

For information on
11 April 2011

Legislative Council Panel on Manpower

**Wage Arrangement for Non-skilled Workers
Engaged Under Government Service Contracts**

Purpose

This paper provides information on the wage arrangement for non-skilled workers engaged under government service contracts upon the implementation of the statutory minimum wage (SMW) on 1 May 2011.

Background

2. In May 2004, the Government introduced a mandatory wage requirement (MWR) for non-skilled workers engaged in government service contracts to protect their benefits. Under the MWR, bureaux/departments should ensure that government service contractors offer their non-skilled workers wage rates not lower than the average monthly wages for the relevant industry/occupation in the market¹ when procuring services that rely heavily on the deployment of non-skilled workers. This wage protection measure serves to prevent non-skilled workers engaged under government service contracts from receiving excessively low wages. The MWR de facto sets, to a certain extent, non-statutory minimum wages for certain occupations. The latest published average monthly wages for the relevant occupations of non-skilled workers (for December 2010) are at **Annex 1**.

3. Legislating for minimum wage also serves to prevent employees from receiving excessively low wages through the setting of a wage floor. The SMW, at an initial rate of \$28 per hour, will take effect on 1 May 2011. Employees engaged under government service contracts, like any other workers covered by the Minimum Wage Ordinance (MWO), will be entitled to wages no less than the SMW. Upon the implementation of SMW, it is no longer necessary to continue with the MWR, which has fulfilled its mission in wage protection.

¹ Market average monthly wage refers to the average monthly wages for the relevant occupations of non-skilled workers published in the Quarterly Report of Wage and Payroll Statistics (Quarterly Report) compiled by the Census and Statistics Department.

New Wage Arrangement

4. The Administration has thoroughly and carefully examined the impact of SMW implementation on government service contracts and has come up with a new wage arrangement. We have considered the elements of existing government service contracts, the expected outcome and impact of implementation of SMW, and have sought to strike a balance among various considerations. This arrangement is a lawful, reasonable and sensible measure.

5. For government service contracts engaging mainly non-skilled workers to be tendered on or after 1 May 2011, the Government will mandate service contractors to pay their non-skilled workers at not less than the SMW plus one paid rest day in every period of seven days. In addition, to ensure that wages of non-skilled workers will not be reduced upon SMW implementation, we will introduce a transitional arrangement, with the MWR partially maintained. That is, for occupations of which the market average monthly wages² stipulated in the Quarterly Report for December 2010 are higher than the SMW plus one paid rest day in every period of seven days, their market average monthly wages would continue to apply until the SMW plus paid rest day catches up.

6. The above new arrangement will apply to new government service contracts under which some 40 000 non-skilled workers are engaged. Under the new arrangement, most of the workers would enjoy a pay rise. A worker who works eight hours a day and six days a week will be entitled to monthly wages of not less than \$6,944. For non-skilled workers earning less than the SMW rate immediately before SMW implementation (e.g. cleaners), they would enjoy a pay rise, ranging from 22 to 45%. For workers earning higher than the SMW rate before SMW implementation, they would either enjoy a mild pay rise (e.g. security guards under 3-shift system) or have their wages on par (e.g. general workers). With reference to the latest statistics of the Quarterly Report (for December 2010), monthly wages of the relevant occupations under the new arrangement are at **Annex 2** for illustration purposes.

² The statistics for December 2010, published in the Quarterly Report released on 24 March 2011, are the latest set of figures for the relevant industries/occupations available before the implementation of SMW on 1 May 2011.

Revision of the Standard Employment Contract

7. To give effect to the new wage arrangement as mentioned above, the Labour Department has revised the Standard Employment Contract (SEC)³ setting out, among others, the specified monthly wages for hours worked and one paid rest day in every period of seven days, according to the SMW level (or the frozen MWR level i.e. the level for December 2010 in the Quarterly Report, whichever is the higher). The new SEC shall apply to new government service contracts to be awarded on or after 1 May 2011.

8. For existing service contracts straddling 1 May 2011, contractors are required to use the new SEC for employees newly hired on or after 1 May 2011. They are allowed to switch to the new SEC for their existing employees subject to the consent of the employees concerned.

Top-up Arrangement

9. For existing government service contracts engaging mainly non-skilled workers, if the wages of non-skilled workers are below the SMW requirement, the service contractors, being the employers, will be obliged to pay their non-skilled workers additional remuneration to meet the shortfall with effect from 1 May 2011. Whilst noting this is the contractors' liability, we appreciate that the implementation of the initial SMW level is unique in that many service contractors were unable to capture the impact of SMW on their contract prices when offering bids at the tendering stage. Hence the Government has decided to make a special arrangement to authorize in principle bureaux/departments to provide top-up payments to service contractors to cover their wage cost increase (including corresponding increase in Mandatory Provident Fund contribution) arising solely and directly from SMW implementation in order to protect the employment of existing employees as well as to ensure the continued provision of public service.

10. We wish to emphasise that the top-up arrangement, designed to help service contractors cover increase in wage cost arising solely and directly from SMW implementation, is made out of our deep concerns over the employment, rights and benefits of non-skilled workers as well as to avoid any impact on public service delivery. We have briefed relevant departments of the arrangement. They will proceed to discuss the details with the contractors concerned as soon as possible. Departments will also continue to adopt the existing contract management system to ensure that the top-up payments will go to the workers who are our target beneficiaries.

³ Standard Employment Contract for non-skilled workers of contractors of government service contracts was introduced by the Government in April 2005. The SEC sets out the monthly wages, working hours, payment of wages and other employment terms.

11. We wish to reiterate that this arrangement is exceptional. As SMW level will be reviewed at least once in every two years, contractors have to take into account the possible impact of the reviews of SMW on wage costs in future. The Government will not provide top-up payment upon subsequent reviews of the SMW level.

Financial Implications

12. The above new wage arrangement and top-up arrangement would incur additional costs to the Administration. The former is recurrent in nature, whilst the latter is one-off. The exact amounts of the additional costs will be assessed by the procuring departments taking into account the individual circumstances of the service contracts. If departments are unable to meet the additional costs from their existing resources, the Administration would apply for the necessary funding according to established procedures.

13. Members are invited to note the content of this Paper.

Labour and Welfare Bureau
Labour Department
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Annex 1

**Average monthly wages for relevant occupations of non-skilled workers
published in the latest issue (for December 2010)
of the Quarterly Report of Wage and Payroll Statistics**

Occupations		Average monthly wages	Average number of normal hours of work per day ⁴	Average number of standard working days per month
Cleaner	Cleaner (lavatory)	\$ 5,406	9	26
	Cleaner (general)	\$ 5,682	8	26
Security guard	Those employed under 3-shift system (8 hours per shift)	\$ 6,765	8	26
	Those employed under 2-shift system (12 hours per shift)	\$ 7,501	11	26
Others	Pest control worker/ general worker	\$ 8,031	8	25

⁴ According to the Quarterly Report, the “number of normal working hours per day” refers to the hours of work, excluding meal time and rest time, stipulated by the establishments covered by the Labour Earnings Survey.

Annex 2

Comparison of take home pay among selected occupations upon implementation of SMW

	Existing wage requirement (MWR*) (\$)	New wage arrangement⁺ (\$)
Cleaner (lavatory) (average number of normal hours of work per day: 9; maximum number of working days per month: 27) [@]		
(i) SMW		6,804 [\$28 x 27 x 9]
(ii) Rest day pay (4 paid rest days per month)		1,008 [\$28 x 4 x 9]
(iii) Total take home pay	5,406	7,812 (+45%)
Cleaner (general) (average number of normal hours of work per day: 8; maximum number of working days per month: 27) [@]		
(i) SMW		6,048 [\$28 x 27 x 8]
(ii) Rest day pay (4 paid rest days per month)		896 [\$28 x 4 x 8]
(iii) Total take home pay	5,682	6,944 (+22%)
Security guard (3-shift system) (average number of normal hours of work per day: 8; maximum number of working days per month: 27) [@]		
(i) SMW		6,048 [\$28 x 27 x 8]
(ii) Rest day pay (4 paid rest days per month)		896 [\$28 x 4 x 8]
(iii) Total take home pay	6,765	6,944 (+3%)

	Existing wage requirement (MWR*) (\$)	New wage arrangement⁺ (\$)
Security guard (2-shift system)		
(average number of normal hours of work per day: 11; maximum number of working days per month: 27) [@]		
(i) SMW		8,316 [\$28 x 27 x 11]
(ii) Rest day pay (4 paid rest days per month)		1,232 [\$28 x 4 x 11]
(iii) Total take home pay	7,501	9,548 (+27%)
Others (pest control workers and other general workers)		
(average number of normal hours of work per day: 8; maximum number of working days per month: 27) [@]		
(i) SMW		8,352 (as MWR rate is higher than SMW rate of \$28 + rest day pay)
(ii) Rest day pay (4 paid rest day per month)		
(iii) Total take home pay	8,352 [#]	8,352

Note: Figures in bracket denote the percentage of pay increase/decrease as compared with that under existing SEC.

- * For illustration purpose, the monthly wages paid by contractors to their non-skilled workers under the MWR refer to the average monthly wages for the relevant industries/occupations as published in the Quarterly Report of Wage and Payroll Statistics, December 2010.
- + Cessation of the MWR with effect from 1 May 2011, specified monthly wages by reference to the MWR according to the December 2010 Quarterly Report or the SMW rate of \$28 + rest day pay, whichever is higher
- @ To ensure that the monthly wage level of these non-skilled employees can meet the SMW rate of \$28 irrespective of the number of calendar days in a month, the monthly rate to be entered into in the SEC would have to be set on the basis of 31 days (27 working days + 4 rest days) per month.
- # The specified monthly wage for these workers under the existing SEC [i.e. \$8,031 (average monthly wage in the Quarterly Report) x 8 x 26 ÷ 8 ÷ 25 = \$8,352] is calculated by reference to the average monthly wage in the Quarterly Report and on the basis of the contractual hours of work per day and contractual working days per month.