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Panel on Manpower

**Updated background brief prepared by the Legislative Council Secretariat
for the meeting on 17 June 2014**

Statutory minimum wage rate

Purpose

This paper summarises the past discussions by Members relating to the statutory minimum wage ("SMW") rate since the Fourth Legislative Council ("LegCo").

Background

2. The Minimum Wage Ordinance (Cap. 608) ("MWO") which enacted on 17 July 2010, seeks to establish a SMW regime. Section 1(2) of MWO stipulates that MWO comes into operation on a day to be appointed by the Secretary for Labour and Welfare by notice published in the Gazette. Section 16 of MWO provides that the Chief Executive in Council may, by notice published in the Gazette, amend Schedule 3 to specify the SMW rate and its effective date.

3. Following the coming into operation of the Minimum Wage Ordinance (Amendment of Schedule 3) Notice 2012, the hourly SMW rate has been increased from \$28 to \$30 with effect from 1 May 2013.

Past discussions by Members

Criteria and methodology for setting the SMW rate

4. The criteria and methodology for setting the SMW rate had been the major issues of concern raised by members in deliberating on the SMW rate. The Administration advised that as specified in MWO, in the review of the

SMW rate, the Minimum Wage Commission ("MWC") must have regard to the need to maintain an appropriate balance between the objectives of forestalling excessively low wages and minimising the loss of low-paid jobs and to sustain Hong Kong's economic growth and competitiveness.

5. Some members were concerned about the statistical data to be considered by MWC in its review of the SMW rate. According to the Administration, various statistical data including the wage data collected through the Annual Earnings and Hours Survey ("AEHS") and the operating characteristics of business through other surveys conducted by the Census and Statistics Department ("C&SD") would be made available for MWC's consideration. Surveys on the impact of SMW, in particular, on vulnerable workers, low paying sectors and small and medium enterprises ("SMEs") would also be conducted.

6. Noting members' concern about the factors taken into account in assessing the SMW rate, the Administration affirmed that all relevant data and information as well as views from various sectors of the society would be studied in detail in reviewing the SMW rate before making a decision on whether adjustment to the SMW rate was needed. These included the estimated increases in wages of employees involved and in wage bill of enterprises analysed by sector at different SMW test levels as well as the operating characteristics of enterprises analysed by sector.

7. On the concern about the problem of time lag between data collection/analysis and implementation of the revised SMW rate, the Administration advised that based on the experience of last review of the SMW rate, it would provide statistical support for MWC in its review of the next SMW rate as appropriate, including projections on the wage distribution with reference to the updated statistics from the C&SD's General Household Survey on employment, unemployment and underemployment as well as employment earnings.

Impact of the implementation of SMW

8. Some members expressed concern about the possible impact of implementation of SMW on the employment opportunities of low-skilled workers, vulnerable employees and young people. Some other members, however, expressed concern that the implementation of the initial SMW rate had induced knock-on effect on the pay hierarchy and ripple effect. Apart from raising employees' wages to the SMW level, employers also needed to increase the pay of employees at higher ranks in order to maintain a reasonable differential in the pay hierarchy to upkeep staff morale, leading to a significant increase in labour costs especially for SMEs which found it more difficult to

pass on additional costs to consumers. These members were concerned that SMW had narrowed the wage gap among various industries and it had been difficult for specific industries with comparatively less favourable working environment to retain existing staff and recruit new entrants. In order to retain talents, employers often had to offer pay rise to employees with wage rate above the statutory level. This would, to some extent, make those sectors with more manual labour work, less favourable working environment and obnoxious duties pay higher wages to retain employees, thereby further pushing up labour costs and inflationary pressure. Such phenomenon was particularly profound in the catering sector which was currently facing an acute problem of labour shortage.

9. Members had time and again sought information on the estimated period of time through which the ripple effect of SMW would sustain. There was a view that the Administration should take into account the ripple effect generated by the implementation of SMW in various industries in assessing the precise impact of SMW. Moreover, the Administration should commission a tertiary institution to conduct a "tracking study" on employers and employees, so as to monitor the empirical magnitude of knock-on effects after the implementation of SMW.

10. According to the Administration, the chain effects arising from the interactions of the reaction of different parties to SMW could only be ascertained some time after the implementation of SMW. Given the limitations and constraints arising from the lack of experience and empirical evidence guiding the setting of the appropriate initial SMW rate, the actual impact of SMW could only be identified and assessed over a longer period of time through dedicated studies after the implementation of SMW. To facilitate future reviews of the SMW rate, survey and research studies would be conducted to monitor and evaluate the actual impact of SMW, in particular, on vulnerable workers, enterprises in the low paying sectors and SMEs, and also with special reference to the changes in detailed pay hierarchy to facilitate an in-depth examination of possible knock-on effects.

11. In view of the concern about the magnitude of knock-on effect, the Administration advised that it had commissioned a consultancy study, namely the Study on Knock-on Effect of Statutory Minimum Wage on Pay Hierarchies in the Retail and Restaurant Sectors, to collect information on organisational structures from enterprises in the retail and restaurant sectors in September 2010 and September 2011, and to examine the possible knock-on effect on these sectors brought about by the implementation of SMW. MWC had assessed the possible knock-on effect of SMW on the concerned sectors based on the study findings and the analyses.

Timing for and frequency of future reviews of the SMW rate

12. Some members noted with concern that the findings of AEHS in the preceding year were used for determining the SMW rate to be implemented in the following year. To address the problem of time lag between data collection and implementation of revised SMW rate, they called on the Administration to consider adjusting the SMW rate in accordance with the inflation rate and movement of Consumer Price Index compiled by C&SD. Some members were concerned whether the time required for the compilation of statistics concerning AEHS and the General Household Survey could be compressed, so that the implementation of future SMW rate could be advanced.

13. The Administration explained that C&SD normally required eight months for completion of data analysis, which was broadly comparable with that of other overseas SMW jurisdictions such as the United Kingdom and Australia. Noting members' concern about the time lag, the Administration would strive to speed up the process. Members were further advised that time was needed for the drawing up of general guidelines for employers and employees, the industry-specific guidelines, and publicity on the implementation of SMW. Some establishments would also need time to review and, if necessary, revise their business service contracts.

14. The Administration pointed that MWO specified the frequency of at least once in every two years, without precluding more frequent rate review if there was evidence supporting the need. The SMW rate would be deliberated in line with the evidence-based approach, and apart from the wage statistics compiled by C&SD, MWC would take into account a Basket of Indicators when studying the SMW rate. The Administration stressed that given the high degree of external orientation of Hong Kong's economy with a linked exchange rate system, it was important to ensure that the SMW rate would not have significant adverse impact on the employment opportunities of the vulnerable employees or unduly jeopardise the labour market flexibility and economic competitiveness of Hong Kong.

Level of the revised SMW rate

15. During the deliberations on the proposal to revise the initial SMW rate of \$28 per hour to \$30 per hour as recommended by MWC, diverse views were expressed by members and deputations. Some members and employers' associations/representatives were of the view that the SMW rate should not be higher than \$30 per hour, and preferably be frozen, given that an upward adjustment of SMW by \$2 per hour represented a 7.1% increase in wage costs on part of employers. They pointed out that as staff cost was the main portion of the operation cost of the business of SMEs, SMEs had been heavily struck by

the implementation of SMW. Moreover, the implementation of SMW had narrowed the wage gap among various industries and it had been difficult for specific industries with comparatively less favourable working conditions to retain existing staff and recruit new entrants. Concerns were also raised about the ripple and knock-on effects. They considered that in face of both the global and local slackened economic growth environment, there was little room for upward adjustment of the SMW rate, especially in the catering and retail business, and the SMW rate should be revised on a biennial basis.

16. Some other members and labour unions/concern groups generally considered that the next SMW rate should be in the range of \$33 to \$35 per hour, in order to cope with rising living costs. These members stressed that there was a need to set the next SMW rate at a higher level, say, no less than \$33 per hour, so as to achieve the policy objective of maintaining the basic living standard of workers. These labour unions/concern groups pointed out that the increase in operation costs was largely attributed to the high rental. Instead of closure of SMEs and rise in unemployment as predicted by some employers and political parties before the implementation of SMW, there was notable increase in the working force (in particular the middle-aged and women labour force), and the continued decrease in the unemployment rate and the number of Comprehensive Social Security Assistance ("CSSA") recipients. They urged the Administration to conduct the review of SMW rate on an annual basis and to take into consideration the basic needs of low-income families, inflation rate and the level of CSSA when reviewing the SMW rate.

Latest development

17. MWC had invited written submissions from members of the public and stakeholders on the review of the SMW rate from 7 April to 18 May 2014. It would conduct consultation meetings with stakeholders in June 2014, and plans to submit the recommendation report on the SMW rate to the Chief Executive in Council before end-October 2014.

Relevant papers

18. A list of the relevant papers on the LegCo website is in the **Appendix**.

**Relevant papers on
the statutory minimum wage rate**

Committee	Date of meeting	Paper
Panel on Manpower	23.3.2010 (Item III)	<u>Agenda</u> <u>Minutes</u>
Bills Committee on Minimum Wage Bill	---	<u>Report</u>
Subcommittee on Subsidiary Legislation relating to Statutory Minimum Wage	---	<u>Report</u>
Panel on Manpower	17.3.2011 (Items V and VI)	<u>Agenda</u> <u>Minutes</u>
Panel on Manpower	12.4.2012 (Item V)	<u>Agenda</u>
Panel on Manpower	29.5.2012 (Item I)	<u>Agenda</u> <u>Minutes</u>
Panel on Manpower	20.11.2012 (Item IV)	<u>Agenda</u>
Subcommittee on Minimum Wage Ordinance (Amendment of Schedule 3) Notice 2012 and Employment Ordinance (Amendment of Ninth Schedule) Notice 2012	---	<u>Report</u>