[s. 4]

**MATTERS IN RESPECT OF WHICH INFORMATION IS REQUIRED
TO BE GIVEN**

1. Information pertaining to the business undertaking as a whole –
 - (1) Name and address of the business undertaking.
 - (2) Business registration number (if any).
 - (3) Nature of business.
 - (4) Number of persons engaged.
 - (5) Number of employees.
 - (6) Whether there had been significant changes in the employment or wage situation in the business undertaking during the 12 months preceding the survey reference period and, if so, what factors had contributed to the changes.
2. Information pertaining to each employee selected from the business undertaking –
 - (1) Demographic characteristics (for example, sex, age and educational attainment).
 - (2) Employment information, including –
 - (a) job title and main duties;
 - (b) whether employed by the business undertaking on a permanent, fixed term or casual basis;
 - (c) whether employed by the business undertaking on a full-time or part-time basis;
 - (d) the unit of time, or unit of production, by reference to which the rate of basic salary is expressed (that is, monthly, fortnightly, weekly, daily, hourly or otherwise);
 - (e) length of wage period;

- (f) amount of wage for the relevant wage period, with breakdown –
 - (i) amount of basic salary;
 - (ii) amount of commission and tips (other than commission and tips that are of a gratuitous nature or that are payable only at the discretion of the employer);
 - (iii) amount of shift premium pay;
 - (iv) amount of overtime pay;
 - (v) amount of other bonuses and allowances (other than bonuses and allowances that are of a gratuitous nature or that are payable only at the discretion of the employer);
 - (vi) cost of providing meal benefits in kind;
- (g) number of contractual working days per wage period and number of contractual working hours per day;
- (h) number of contractual working hours, and number of overtime hours, in the relevant wage period;
- (i) rate of overtime pay as a percentage of the rate of basic salary;
- (j) amount of end of year payment payable for the payment period within which the last day of the survey reference period falls.

3. In this Schedule –

“payment period” (酬金期) means a period in respect of which an end of year payment is payable;

“relevant wage period” (相關工資期), in relation to an employee of a business undertaking, means the employee’s last wage period ending on or before

the last day of the survey reference period applicable to the business undertaking;

“survey reference period” (調查參照期), in relation to a business undertaking, means either the month of April, May or June of the calendar year in which a survey is carried out as the Commissioner may specify in such schedule as the Commissioner may issue to the business undertaking for giving information for the purposes of the survey.

Secretary for Financial Services and
the Treasury

2010

Explanatory Note

This Order provides for the carrying out of annual statistical surveys for the purpose of compiling statistics relating to the wage level and distribution and the employment and demographic characteristics of employees in Hong Kong.

2. Sections 1 and 2 provide for commencement of this Order and definitions necessary for the interpretation of this Order.
3. Section 3 provides that the Commissioner for Census and Statistics (“Commissioner”) must carry out a statistical survey every year for compiling statistics relating to the wage level and distribution and the employment and demographic characteristics of employees in Hong Kong in the survey period.
4. Section 4, together with the Schedule, specifies matters in respect of which the information must be given for the purpose of a survey, and the form in which and the time within which the information is to be given.

5. Section 5 specifies the persons required to give the information.
6. Section 6 specifies the survey period in respect of which a survey is to be carried out.
7. Section 7 authorizes the Commissioner to use sampling methods in collecting statistical information.
8. Section 8 makes it clear that this Order applies not only to a business undertaking that carried on business during the whole of a survey period, but also to one that carried on business during only part of a survey period.
9. Section 9 specifies the date by which completed schedules are to be destroyed.