

For information on
27 April 2018

Legislative Council Panel on Manpower

Implementation of Statutory Minimum Wage

Purpose

This paper briefs Members on the implementation of Statutory Minimum Wage (SMW).

Background

2. Coming into effect in May 2011, the Minimum Wage Ordinance (MWO) has established the SMW regime which provides a wage floor to protect grassroots employees against excessively low wages, without unduly jeopardising Hong Kong's labour market flexibility, economic growth and competitiveness or causing significant loss in low-paid jobs.¹

Labour market conditions

3. Since the implementation of SMW, the Hong Kong economy has experienced sustained expansion. In the past few years, the labour market progressively tightened, with the seasonally adjusted unemployment rate in the first quarter of 2018 falling to 2.9%, which was 0.7 percentage point below the level in the pre-SMW period (i.e. February to April 2011).

4. At the same time, the improved income prospect after the implementation of SMW has attracted more people to enter or re-enter the labour market, leading to an increase in total employment by more than 330 000 compared with the pre-SMW period to 3.872 million in the first quarter of 2018. Female employees accounted for 70% (236 000) of the increase, with a particularly notable increase seen among older female workers. Specifically, employment for female workers aged 50 and above grew by 187 000².

¹ In accordance with MWO, the Minimum Wage Commission is conducting a new round of review on the SMW rate and will submit a report on its recommendation to the Chief Executive in Council by end-October 2018.

² The unemployment rate (seasonally adjusted) and employment figures for the first quarter of 2018 are provisional.

5. Employment earnings of grassroots employees witnessed sustained improvement since the launch of SMW. In December 2017 to February 2018, the average monthly employment earnings of low-paid (i.e. those in the lowest decile group) full-time employees³ rose by a cumulative 55.8% compared with the pre-SMW period. Apart from outpacing the 33.2% gain for the average monthly employment earnings of all full-time employees over the same period, the figure was also significantly higher than the cumulative increase of 23.7% in the underlying Composite Consumer Price Index, thereby signifying appreciable real growth in the earnings of the grassroots workers upon the implementation of SMW.

Publicity and promotion

6. The Labour Department (LD) has enhanced the understanding of employers and employees about their obligations and entitlements under the SMW regime through various channels and a variety of activities. Such publicity activities include broadcasting television and radio Announcements in the Public Interest; staging roving exhibitions; advertising on public transport, newspapers, publications of employers' associations and labour organisations; featuring promotional messages in electricity bills; displaying outdoor promotional banners; and uploading promotional messages to internet platforms, etc. Besides, LD has from time to time organised seminars to brief employers, employees, human resources personnel and members of the public on the requirements of MWO.

7. LD has also produced posters and leaflets, the "Concise Guide to SMW", "SMW: Reference Guidelines for Employers and Employees" as well as the SMW industry-specific reference guidelines for nine industries, which include catering, retail, property management, security services, cleaning services, hotel, tourism, logistics and real estate agency, for reference of employers, employees and other stakeholders. LD widely distributes the reference materials through the departmental homepage and different channels, including relevant offices of LD, other departments such as the Home Affairs Enquiry Centres of the Home Affairs Department, post offices, public libraries and markets, as well as other organisations such as hospitals and clinics of the Hospital Authority, owners' incorporations, mutual aid committees of housing estates, non-governmental organisations, employers' associations and labour organisations. Members of the public can also make use of the Minimum Wage Reference Calculator on LD's homepage for quick and initial computation of SMW for reference.

³ Excluding government employees and live-in domestic workers to whom SMW does not apply.

Consultation and conciliation services

8. LD provides 24-hour telephone enquiry service through its hotline at 2717 1771 (handled by “1823”) to answer public enquiries on MWO. The number of SMW-related enquiries received by this hotline dropped significantly from 13 946 cases in April 2011 (i.e. before the implementation of SMW) to 239 cases in March 2018, indicating that members of the public have become familiar with the SMW requirement.

9. Through a network of 10 branch offices across the territory, the Labour Relations Division (LRD) of LD provides in-person consultation and voluntary conciliation services on MWO to employers and employees in need, with a view to helping both parties resolve their differences. From the launch of SMW and up to March 2018, LD handled 673 claims relating to SMW, representing 0.6% of the total 111 623 claims handled in the period. Employers and employees in doubt on compliance with SMW may use LRD’s in-person consultation service or, if necessary, conciliation service. LD will actively follow up all cases with suspected infringement of employees’ rights and benefits.

Enforcement

10. LD has been adopting a multi-pronged enforcement strategy, including conducting proactive workplace inspections to various establishments and mounting targeted enforcement campaigns for low-paying sectors, to ensure compliance with MWO. During workplace inspections, labour inspectors explain to employers and employees the requirements of MWO. Should irregularities be detected, labour inspectors will require employers to take appropriate measures to ensure their compliance with MWO including immediate payment of any wages falling short of SMW to employees. LD also widely publicises its complaint hotline (2815 2200) to encourage employees to report promptly cases on suspected breaches of MWO. All complaints received are investigated expeditiously. LD will sustain its all-out efforts in undertaking enforcement actions to ensure employers’ compliance with MWO and to pursue against those employers and company responsible individuals who wilfully defy the law.

11. From the launch of SMW and up to March 2018, labour inspectors conducted 292 779 inspections to enforce MWO. Together with reported cases, 197 cases involving suspected violation of MWO were detected. Except for individual cases where investigation is in progress and a small number of cases

where the employees subsequently withdrew their complaints, etc., LD confirmed that the employees had received SMW or recovered the shortfall of wages. A total of 53 convicted summonses for underpayment of SMW were recorded during the period. The overall state of employers' compliance with MWO has thus far been satisfactory.

Productivity assessments for employees with disabilities

12. Under MWO, employees with disabilities are entitled to the same protection of SMW as able-bodied employees. MWO also provides a special arrangement for employees with disabilities to opt to undergo productivity assessment by approved assessors at their choice to determine whether they should be remunerated at no less than SMW or at a rate commensurate with their productivity. According to MWO, the right to invoke the assessment is solely vested in the employees with disabilities, not their employers. The provision of this special arrangement seeks to strike an appropriate balance between providing wage protection to employees with disabilities and safeguarding their employment opportunities in view of the concern of the community and some stakeholders about the possible employment difficulties of some employees with disabilities.

13. From the launch of SMW and up to March 2018, a total of 601 productivity assessments for employees with disabilities were completed under MWO. Of these cases, 98% were assessed with productivity of 50% or above, and 64% were assessed with productivity of 70% or above. In general, the wage level of employees with disabilities who had completed productivity assessments was higher than that before the assessments or the implementation of MWO. According to organisations in the disability and rehabilitation sector, most of the newly employed persons with disabilities are earning wages at or above the SMW rate and need not undergo the assessment, hence the small number of assessment cases.

Conclusion

14. Members are invited to note the content of this paper.

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