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Panel on Manpower

**Updated background brief prepared by the Legislative Council Secretariat
for the meeting on 17 March 2020**

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, May 2015 and May 2017, with a further revised rate of \$37.5 per hour effective from 1 May 2019.

Deliberations of the Panel

Effectiveness and impact of the statutory minimum wage

3. Some members noted with concern about the decreasing number and percentage of employees earning the SMW rate in the past years since the implementation of SMW in May 2011. They expressed concern that MWC had overestimated the number of low-income employees covered under the revised SMW rate in each review of the SMW rate. In these members' view,

the SMW rate should be set a level such that a specific target number of low-income employees would be safeguarded against low wages. Hence, the SMW rate should be further increased.

4. Some members, however, did not see the need to set a prescribed target number of employees receiving SMW. These members pointed out that the implementation of SMW had also brought about knock-on effect on pay hierarchies in various sectors. Consequently, the number of employees with actual pay rise attributable to the uprating of SMW had eventually been greater than the number of employees earning just the SMW rate. These members also expressed concern that previous upratings of SMW had brought about high inflation in the past years. Some other members held a different view that the soaring inflation was largely attributed to the imported inflation and high rental. The SMW uprating was made in response to the inflationary pressure.

5. The Administration advised that after the implementation of SMW, it was observed that with the revisions 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. The Administration further advised that the overall inflationary pressure of Hong Kong had remained relatively moderate in the past years.

6. 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. Having regard to the problem of manpower shortage in specific industries, including hotel, elderly care services as well as professional drivers arising from the implementation of SMW, some members suggested that consideration should be given to importing more labour under the Supplementary Labour Scheme ("SLS") to address the acute recruitment difficulties currently faced by individual service industries. Some other members, however, held the view that employers should increase the pay of employees so as to attract or retain employees to work in these industries instead of expanding SLS. The Administration advised that on the premise of safeguarding the employment priority of local workers, it would explore with stakeholders the possibility of increasing imported labour on an appropriate and limited scale.

Review of the statutory minimum wage rate

7. Most 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 and safeguard their basic livelihood. Grave concern was expressed about the time gap between data collection and implementation of the revised SMW rate under the existing biennial review of the SMW rate. It was pointed out that the revised SMW rate, which would take effect in the following year, was recommended based on the statistics collected in the preceding year. As such, there was indeed a time gap of three years for the next SMW uprating. Consequently, the revised SMW rate lagged behind the prevailing inflation and thus employees' purchasing power had been eroded by inflation. These members were of the view that the Administration should address squarely the deficiency of the review mechanism.

8. 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 relevant information and data collected from various surveys conducted regularly by the Census and Statistics Department, which included 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. 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. It would be difficult to compress the time needed for the review process. The Administration therefore considered it appropriate to maintain the review of the SMW rate at least once in every two years. Besides, relevant Government bureaux and departments had all along been closely monitoring the manpower demand and supply of different sectors.

9. At the meeting on 15 May 2018, the Panel passed a motion urging the Government to, among others, review the SMW rate on an annual basis and raise the SMW rate with reference to actual living expenses of employees.

Impact of statutory minimum wage on persons with disabilities

10. 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. Members were also advised that of the productivity assessments for employees with disabilities completed under MWO, 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.

Enforcement work

11. Some members enquired about the enforcement actions taken by the Administration to ensure compliance with MWO. The Administration advised that the overall state of employers' compliance with MWO had been satisfactory. 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. The Administration further advised that 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

12. 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.

13. 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

14. 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.

15. 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

16. A list of the relevant papers on the Legislative Council website is in the **Appendix**.

Appendix

Relevant papers on the implementation of statutory minimum wage

Committee	Date of meeting	Paper
Panel on Manpower	16.12.2010 (Item V)	Agenda Minutes
Panel on Manpower	17.3.2011 (Item V)	Agenda Minutes
Panel on Manpower	23.1.2017	Minutes
Panel on Manpower	18.4.2017 (Item V)	Agenda Minutes
Panel on Manpower	27.4.2018 (Item V)	Agenda Minutes
Panel on Manpower	15.5.2018 (Item IV)	Agenda Minutes
Panel on Manpower	16.4.2019 (Item VI)	Agenda Minutes

Council Business Division 2
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