

# **立法會**

## ***Legislative Council***

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### **Paper for the House Committee meeting on 17 March 2017**

#### **Report of Subcommittee on Minimum Wage Ordinance (Amendment of Schedule 3) Notice 2017 and Employment Ordinance (Amendment of Ninth Schedule) Notice 2017**

#### **Purpose**

This paper reports on the deliberations of the Subcommittee on Minimum Wage Ordinance (Amendment of Schedule 3) Notice 2017 and Employment Ordinance (Amendment of Ninth Schedule) Notice 2017 ("the Subcommittee").

#### **Background**

2. The Minimum Wage Bill, which was passed by the Legislative Council on 17 July 2010 and gazetted as the Minimum Wage Ordinance (Cap. 608) ("MWO") on 23 July 2010, established the Statutory Minimum Wage ("SMW") regime. Section 16(1) of MWO provides that the Chief Executive ("CE") in Council may, by notice published in the Gazette, amend Schedule 3 to specify the prescribed minimum hourly wage rate (commonly known as "the SMW rate") and its effective date. Section 49A(3)(ea) of the Employment Ordinance (Cap. 57) ("EO") provides that an employer is required to record the total number of hours worked by an employee in a wage period if the employee is an employee within the meaning of MWO and the wages payable to that employee in that wage period are less than the monetary cap as specified in the Ninth Schedule to EO (or a proportionate amount if the wage period concerned is not a month). Section 49A(6) of EO empowers the Commissioner for Labour to amend the Ninth Schedule to EO by notice published in the Gazette to prescribe the monetary cap on recording the total number of hours worked by employees.

3. The initial SMW rate was set at \$28 per hour which came into effect on 1 May 2011, and was subsequently increased to \$30 per hour on 1 May 2013 and further increased to \$32.5 per hour on 1 May 2015.

4. The Minimum Wage Commission ("MWC") chaired by a non-official, comprising three members each from the labour, business and academic sectors as well as three public officers, is tasked with reporting to CE in Council its

recommendation about the SMW rate. After completing the latest round of review of the SMW rate, MWC submitted its report to CE in Council in October 2016 and recommended that the hourly SMW rate be increased from \$32.5 to \$34.5.

### **The Minimum Wage Ordinance (Amendment of Schedule 3) Notice 2017 and the Employment Ordinance (Amendment of Ninth Schedule) Notice 2017**

5. On 20 January 2017, the Administration published in the Gazette the Minimum Wage Ordinance (Amendment of Schedule 3) Notice 2017 and the Employment Ordinance (Amendment of Ninth Schedule) Notice 2017 ("the two Notices"). The Minimum Wage Ordinance (Amendment of Schedule 3) Notice 2017 increases the prescribed minimum hourly wage rate from \$32.5 to \$34.5. The Employment Ordinance (Amendment of Ninth Schedule) Notice 2017 increases the monetary cap on recording the total number of hours worked as specified in the Ninth Schedule to EO from \$13,300 per month to \$14,100 per month. The two Notices will come into operation on 1 May 2017.

### **The Subcommittee**

6. At the House Committee meeting on 3 February 2017, Members agreed to form a subcommittee to study the two Notices. The membership list of the Subcommittee is in the **Appendix**.

7. Under the chairmanship of Hon Wilson OR, the Subcommittee has held one meeting with the Administration.

8. To allow more time for the Subcommittee to study the two Notices, the scrutiny period of the Notices has been extended from 8 March 2017 to 29 March 2017 by a resolution of the Council passed at the meeting on 1 March 2017.

### **Deliberations of the Subcommittee**

#### **The recommended SMW rate**

9. According to the Administration, MWC has, by consensus, recommended in its report that the current SMW rate of \$32.5 per hour be adjusted to \$34.5 per hour, representing an increase of \$2 per hour or 6.2%. CE in Council has accepted the recommendation.

10. While respecting the recommendation of MWC, some members have expressed disappointment that the SMW rate would be adjusted upwards by \$2 per hour only. These members consider that as the implementation of SMW aims to provide a wage floor to forestall excessively low wages, the SMW rate should be set at a reasonable and higher level so as to allow grassroots workers to meet the basic living expenses. Some other members, however, have expressed reservations about raising the SMW rate as the wage adjustment mechanism. These members consider that wage levels in different industries should be determined by the market forces.

11. The Administration has advised that in making its recommendation on the revised SMW rate, MWC has considered relevant information and data of various aspects, including the Annual Earnings and Hours Survey and the Annual Survey of Economic Activities conducted by the Census and Statistics Department and an Array of Indicators reflecting the latest socio-economic and employment conditions after the implementation of SMW and its upratings as well as forecasts of the local economic growth and inflation. MWC has also taken into account other relevant considerations that cannot be fully quantified. These include impact on wage differentials across sectors or positions, additional costs induced by increase in wages, enhancing employees' quality of life, enhancing work incentive and impact on social harmony, etc. Furthermore, MWC has conducted intensive and extensive consultation with stakeholders and members of the public and has fully considered the views of various sectors of the community before recommending the SMW rate.

12. The Administration has further advised that income of grassroots workers has continued to improve after the introduction of SMW and its upratings. As set out in the MWC report, the estimated number of employees involved with an hourly wage less than \$34.5 in the first half of 2017 before the implementation of the recommended SMW rate, assuming a year-on-year economic growth of 2% in real terms for the first half of 2017, will be around 74 100, representing 2.5% of all employees in Hong Kong. Taking into account the impact of knock-on effect on pay hierarchies ("knock-on effect"), the number of employees with pay rise owing to the uprating of SMW will eventually be greater than the number of employees earning just the SMW rate. The Government has carefully considered the report of MWC and is of the view that the recommended SMW rate of \$34.5 per hour meets the objectives of forestalling excessively low wages and minimizing the loss of low-paid jobs while sustaining the economic growth and competitiveness of Hong Kong.

### Impact of the recommended SMW rate

13. Some members have expressed concern that the implementation of SMW has not only pushed up the wages of low-paid employees, but also induced the knock-on effect and the ripple effect. Apart from raising employees' wages to the revised SMW level, employers also need to increase the pay of employees at higher ranks in order to maintain staff morale of employees of higher ranks and retain these employees. This would add further to the labour costs especially for small and medium enterprises ("SMEs") which find it more difficult to pass on additional costs to consumers. Moreover, the SMW regime has the effect of narrowing the wage gap among various industries and it has been difficult for specific industries with comparatively less favourable working conditions to retain existing staff and recruit new entrants. In order to retain talents, employers often have to offer pay rise to employees with wage rate above the SMW level.

14. The Administration has advised that in assessing the impact of the recommended SMW rate on businesses, MWC has examined in depth the additional wage bill entailed. Taking into account rest day pay and meal break pay (for employees who are granted these payments according to their employment contract or agreement) in addition to the statutory requirements as well as the impact of knock-on effect, MWC has estimated that the total wage bill would increase by about \$660 million or approximately 0.1%. MWC has envisaged that the impact of the recommended SMW rate should be manageable for most sectors, including SMEs.

15. Regarding the impact on the unemployment rate, the Administration has advised that MWC has estimated the recommended SMW rate would lift the overall unemployment rate by about 0.1 percentage point. With the prevailing unemployment rate in Hong Kong still relatively low, and barring any abrupt economic downturn, the recommended SMW rate would unlikely trigger a marked deterioration in labour market conditions. As for the impact of the recommended SMW rate on inflation, assuming a full pass-on of the additional wage bill to prices of products and services and taking into account the first round of wage-price spiral effect, MWC has estimated that the Composite Consumer Price Index ("CPI") inflation will go up by about 0.2 percentage point. As a measure of inflation on the grassroots, the corresponding increase in CPI(A) inflation would be around 0.3 percentage point. However, as it is unlikely for all enterprises to fully pass on the additional wage bill to consumers, the actual impact of the recommended SMW rate on inflation should be smaller than the above estimates.

### Review cycle of the SMW rate

16. Some members have pointed out that under the existing biennial review cycle of the SMW rate, low-paid employees with wages close to the SMW rate would only get a pay rise upon the uprating of SMW in every two years. Given that the income of most employees, including government employees, is subject to an annual pay adjustment, the SMW rate should be reviewed annually so as to avoid employees' purchasing power being eroded by inflation.

17. The Administration has explained that MWO requires that the SMW rate should be reviewed at least once in every two years, without precluding more frequent rate review than a biennial review should circumstances so warrant. This arrangement has been the consensus when legislating on SMW. If the SMW rate is reviewed annually, some employers who wish to maintain their flexibility in controlling labour costs may tend to offer short-term employment contracts and replace their permanent staff with casual workers, leading to fragmented employment.

18. Some members have expressed disagreement with the Administration's explanation. These members have maintained the view that the SMW rate should be adjusted in line with inflation and be reviewed annually. The Administration has stressed that SMW has far-reaching impact on various areas including socio-economic conditions and employment market. As SMW has not been implemented for long in Hong Kong, the existing arrangement of reviewing the SMW rate at least once in every two years should be maintained.

### Monetary cap on recording hours worked by an employee

19. Members note that the proposed amendment to increase the monetary cap on recording the total number of hours worked as specified in the Ninth Schedule to EO from \$13,300 per month to \$14,100 per month is consequential and proportionate to the percentage increase (i.e. 6.2%) of the SMW rate adjustment.

### **Advice Sought**

20. Members are invited to note the deliberations of the Subcommittee.

**Subcommittee on  
Minimum Wage Ordinance (Amendment of Schedule 3) Notice 2017 and  
Employment Ordinance (Amendment of Ninth Schedule) Notice 2017**

**Membership list**

Chairman            Hon Wilson OR Chong-shing, MH

Members            Hon LEUNG Yiu-chung  
                         Hon LEUNG Kwok-hung  
                         Hon Frankie YICK Chi-ming, JP  
                         Hon YIU Si-wing, BBS  
                         Dr Hon KWOK Ka-ki  
                         Hon Christopher CHEUNG Wah-fung, SBS, JP  
                         Dr Hon Fernando CHEUNG Chiu-hung  
                         Hon POON Siu-ping, BBS, MH  
                         Dr Hon CHIANG Lai-wan, JP  
                         Hon Andrew WAN Siu-kin  
                         Hon CHU Hoi-dick  
                         Hon Jimmy NG Wing-ka, JP  
                         Dr Hon Junius HO Kwan-yiu, JP  
                         Hon HO Kai-ming  
                         Hon SHIU Ka-fai  
                         Hon SHIU Ka-chun  
                         Hon LUK Chung-hung  
                         Hon LAU Kwok-fan, MH  
                         Dr Hon LAU Siu-lai

(Total : 20 members)

Clerk                Miss Betty MA

Legal Adviser      Miss Evelyn LEE

Date                  22 February 2017