

L.N. 2 of 2011

Minimum Wage (Assessment Methods) Notice

(Made by the Commissioner for Labour under section 6(5) of Schedule 2 to the Minimum Wage Ordinance (Cap. 608))

1. Commencement

This Notice comes into operation on the day on which Schedule 2 to the Minimum Wage Ordinance (Cap. 608) comes into operation.

2. Interpretation

In this Notice—

work (工作) means the work required to be performed under a contract of employment by a PWD whose degree of productivity in performing it is being assessed.

3. General duty of approved assessor

An approved assessor—

- (a) must be objective and impartial in making an assessment; and
- (b) must ensure that there is no actual or potential conflict between his or her duties as an approved assessor and either his or her personal interests or the interests of any person by whom he or she is engaged (whether or not under a contract of employment and whether or not in a paid capacity).

4. Initial procedures

- (1) At the beginning of an assessment, the approved assessor must explain to the PWD and the employer—

- (a) their respective rights and obligations in the assessment under the Ordinance; and
 - (b) the procedures for the assessment.
- (2) The approved assessor must acquire sufficient understanding of the PWD's work, including the nature, requirements and procedures of the work.
- (3) The approved assessor may, for the purposes of subsection (2), interview the PWD, the employer of the PWD, any person performing any work that is the same as or similar to the work, and any person who has knowledge of or experience in the work.

5. Assessment

- (1) The degree of productivity of a PWD in performing the work is to be assessed by reference to the PWD's performance of the work at his or her place of employment.
- (2) The approved assessor must, having regard to the details of the work and all the circumstances of the case, decide which one or more of the following factors are relevant in the assessment—
 - (a) the quality of the work done by the PWD;
 - (b) the quantity of the work done by the PWD;
 - (c) the PWD's speed of work;
 - (d) the PWD's ability to meet the other requirements of the work.
- (3) The approved assessor may assess the PWD's degree of productivity by any means he or she thinks fit, including on-site observation and analysing any performance data.
- (4) The approved assessor may make any upward adjustment he or she thinks fit to the PWD's degree of productivity on being satisfied that, due to particular circumstances, the PWD failed to demonstrate his or her full potential in the assessment.

- (5) The approved assessor must, in the certificate of assessment required to be provided under section 7 of Schedule 2 to the Ordinance, state—
- (a) the PWD's assessed degree of productivity (if an adjustment has been made under subsection (4), the PWD's assessed degree of productivity as adjusted); and
 - (b) the other details required by the certificate.

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Commissioner for Labour

3 January 2011

Explanatory Note

The purpose of this Notice is to specify the methods for assessing the degree of productivity capable of being achieved by a person with a disability in performing the work required under his or her contract of employment.