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**Panel on Manpower**

**Background brief prepared by the Legislative Council Secretariat  
for the meeting on 17 March 2011**

**Progress of preparation for implementation of statutory minimum wage**

**Purpose**

This paper provides background information on the progress of preparation for implementation of statutory minimum wage ("SMW").

**Background**

2. Prompted by cases of local workers being paid excessively low wages, there have been calls for decades, notably from pro-labour groups, for the introduction of SMW in Hong Kong. The lack of a consensus on whether a legislative approach should be adopted in preventing excessively low wages led to the launch of a two-year voluntary Wage Protection Movement by the Administration in 2006. As a review of the Movement in October 2008 exposed the limitations of promoting wage protection through voluntary participation, the Chief Executive announced in his 2008-2009 Policy Address that a bill on SMW would be introduced into the Legislative Council ("LegCo").

**Enactment of the Minimum Wage Ordinance**

3. The Minimum Wage Bill was introduced into the Legislative Council on 26 June 2009. The main objective of the Bill was to maintain an appropriate balance between forestalling excessively low wages and minimizing the loss of low-paid jobs and sustaining Hong Kong's economic growth and competitiveness. A Bills Committee formed to study the Bill had completed its scrutiny work after holding 30 meetings, including one meeting to receive public views. The Bill was enacted at the Council meeting of 14 July 2010.

### **Subsidiary legislation on the statutory minimum wage rate, monetary cap on keeping records of hours worked and commencement of the enacted Ordinance**

4. On 12 November 2010, the Administration published in the Gazette four pieces of subsidiary legislation to specify the initial SMW rate at \$28 per hour, the monetary cap of \$11,500 per month below which records are required to be kept on the hours worked, and the date of 1 May 2011 for commencement of the enacted Ordinance. A Subcommittee formed to study the four pieces of subsidiary legislation had completed its scrutiny work after holding four meetings, including one meeting to receive public views.

### **Subsidiary legislation on the productivity assessment for persons with disabilities**

5. The Minimum Wage Ordinance (Cap. 608) ("MWO") provides a special arrangement whereby persons with disabilities and whose productivity may be impaired by their disabilities can choose to have their productivity assessed to help determine whether they should be remunerated at not less than the SMW level or at a rate commensurate with their productivity. Under the special arrangement, a trial period of employment not exceeding four weeks is provided for an assessment to be made of the productivity of a person with disabilities in performing his work in the actual workplace to help determine whether SMW should be discounted.

6. On 7 January 2011, the Administration published in the Gazette two pieces of subsidiary legislation to specify the categories of persons who may become approved assessors for conducting productivity assessments for persons with disabilities and the assessment methods. A Subcommittee was formed to study the two pieces of subsidiary legislation. The deadline for amendment of the two pieces of subsidiary legislation would be 2 March 2011.

### **Preparation for implementation of statutory minimum wage**

7. During the briefing on 21 October 2010 by the Secretary for Labour and Welfare on relevant policy initiatives in the Chief Executive's 2010-2011 Policy Address, the Panel on Manpower ("the Panel") was informed that in order to tie in with the implementation of SMW, the Labour Department ("LD") would launch extensive educational and promotional activities to enhance public awareness of MWO, including tailor-made publications, press releases, roving exhibitions, seminars and briefings. The publicity materials would include

illustrative examples drawn from different trades and industries to elucidate the application of MWO, with a view to facilitating employers' and employees' understanding of their respective obligations and entitlements under the SMW regime. The Administration would draw up practical guidelines on the minimum wage legislation for reference by employers and employees. It would also continue to liaise with the relevant stakeholder groups to work out industry-specific guidelines addressing the unique characteristics of the individual sectors.

8. The Administration stressed that LD accorded high priority to the implementation and enforcement of SMW, and would take strict enforcement actions to combat non-compliance upon its implementation in order to safeguard employees' rights. The Administration would spare no efforts in investigating and collecting evidence on suspected or reported cases, and would take out prosecution if there is sufficient evidence.

9. A member pointed out that employees of government outsourced service contractors were currently remunerated at market rate. Citing security guards as an example, the member said that the outsourced contractors were paying them wages not lower than the average market rate for the relevant industry/occupation published in the latest Quarterly Report of Wages and Payroll Statistics issued by the Census and Statistics Department. The member expressed concern that there was a possibility that the initial SMW rate would be lower than the prevailing average market rate. Expressing concern whether the Government would continue to act as a good employer and offer wages not lower than the average market rates, the member urged the Government to set a good example for the private sector to follow.

10. The Administration advised that it would keep in view whether and how the implementation of SMW would affect the wages of workers employed under government outsourced service contracts. It would take follow-up actions as and where appropriate.

11. At its meetings on 16 December 2010 and 20 January 2011, the Panel was consulted on the Administration's draft guidelines on SMW for employers and employees. Members were informed that the Administration would commence as soon as possible the drafting of industry-specific guidelines in consultation with the relevant Tripartite Committees.

**Relevant papers**

12. Members are invited to access the website of the Legislative Council at <http://www.legco.gov.hk> to view the relevant papers and minutes of meeting.

Council Business Division 2  
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