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Panel on Manpower

**Updated background brief prepared by the Legislative Council Secretariat
for the meeting on 16 April 2019**

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 Bill, which was passed at the Council meeting of 14 July 2010, established the SMW regime. According to the Minimum Wage Ordinance (Cap. 608) ("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 and \$34.5 per hour on 1 May 2017.

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 2018, MWC recommended that the current SMW rate of \$34.5 per hour be increased to \$37.5 per hour, which was accepted by the CE in Council. The Minimum Wage Ordinance (Amendment of Schedule 3) Notice 2019, which increases the prescribed minimum hourly wage rate from \$34.5 to \$37.5, was tabled in LegCo at the meeting of 23 January 2019 and comes into force on 1 May 2019.

Deliberations of the Panel

4. The Panel was briefed on the preparatory work undertaken by the Labour Department ("LD") for the implementation of the last revision to the SMW rate at its meeting on 18 April 2017. The major views and concerns expressed by members are summarized in the ensuing paragraphs.

Implementation of statutory minimum wage

5. Some members were concerned about the decreasing number and percentage of employees earning the SMW rate in the past years since the implementation of SMW in May 2011. These members considered that the Administration should critically examine the effectiveness of SMW in protecting low-income employees against low wages. The Administration advised that after the implementation of SMW, it was observed that with the revision of the SMW rate, 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 showed that more low-paid employees had notable wage gain with their hourly wage rates exceeding SMW.

6. Some members also expressed concern about the impact of SMW on the employment of persons with disabilities. The Administration advised that under MWO, employees with disabilities and able-bodied employees were protected by SMW alike. That said, a special arrangement was specified in MWO so that employees with disabilities had the right to undergo productivity assessment. LD had completed a review of this special arrangement for employees with disabilities under the SMW regime and reported the review results to the Panel in December 2014. The review covered, among other things, the impact of SMW on the employment opportunities of persons with disabilities. According to the review results, views gathered from many stakeholders of the rehabilitation sector had 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.

Publicity and promotion

7. Members were advised that to tie in with the implementation of the revised SMW rate, LD had embarked on extensive publicity and promotional activities to enhance the awareness of employers, employees and the public on

the new SMW rate. Notably, LD would stage territory-wide publicity activities and roving exhibitions in various districts to disseminate messages on the new SMW rate. 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.

8. The Administration further advised that LD had also produced new posters and leaflets, and updated the relevant guidelines to employers and employees, in particular the SMW industry-specific reference guidelines for nine industries (i.e. catering, retail, property management, security services, cleaning services, hotel, tourism, logistics and real estate agency) for reference of employers, employees and other stakeholders. Members of the public could also 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.

Consultation service and employment support

9. 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.

10. 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 a 24-hour enquiry hotline for answering public enquiries on MWO as well as providing conciliation service in this regard. The number of enquiries received by the hotline had dropped significantly from 13 946 cases in April 2011 (i.e. before the implementation of SMW) to 535 cases in March 2017, indicating that members of the public had become familiar with the SMW requirements.

11. 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 as well as organizing job fairs targeting at the low-paying sectors.

Enforcement work

12. Some members enquired about the enforcement actions taken by the Administration to ensure compliance with MWO. 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. 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.

13. The Administration further advised that LD would also launch targeted enforcement campaigns for low-paying sectors to ensure compliance with MWO. According to the Administration, from May 2011 to March 2017, a total of 44 convicted summonses for failure to pay SMW were recorded, which involved various industries, viz. security services, beauty care, telecommunications, business services, elderly care services, import and export, retail, construction and real estate agency industry. The highest fine imposed for a convicted case was \$25,000.

Preparation for the implementation of the revised SMW rate

14. The Administration will brief the Panel in detail its preparatory work for the implementation of the revised SMW rate at the meeting on 16 April 2019.

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)	<u>Agenda</u> <u>Minutes</u>
Panel on Manpower	17.3.2011 (Item V)	<u>Agenda</u> <u>Minutes</u>
Panel on Manpower	18.4.2017 (Item V)	<u>Agenda</u> <u>Minutes</u>

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