

**Tenth Meeting of
the Business Facilitation Advisory Committee**

Agenda Item 2 : Statutory minimum wage

Purpose

This paper briefs Members on the latest development on statutory minimum wage (SMW).

Background

2. As Asia's world city and an international business hub, Hong Kong's affluence is comparable to other developed economies. Nevertheless, for various reasons, there are still local workers earning excessively low wages. For decades, there has been a strong body of opinion, notably from pro-labour groups, calling for the introduction of an SMW in Hong Kong. The lack of a consensus on whether a legislative approach should be adopted in preventing excessively low wages led to the launching in 2006 of the two-year voluntary Wage Protection Movement for cleaning workers and security guards (WPM). The overall review of the WPM conducted in October 2008 showed that the campaign was less than effective. It also revealed the limitations in promoting wage protection through voluntary participation. In keeping with his pledge that the Government would go for a legislative approach if the voluntary route proved ineffectual, the Chief Executive announced in his 2008-09 Policy Address that an SMW would be introduced. In view of the mobility of workers amongst different low-paying sectors, the problems associated with defining the cleaning and guarding service sectors in clear legal terms and the fact there are other job titles which are paid less than cleaning workers and security guards, an across-the-board approach would be adopted.

Considerations in designing the system of SMW

3. The Government recognises that flexibility of wages and prices is crucial to Hong Kong's competitiveness and resilience to external shocks, given the high degree of external orientation of our economy and the linked exchange rate system. Nevertheless, safeguarding the interests of the

vulnerable and enhancing social harmony are equally important social policy objectives.

4. Overseas experience suggests that the negative economic impact of an SMW can be mitigated by proper design and careful implementation. Of relevance is that among those economies high in the pecking order of economic freedom compiled by internationally renowned organisations, many of them have SMW in place, such as New Zealand, Canada, Australia, the United States, Chile and Ireland¹. There is thus no necessary correlation between economic freedom and SMW.

5. The importance of designing an SMW catering specifically for Hong Kong's circumstances cannot be over-emphasised. To the Government, an optimal SMW regime should be one which can achieve the goal of preventing excessively low wages without unduly jeopardising our labour market flexibility, economic freedom and competitiveness, and without causing significant adverse impact on the employment opportunities of the vulnerable workers.

6. With this in mind, the Government favours an evidence-based approach to setting and reviewing the SMW rate. A basket of factors will be taken into account when determining the optimal level of SMW. These may include the impact on business operation, employment, wage level, inflation and competitiveness of Hong Kong. In particular, the Government will supplement across-the-board surveys with those specifically designed to gauge the impact of SMW on small and medium-sized establishments and the low-paying sectors which are likely to be more affected by SMW.

Latest development on legislating for SMW

7. The Government is preparing for the introduction of SMW on three parallel tracks. First is the Minimum Wage Bill which will be the enabling legislation. The major areas to be covered in the Bill comprise the coverage of employees, introduction of special measures for persons with disabilities, definition of an SMW, mechanism for setting and adjusting the level of SMW, as well as enforcement and penalty. We aim to introduce the Bill into the Legislative Council (LegCo) in the 2008-09 legislative session (i.e. no later than July 2009).

¹ All these countries achieved top ten rankings in the Heritage Foundation's 2008 Index of Economic Freedom report; and the Fraser Institute's 2008 Economic Freedom of the World report respectively.

8. Second is preparing the ground for an evidence-based approach in setting the SMW rate. Labour Department is working closely with relevant government departments including the Economic Analysis and Business Facilitation Unit of the Financial Secretary's Office and the Census and Statistics Department to enhance the wage and other data collection in order to provide the necessary data to facilitate an informed deliberation by the Provisional Minimum Wage Commission (MWC).

9. Third is supporting the work of the Provisional MWC. The Commission was established on 27 February 2009 to advise the Government on the appropriate level of the initial SMW rate. Members of the Provisional MWC are drawn from the business community, labour sector, academia and government departments, with all non-official members serving on an ad personam basis to help ensure objective and disinterested discussions. The Provisional MWC will adopt an evidence-based approach through conducting data research and analysis as well as extensive consultations with stakeholders, with a view to ensuring a sensible balance between forestalling excessively low wages and minimizing the loss of low-paid jobs, while sustaining Hong Kong's economic growth and competitiveness. It will become a statutory body upon the enactment of the SMW legislation.

Timetable for the implementation of SMW

10. The Government has undertaken to submit the Minimum Wage Bill into LegCo before its summer recess this year. The first set of statistical data to support the setting of the initial SMW rate will be available in end-2009/early 2010. If everything goes well and allowing time for LegCo's scrutiny of the draft Bill, the Provisional MWC's deliberation on the initial rate of SMW and the enactment of the subsidiary legislation to give effect to the recommended SMW rate, we envisage the legal and regulatory framework for implementing SMW to be ready in mid-2010, *at the earliest*. In line with established practice and overseas experience, about six months' time should be allowed for the business sector to gear up for the implementation of SMW. Barring unforeseen circumstances, we expect the initial SMW rate to come into effect at the earliest by end-2010 or early 2011.