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**Panel on Manpower**

**Background brief prepared by the Legislative Council Secretariat  
for the meeting on 27 April 2018**

**Implementation of statutory minimum wage**

**Purpose**

This paper summarizes the past discussions by the Panel on Manpower ("the Panel") on 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 Minimum Wage Commission ("MWC"), established under MWO, is tasked with reporting to the Chief Executive in Council its recommendation on the SMW rate. The initial SMW rate was set at \$28 per hour which came into effect on 1 May 2011, and was revised in May 2013 and May 2015, with a further revised rate of \$34.5 per hour effective from 1 May 2017.

**Deliberations of the Panel**

3. The Panel had discussed issues relating to SMW at a number of meetings and the major views and concerns expressed by members are summarized in the ensuing paragraphs.

Review of the SMW rate

4. Some members called on the Administration to review the SMW rate on

an annual basis such that the wage level of grassroots workers could catch up with inflation and enable them to meet their living expenses.

5. The Administration pointed out that as stipulated in MWO, the SMW rate should be reviewed at least once in every two years, without precluding more frequent rate review than a biennial review if it was considered appropriate and necessary. Moreover, in making its recommendation on the revised SMW rate, MWC had considered an Array of Indicators reflecting the latest socio-economic and employment conditions after the implementation of SMW and its upratings as well as forecasts of the local economic growth and inflation. The inflationary pressure of Hong Kong had, in fact, remained relatively moderate in the past years. The Administration further advised that MWC had fully considered the views of the community on the review of the SMW rate collected during its public consultation exercises.

#### Effectiveness of SMW

6. In the light of the decreasing number of employees earning the SMW rate, some members considered that the Administration should critically examine the effectiveness of SMW in protecting low-income workers against low wages.

7. The Administration explained that with the revision of the SMW rate, it was observed that wages of employees originally earning just the SMW rate were raised to the revised SMW rate or above, while some low-paid employees earning wages above the SMW rate also enjoyed corresponding pay rise owing to the knock-on effect of the uprating of SMW. This suggested that more low-paid employees had notable wage gain with their hourly wage rates exceeding the SMW rate.

8. While acknowledging the wage protection objective of SMW, some members pointed out that the implementation of SMW had made it difficult for specific industries with comparatively less favourable working environment to retain existing staff and attract new entrants. The Administration advised that in making its recommendation on the revised SMW rate, MWC had considered relevant information and data collected from various surveys conducted regularly by the Census and Statistics Department, which included the employment conditions in various industries. MWC had also conducted extensive consultation with stakeholders and members of the public and had fully considered the views of various sectors of the community. Besides, relevant Government bureaux and departments had all along been closely monitoring the manpower demand and supply of different sectors and had strengthened training initiatives to attract new entrants to those sectors.

### Impact of SMW on the employment of persons with disabilities

10. Some members expressed concern about the impact of SMW on the employment of persons with disabilities and asked whether the Administration had conducted any study in this regard.

11. The Administration advised that under MWO, employees with disabilities and able-bodied employees were protected by SMW alike. A special arrangement was also specified in MWO whereby persons with disabilities whose productivity might be impaired by their disabilities might choose to have their productivity assessed and be remunerated at a rate commensurate with their productivity. The Labour Department ("LD") had completed a review of such special arrangement and reported the review results to the Panel in December 2014. The review results indicated that SMW had not brought about a significantly adverse impact on the employment opportunities of persons with disabilities and many employers had been willing to offer the SMW rate to persons with disabilities.

### Enforcement work

12. Some members enquired about the enforcement actions taken by the Administration to ensure compliance with MWO. The Administration advised that LD adopted 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. LD would also widely publicize its complaint hotline to encourage employees to report cases on suspected breaches of MWO. All complaints received would be investigated expeditiously. Moreover, after the coming into effect the revised SMW rate in May 2017, LD had launched targeted inspection campaigns from June 2017 for low-paying sectors, including catering, retail, security services, cleaning services and elderly care services, etc., to ensure compliance with MWO.

### Publicity and promotion

13. 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, and urged the Administration to provide employers with more information and assistance to avoid inadvertent breaches of the law.

14. According to the Administration, LD had embarked on extensive publicity and promotional activities on the SMW policy and the latest SMW rate to enable both employers and employees to better understand their respective rights and obligations under the relevant provisions of MWO. The Administration further advised that members of the public could make use of the Minimum Wage Reference Calculator on LD's homepage for quick and initial computation of SMW for the more common work patterns for reference. In addition, LD would continue to organize large-scale talks for employers, employees and the general public and seminars targeting at human resources practitioners to promote the new SMW rate and the related provisions.

#### Consultation service and employment support

15. 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 that their employment rights were infringed.

16. 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. LD had also provided 24-hour telephone enquiry service for answering public enquiries on MWO, and in-person consultation and voluntary conciliation service on MWO to employers and employees in need. LD would also continue implementing 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.

#### **Relevant papers**

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

## Appendix

### Relevant papers on the implementation of statutory minimum wage

<b>Committee</b>	<b>Date of meeting</b>	<b>Paper</b>
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>
Panel on Manpower	23.1.2017	<a href="#">Minutes</a>
Panel on Manpower	18.4.2017 (Item V)	<a href="#">Agenda</a> <a href="#">Minutes</a>

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