

For information on  
20 November 2008

## **Legislative Council Panel on Manpower**

### **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**

#### **Purpose**

This paper briefs Members on the overall review of the Wage Protection Movement for cleaning workers and security guards (WPM), and the progress on the preparatory work and the way forward for introducing a bill on a statutory minimum wage (SMW).

#### **Overall review of the WPM**

2. The WPM was launched in October 2006 as a voluntary movement to provide wage protection to cleaning workers and security guards over a period of two years. At the Labour Advisory Board (LAB) meeting held in October 2008, members examined the relevant figures for the overall review of the WPM. LAB agreed that the WPM had brought about a culture change, with the community acquiring a new understanding of “wage protection” and further promoted “corporate social responsibility”. The wage growth<sup>1</sup> and increase in the number of workers benefiting from the WPM<sup>2</sup> showed that the WPM had its positive impact. Notwithstanding this, there were indeed limitations in promoting wage protection through voluntary participation. The fact that only slightly more than half of the relevant workers (52%) were benefiting from the WPM and their wage increases were only slightly higher than those of other low-skilled workers<sup>3</sup> showed that the effectiveness of WPM, on the whole, could not be considered satisfactory. To honour its commitment, the Administration would introduce legislation for SMW.

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<sup>1</sup> Compared with Q2 2006, the wage level in Q2 2008 increased by –

- (i) 5.4% for cleaning workers (or 2.7% per annum); and
- (ii) 4.6% - 8.4% (or 2.3% - 4.1% per annum) for security guards, depending on shift pattern.

<sup>2</sup> Compared with Q2 2006, the total number of cleaning workers and security guards receiving wages not less than the relevant market averages increased from 80 200 (or 44%) to 97 500 (52%).

<sup>3</sup> Wages of low-skilled workers under the General Household Survey and Labour Earning Survey rose by 3.1% (or 1.6% per annum) and 5.2% – 6.1% (or 2.6% – 3.0% per annum) respectively.

## **Introduction of an across-the-board SMW**

3. Some members of the business community and the labour sector are of the view that if the Government introduces an SMW, employees in all trades and industries should be covered at the same time. In fact, cleaning workers and security guards are not the only low-income jobs, and worker mobility among different types of low-income jobs does exist. Moreover, it is quite difficult to define “cleaning workers”, and any definition is bound to be controversial. Therefore, the Government is inclined to go for an across-the-board SMW.

## **Progress of the preparatory work for introducing an SMW**

4. To ensure that no time would be lost in introducing the legislation on an SMW should the WPM fail, the Labour Department (LD) has already commenced the preparatory work for the possible introduction of an SMW for cleaning workers and security guards since the end of last year. The preparatory work mainly covers five major issues, namely, definition of cleaning workers and security guards; definition of an SMW; mechanism for setting and reviewing the level of an SMW; special measures, if any, for vulnerable groups including the persons with disabilities (PWDs); and enforcement and penalty in relation to the implementation of an SMW. Our preparation so far has already involved all five areas and we have duly reported progress to the Panel.<sup>4</sup> With the adoption of an across-the-board approach, preparatory work on the definition of the two said occupations has been re-oriented towards the coverage of employees under the SMW Bill. The preparatory work for the introduction of an across-the-board SMW is summarised in the following paragraphs.

### ***Coverage of employees***

5. With the introduction of an across-the-board SMW, the issue on the coverage of employees under the SMW Bill, including the exclusion or otherwise of domestic workers and other categories of workers, would need to be addressed. The relevant considerations of domestic workers include the present employment terms and hourly wages of local domestic helpers as well as the fact that foreign domestic helpers are accorded various unique employment conditions such as free accommodation, free passage, a Minimum Allowable Wage, etc. The LD will further study this issue, taking into account Hong Kong’s local circumstances, the views of the community as well as experiences of other countries.

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<sup>4</sup> For details, please refer to following seven papers passed to the LegCo Manpower Panel in the last session: LC Paper Nos. CB(2)1072/07-08(04), CB(2)1662/07-08(05), CB(2)2012/07-08(05), CB(2)2274/07-08(03), CB(2)2274/07-08(04), CB(2)2274/07-08(05) and CB(2)2480/07-08(03).

### ***Definition of an SMW***

6. Drawing reference from the successful experiences of other countries, the purpose of an SMW is to forestall the payment of excessively low wages, thereby protecting the vulnerable groups from exploitation. To ensure that workers' pay would be commensurate with the duration of work at a rate not less than the SMW, the SMW should be assessed on an hourly basis which also caters for part-time workers. Nevertheless, teething implementation issues such as the calculation of the wages, taking into account the possibly different timeframes for payment of basic wages and commission as well as the diverse practices of different sectors, would need to be further examined in consultation with the relevant stakeholders.

### ***Mechanism for setting and review the level of an SMW***

7. An appropriate SMW level should provide wage protection to the low-paid workers on the one hand whilst not having significant adverse effect on the employment opportunities of the less competitive workers and our economic growth and competitiveness on the other. In setting and reviewing the SMW level, a "basket of indicators" should be adopted to take account of all pertinent social, economic and employment factors that could reflect the situation of the concerned workers and the holistic needs of the local economy.

8. It is pertinent to note that our current statistical compilation was not designed to support the SMW and there is a need to enhance the current survey and introduce a new survey for collection of additional and more precise information for the purpose of implementing the SMW. A Minimum Wage Commission (MWC) comprising members drawn from the labour sector, the business community, the academia and relevant government departments will be established to study the level of minimum wage as well as the review mechanism.

### ***Treatment of persons with disabilities (PWDs)***

9. As a matter of principle, PWDs should be protected by the SMW legislation. In order to protect PWDs, whose productive capabilities are impaired by their disabilities, so as to minimise any possible impact of SMW on their employment opportunities, we are considering whether special treatment should be introduced for these PWDs.

10. LAB Members discussed the treatment of PWDs in the past two meetings held earlier this year in the light of experience elsewhere and the provision of services to the PWDs in the local context. Any conclusion has yet to be drawn. The LD has also 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. Given the complexity of the matter and the wide diversity of views informally gauged, LD will arrange two sessions in November and December 2008 to hear the views and concerns of all key rehabilitation groups. LAB Members will be invited to attend the sessions. We will further discuss this issue at LAB in the light of the feedback from the rehabilitation sector and report to Members the outcome in due course.

### ***Enforcement and penalty in relation to the implementation of an SMW***

11. As SMW would only guarantee employees a minimum remuneration, it should not detract from their rights and benefits under the Employment Ordinance (EO) and therefore, the definition of “wages” for the purpose of SMW should be aligned as closely as possible with that under the EO. Similarly, the existing penalty and enforcement provisions for wage and statutory benefit offences under the EO should also apply under the SMW legislation. In future, LD would take up the enforcement work of the SMW legislation and incorporate the work as an integral part of LD’s day-to-day duties.

12. Based on the consultations we have conducted so far, the above approaches seem to be supported by stakeholder groups and the LAB. The Administration had also briefed Members of this Panel in the previous term on the preparatory work at that time at the meetings held on 21 February, 24 April, 27 May, 19 June and 8 July this year.

### **Way forward**

13. Our primary tasks at present are threefold. First, we need to prepare and draft the main legislation so that the bill is ready for introduction into the Legislative Council in the 2008-09 legislative session. Completion of this task will require further study of the issues listed above. To facilitate preparation of the draft Bill and help expedite subsequent processing of the Bill, we shall keep Members briefed and consulted on our study of the outstanding issues in the months ahead.

14. Second, we need to start to study concurrently what should be the SMW level and related issues. To this end, we will set up a Provisional MWC in early 2009 to advise the Government on the appropriate level of the initial minimum wage and its review mechanism. The Provisional MWC will become a statutory body upon the enactment of the SMW legislation. We are now preparing for the establishment of the Provisional MWC which is expected to adopt an evidence-based approach in data research and analysis, taking into account a basket of social, employment and economic indicators. As the necessary data have yet to be collected, it is premature to discuss the precise level of the minimum wage at this moment.

15. Third, we need to enhance the current survey on wage and business costs data and introduce a new survey tailor-designed to support the implementation of a SMW. LD is working closely with the Economic Analysis and Business Facilitation Unit of the Financial Secretary's Office and the Census and Statistics Department to enhance the current survey on wage data and introduce a new survey tailor-designed to support the implementation of a SMW. A separate paper for discussion at the same Panel meeting (20 November) has been submitted to Members to set out the data requirements for setting and reviewing of the level of minimum wage, the wage/employment and business cost statistics currently available, and our plan to conduct new/enhanced surveys to fill the data gap.

Labour and Welfare Bureau  
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