

For information on  
18 February 2020

**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. The Minimum Wage Ordinance (Cap. 608) (MWO) has been implemented since May 2011. MWO establishes the SMW regime to provide a wage floor which forestalls excessively low wages, without unduly jeopardising Hong Kong's labour market flexibility, economic growth and competitiveness, and minimising the loss of low-paid jobs.<sup>1</sup>

**Labour market conditions**

3. Since the implementation of SMW, the overall unemployment rate in Hong Kong has largely stayed at relatively low levels. The labour market saw some gradual tightening in the run-up to 2019. However, since the economy fell into recession in the third quarter of 2019, the unemployment situation has been increasingly under pressure, particularly so in the consumption-related economic sectors that have been hard hit by the worsened economic conditions. Nonetheless, while the seasonally adjusted unemployment rate rose from the more-than-20-year low of 2.8% in the second quarter of 2019 to 3.3%<sup>2</sup> in the fourth quarter, it was still 0.3 percentage point lower than the level in the pre-SMW period (i.e. February to April 2011).

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<sup>1</sup> 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 2020.

<sup>2</sup> The unemployment rate (seasonally adjusted) and employment figures for the fourth quarter of 2019 are provisional.

4. The implementation of SMW has helped attract more people to enter or re-enter the labour market. Notwithstanding the easing in labour demand in 2019 due to the economic slowdown, total employment still stood at 3 817 800 in the fourth quarter, up by 275 500 as compared to the pre-SMW level (3 542 300), with female workers (231 600) accounting for more than 80% of the increase. On the other hand, employment of mature persons increased notably as compared to the pre-SMW level, as employment of persons aged 50 and above increased by 335 300<sup>3</sup> and their labour force participation rate rose by 2.6 percentage points to 42.4%.

5. The employment earnings of grassroots employees improved solidly since the implementation of SMW. In September to November 2019, the average monthly employment earnings of full-time employees<sup>4</sup> of the lowest decile group rose cumulatively by 65.0% compared with the pre-SMW period, translating into an increase of 23.6% in real terms after discounting inflation.

## **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 territory-wide publicity 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 public utilities bills; displaying outdoor promotional banners; mounting promotional stickers on pillars of pedestrian walkways and footbridges and on walls of subways in various districts; uploading promotional messages to mobile applications and internet platforms; and publishing feature articles and comics on newspapers, 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

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<sup>3</sup> The number of employed persons aged 50 and above was 929 300 in the pre-SMW period (February to April 2011), vis-à-vis 1 264 600 in the fourth quarter of 2019.

<sup>4</sup> Excluding government employees and live-in domestic workers to whom SMW does not apply.

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.

### **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 153 cases in December 2019, 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. 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 breach of employees' rights and benefits.

### **Inspections and 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. Since the implementation of SMW and up to end-2019, labour inspectors conducted 386 794 inspections to enforce MWO. Together with reported cases, 212 cases involving suspected violation of MWO were detected. Except for 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 55 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. Since the implementation of SMW and up to end-2019, a total of 657 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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