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**Panel on Manpower**

**Background brief prepared by the Legislative Council Secretariat  
for the meeting on 18 April 2017**

**Preparatory work for the implementation of statutory minimum wage**

**Purpose**

This paper summarizes the past discussions by the Panel on Manpower ("the Panel") on the Administration's preparatory work for the implementation of statutory minimum wage ("SMW").

**Background**

2. The Minimum Wage Ordinance (Cap. 608) ("MWO"), which was passed by the Legislative Council ("LegCo") on 17 July 2010, seeks to establish a SMW regime. According to MWO, the SMW rate should be reviewed at least once in every two years. 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.

3. The Minimum Wage Commission ("MWC") is tasked with the function of reporting to the Chief Executive ("CE") in Council its recommendation on the SMW rate. After completing the latest round of review of the SMW rate in 2016, MWC recommended that the current SMW rate of \$32.5 per hour be increased to \$34.5 per hour, which was accepted by the CE in Council. The Minimum Wage Ordinance (Amendment of Schedule 3) Notice 2017, which sought to increase the prescribed minimum hourly wage rate from \$32.5 to \$34.5, was tabled in LegCo at the meeting of 8 February 2017. Following the approval of LegCo, the revised SMW rate will come into force on 1 May 2017.

## **Deliberations of the Panel**

4. The Panel was briefed on the preparatory work undertaken by the Labour Department ("LD") for the implementation of the initial SMW rate at its meeting on 17 March 2011. The major views and concerns expressed by members are summarized in the ensuing paragraphs.

### Publicity and promotion

5. Some members were concerned about the publicity and promotional efforts in place to apprise both employers and employees of their rights and obligations under MWO, as SMW was totally new to Hong Kong. Some members also pointed out that many employers of various industries, particularly those of small and medium enterprises, were yet in full understanding of their obligations under the SMW regime and computation of SMW for meal breaks and rest days. These members urged the Administration to provide employers with more information and assistance to avoid inadvertent breaches of the law.

6. The Administration advised that employers and employees could agree on their employment terms having regard to the circumstances of individual enterprises and personal needs of employees. The implementation of MWO did not alter this well-established principle. Notwithstanding this, LD had launched a variety of publicity and promotional activities on the new SMW policy to enable both employers and employees to better understand their respective rights and obligations under the relevant provisions of MWO. These activities included conducting briefings on MWO for employers, employees and the public at large; publishing leaflets and posters on SMW for wide distribution and display; placing advertisement through various channels; and broadcasting television and radio announcements of public interest.

7. The Administration further advised that LD had, in consultation with over 300 stakeholder groups, drawn up a set of general reference guidelines on SMW for employers and employees to illustrate the provisions and application of MWO. Given the specific circumstances of individual sectors, LD also worked with industry-based Tripartite Committees, relevant employers' associations, trade unions and stakeholder groups to formulate industry-specific guidelines on SMW addressing the particular needs of several trades, such as retailing, catering, property management, security and cleaning services industries, which would likely be more affected by the introduction of SMW.

### Consultation service and employment support

8. Some members expressed concern that after the implementation of SMW, the less productive workers, in particular those who were lower-skilled with low educational attainment would face the risk of dismissal. These members enquired about the employment support for displaced workers upon the implementation of SMW and the assistance from LD for employees who suspected their employment rights were infringed.

9. The Administration explained that under the Employment Ordinance (Cap. 57), there was protection against unreasonable dismissal as well as unilateral variation of employment terms and conditions by employers. Employees suspecting their employment rights to be infringed might make enquiries with or seek assistance from LD. In tandem with the implementation of SMW, LD had provided training to the staff of its 24-hour enquiry hotline for answering public enquiries on MWO and providing conciliation service in this regard.

10. The Administration further advised that to tie in with the implementation of SMW, LD would continue to implement its various specialized employment programmes and provide employment services to all job seekers through its job centres, industry-based recruitment centres, the Interactive Employment Service website and exhibitions. To further enhance its employment support, LD would organize job fairs targeting at the low-paying sectors and set up a dedicated hotline for providing employment service for workers affected by the implementation of SMW.

### Enforcement work

11. Some members enquired about the enforcement actions to be taken by the Administration to ensure compliance with MWO and whether additional manpower, especially Labour Inspectors, would be provided for the enforcement work.

12. The Administration advised that LD would adopt a multi-pronged strategy to ensure compliance with MWO through conducting proactive workplace inspections to establishments of various trades and mounting targeted enforcement campaigns for low-paying sectors. During workplace inspections, Labour Inspectors would explain the requirements of MWO to employers and employees when necessary. If any irregularities were detected, they would require employers to take appropriate measures to ensure their compliance with MWO, including prompt payment of any wages falling short of SMW to employees. In this regard, LD would step up the publicity of its complaint hotline to encourage employees to report breaches of labour laws. All

complaints received would be promptly and thoroughly investigated. According to the Administration, 25 Labour Inspector posts were created in 2011-2012 to strengthen the manpower for workplace inspections and follow-up investigations arising mainly from the implementation of MWO.

### **Preparation for the implementation of the revised SMW rate**

13. At the policy briefing cum Panel meeting on 23 January 2017, members were advised that to tie in with the implementation of the revised SMW rate which would take effect from 1 May 2017, LD would carry out preparatory work on various fronts, including launching publicity and promotional activities, providing hotline service and conducting targeted inspection campaigns.

14. The Administration will brief the Panel in detail its preparatory work for the implementation of the revised SMW rate at the meeting on 18 April 2017.

### **Relevant papers**

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

## Appendix

### Relevant papers on the preparatory work for the implementation of statutory minimum wage

Committee	Date of meeting	Paper
Panel on Manpower	16.12.2010 (Item V)	<a href="#">Agenda</a> <a href="#">Minutes</a>
Panel on Manpower	17.3.2011 (Item V)	<a href="#">Agenda</a> <a href="#">Minutes</a>

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