

LEGISLATIVE COUNCIL BRIEF

Minimum Wage Ordinance
(Chapter 608)

ENHANCING THE REVIEW MECHANISM OF THE STATUTORY MINIMUM WAGE

INTRODUCTION

At the meeting of the Executive Council on 30 April 2024, the Council ADVISED and the Chief Executive (CE) ORDERED that –

- (a) the following recommendations of the Minimum Wage Commission (MWC) should be accepted –
 - (i) reviewing the Statutory Minimum Wage (SMW) rate once a year (Annual Review);
 - (ii) adopting the following formula (Formula) for implementing Annual Review –

The annual rate of adjustment in SMW (%) = **Headline Consumer Price Index (A) (CPI(A)) inflation**¹ (subject to a lower bound of zero) + [(**the growth rate of the real Gross Domestic Product (GDP) in the latest year – the trend growth rate of the real GDP in the latest decade**) x 20%] (economic growth factor)*; and

** The economic growth factor is subject to an upper bound of one percentage point and a lower bound of zero;*

- (iii) reviewing the New Mechanism (i.e. (i) and (ii) above) five to ten years after its implementation to determine whether adjustments are required; and

¹ It refers to the year-on-year rate of change in the headline CPI(A). The headline CPI(A) measures the overall price level of consumer goods and services generally purchased by households in the relatively low expenditure range. The rate of change in the headline CPI(A) can best reflect the inflationary pressure faced by grassroots employees in their daily lives.

- (b) the first SMW rate derived under the New Mechanism should be taken effect on 1 May 2026².

JUSTIFICATIONS

Current Mechanism

2. The Minimum Wage Ordinance (MWO) establishes the SMW regime which provides a wage floor to protect grassroots employees against excessively low wages, without unduly jeopardising Hong Kong's labour market flexibility, economic growth and competitiveness, while minimising the loss of low-paid jobs. Established under MWO, MWC is chaired by a non-official, comprising three members each from the labour sector, the business sector, the academia and the Government. MWC has the main function of recommending to CE in Council, when required by CE, on the amount of the SMW rate. In reviewing the SMW rate, MWC has all along been adopting an evidence-based approach³. As set out in section 14(1) of MWO, CE must require MWC to submit a report on its recommendation about the SMW rate at least once in every two years⁴. So far, MWC has conducted reviews of the SMW rate biennially.

Study on Enhancing the Review Mechanism of SMW

3. As per section 12(2) of MWO, MWC has any other function given to it by CE. Pursuant to the 2022 Policy Address (PA), CE on 12 January 2023 requested MWC to conduct a study on enhancing the review mechanism of SMW (the Study) including the review cycle, how to improve efficiency, and balancing a host of factors such as the minimum wage level and sustained economic development. On 31 October 2023, MWC submitted a report (Study Report) to CE. As announced in the 2023 PA, the Government will examine and consider the recommendations made by MWC, and decide on the way forward of the review mechanism in six months' time.

² MWC on 31 October 2022 recommended the prevailing SMW rate of \$40 per hour which took effect on 1 May 2023. As explained in paragraph 13 below, CE will task MWC to recommend the next SMW rate by end-October 2024 under the existing biennial review cycle. The next SMW rate will take effect on 1 May 2025. In view of MWC's recommendation and the Government's acceptance of it, MWC will adopt the Formula in recommending the SMW rate for taking effect from 1 May 2025.

³ When conducting reviews on the SMW rate, MWC analysed and considered the following four areas –

- (i) an Array of Indicators covering the general economic conditions, labour market conditions, competitiveness and social inclusion;
- (ii) views from members of the public and stakeholders;
- (iii) other relevant considerations; and
- (iv) impact assessment.

⁴ Since its implementation on 1 May 2011, the SMW rate increased from \$28 per hour to \$30 on 1 May 2013, \$32.5 on 1 May 2015, \$34.5 on 1 May 2017, \$37.5 on 1 May 2019 and \$40 on 1 May 2023. Amidst the unprecedented impacts of the COVID-19 pandemic, the SMW rate was frozen from May 2019 to April 2023.

MWC Recommendations arising from the Study

4. Pursuant to section 12(3) of MWO, in performing its functions, MWC needs to maintain an appropriate balance between the objectives of forestalling excessively low wages and minimising the loss of low-paid jobs, and give due regard to the need to sustain Hong Kong's economic growth and competitiveness. Further to CE's directives on the Study set out in paragraph 3 above and section 12(3) of MWO, MWC conducted the Study through comprehensive and in-depth deliberations, careful consideration of the views of the public and stakeholders collected through consultation, Hong Kong's economic situation, other relevant factors and data, as well as MWC's past experience in reviewing the SMW rate before putting forth its recommendations unanimously. The Study Report is at Annex A.

A

(a) Annual Review of the SMW rate

5. Having regard to the public's mainstream view of shortening the existing biennial review cycle, MWC proposed adopting an Annual Review cycle which would allow closer alignment with socio-economic changes and safeguard the income of grassroots employees more effectively. Generally speaking, the rate of each adjustment under Annual Review should be more moderate vis-à-vis that according to a biennial review cycle. Annual Review could also narrow the expectation gap between employers and employees, thereby helping promote social inclusion and foster harmonious labour relations.

(b) Adopting a formula-based approach for implementing Annual Review

6. MWC's experience suggested that a review of the SMW rate conducted under the existing mechanism could only be completed within a timeframe of two years. MWC reckoned that adopting a formula for adjusting the SMW rate would be more effective and practical, if Annual Review was to be implemented. MWC recommended adjusting the future SMW rate in accordance with the Formula which comprised the following indicators and key features –

(i) CPI(A)

The Formula will ensure that the future SMW adjustments will not fall below the CPI(A) inflation, so as to maintain the purchasing power of low-income employees. The inclusion of inflation as an indicator in the Formula is consistent with the policy objectives of SMW and is widely accepted by the stakeholders.

(ii) Economic growth factor

When the Hong Kong economy performs well, the economic growth factor will allow the rate of SMW adjustment to be suitably higher than the inflation rate, thus enabling employees to benefit as well. Specifically, this factor will come into play only when the growth rate of the real GDP in

the latest year (Latest Real GDP Growth) is greater than the trend growth rate of the real GDP in the latest decade (Trend Growth). To minimise the loss of low-paid jobs and give due regard to the need to sustain Hong Kong's economic growth and competitiveness, the economic growth factor is fixed at 20% of the difference between the Latest Real GDP Growth and the Trend Growth, and subject to a cap of one percentage point.

(iii) No downward adjustment of the SMW rate

Both the CPI(A) inflation and the economic growth factor in the Formula are subject to a lower bound of zero, so as to avoid pay cut of the lowest paid employees.

7. On the whole, MWC was of the view that the Formula would fulfill the policy objectives stated in section 12(3) of MWO and was in line with the overall interest of the Hong Kong community.

8. MWC stressed that the Formula should be adopted solely for the purpose of deriving the annual adjustment of the SMW rate. It should not be regarded as an indicator of pay rise in the labour market, nor should it be taken as a factor of consideration in pay adjustment or used as a reference for pay trend survey, etc.

(c) Review of the New Mechanism

9. MWC proposed to review the New Mechanism five to ten years after its implementation, so as to consider whether any adjustment should be made in the light of the experience gained and relevant data collected.

Assessment of the Study Recommendations

10. The Government has carefully considered the Study Report and is of the view that MWC has ably discharged its duty of conducting the study to enhance the review mechanism of SMW with thorough and balanced deliberations. In putting forward the recommendations, MWC has given due regard to the policy objectives of SMW and endeavoured to strike a proper balance between the interests of the labour and business sectors. The Government also notes the public's general expectation that SMW upratings should be able to keep up with inflation and enable the low-income group to benefit from economic growth.

11. The Government shares MWC's view that in general, each annual adjustment to SMW under the New Mechanism should be more moderate as compared with that according to the existing biennial review cycle. The Formula will also ensure that future adjustments of the SMW rate will be more

predictable and transparent, thereby minimising debates on the magnitude of each adjustment and helping foster harmonious labour relations.

12. On the whole, the New Mechanism can balance the interests of employers and employees, and will be conducive to Hong Kong's economic development. Enhancing the efficiency of reviewing the SMW rate aside, the New Mechanism is in compliance with the policy objectives of MWO. The Government also concurs with MWC's proposed review of the New Mechanism in five to ten years upon its implementation. On the above considerations, CE in Council has accepted and adopted the recommendations in paragraph 1 above.

WAY FORWARD

(a) Making recommendation on the SMW rate under the current biennial review cycle

13. Pursuant to section 14(1) of MWO, CE must require MWC to submit a report on the recommendation about the SMW rate under section 12(1) at least once in every two years. Since MWC last submitted a report on the recommended SMW rate on 31 October 2022, the next report must be submitted by end-October 2024. To comply with the prevailing statutory requirements, CE will require MWC to recommend the next SMW rate by end-October 2024. As unanimously agreed by members of MWC in MWC's meeting on 25 September 2023, MWC will derive its recommendation by adopting the Formula recommended in the Study Report after the Government's acceptance of the recommendations of the Study Report. The next SMW rate recommended by MWC will take effect on 1 May 2025.

(b) Implementing the New Mechanism

14. The first SMW rate derived under the New Mechanism will take effect on 1 May 2026. The Government will thrash out the implementation arrangement of the New Mechanism, including exploring whether amendments to MWO will be required.

IMPLICATIONS OF THE PROPOSAL

15. The proposal is in conformity with the Basic Law, including the provisions concerning human rights, and will not affect the current binding effect of MWO. There is no productivity, environmental or civil service implication. The economic, sustainability, family, gender and financial implications are set out at Annex B.

B

PUBLIC CONSULTATION

16. MWC conducted two stages of consultation covering two public

consultation exercises receiving a total of 537 submissions and ten consultation meetings with the Labour Advisory Board, major labour organisations and employer associations, as well as the academics in relevant fields. The mainstream view called for the implementation of Annual Review by adopting a formula-based approach. There were diverse views on how the formula should be framed. Please refer to paragraphs 10 to 11 of the Study Report at Annex A for details.

A

PUBLICITY

17. The Study Report (at Annex A) is going to be uploaded to MWC's webpage and a press release is going to be issued on 30 April 2024.

A

ENQUIRIES

18. Enquiries about this brief may be addressed to Ms Samantha LAM, Chief Labour Officer (Statutory Minimum Wage) of the Labour Department at 2852 3842.

Labour and Welfare Bureau
Labour Department
April 2024

Minimum Wage Commission

Study Report on Enhancing the Review Mechanism of the Statutory Minimum Wage

October 2023

Minimum Wage Commission

Study Report on Enhancing the Review Mechanism of the Statutory Minimum Wage

Introduction

The Chief Executive (CE) announced in his 2022 Policy Address that the Minimum Wage Commission (MWC) would be invited to study how to enhance the review mechanism of the Statutory Minimum Wage (SMW), including the review cycle, how to improve efficiency, and balancing a host of factors such as the minimum wage level and sustained economic development. Subsequently, CE on 12 January 2023 tasked MWC to conduct the aforesaid study pursuant to section 12(2) of the Minimum Wage Ordinance (MWO) (Chapter 608 of the Laws of Hong Kong) and required MWC to submit a study report by end-October 2023.

Recommendations

2. MWC, by a unanimous consensus, made the following recommendations to CE:

- (i) Reviewing the SMW rate once a year (Annual Review);
- (ii) Adopting a formula for implementing Annual Review. The formula is “the annual rate of adjustment in SMW (%) = the headline Consumer Price Index (A) (CPI(A)) inflation¹ (subject to a lower bound of zero) + the ‘sharing economic prosperity’ (SEP) factor” [(the growth rate of the real Gross Domestic Product (GDP) in the latest year – the trend growth rate of the real GDP in the latest decade) x 20%], the SEP factor is subject to an upper bound of one percentage point and a lower bound of zero; and
- (iii) Reviewing the aforesaid new review mechanism five to ten years after its implementation to determine whether adjustments are

¹ It refers to the year-on-year rate of change in the headline CPI(A). The headline CPI(A) measures the overall price level of consumer goods and services generally purchased by households in the relatively low expenditure range. The rate of change in the headline CPI(A) can best reflect the inflationary pressure faced by grassroots employees in their daily lives.

required.

SMW Regime and Review Mechanism

3. SMW provides a wage floor which forestalls excessively low wages and safeguards the employment earnings of grassroots employees. Established under MWO, the statutory MWC is chaired by a non-official, comprising three members each from the labour sector, business sector, academia and Government. Pursuant to MWO, CE must require MWC to make a recommendation about the SMW rate and submit a report to CE in Council at least once in every two years. Subject to the decision of CE in Council on the SMW rate, the endorsed recommendation will be submitted to the Legislative Council for scrutiny and, upon approval, will become a new SMW rate². Section 12(3) of MWO stipulates that in performing its functions, MWC needs to maintain an appropriate balance between the objectives of forestalling excessively low wages and minimising the loss of low-paid jobs, and give due regard to the need to sustain Hong Kong's economic growth and competitiveness. Furthermore, MWC has any other function given to it by CE in writing under section 12(2) of MWO, such as conducting the present study.

4. MWC had hitherto been adopting an evidence-based approach to review the SMW rate. Apart from making reference to and analysing various statistical data and information pertaining to Hong Kong's socio-economic and employment situation, MWC also conducted extensive and in-depth consultations with different sectors of the community on their views on SMW, and considered other factors that were pertinent to the review of the SMW rate but could not be fully quantified. When conducting reviews on the SMW rate, MWC analysed and considered the following four main areas, including:

- (i) an Array of Indicators (AoIs)³ covering general economic conditions, labour market conditions, competitiveness and social inclusion;

² The SMW rate was \$28 per hour when it was implemented in May 2011. Subsequently, it was updated to \$30, \$32.5, \$34.5, \$37.5 and \$40 in May 2013, May 2015, May 2017, May 2019 and May 2023 respectively.

³ AoIs cover four aspects of general economic conditions, labour market conditions, competitiveness and social inclusion, which include indicators that reflect the latest situation and are released frequently.

- (ii) the views from members of the public and stakeholders;
- (iii) other relevant considerations; and
- (iv) impact assessment⁴.

Past experience suggested that the above mechanism for reviewing the SMW rate, together with the relevant legislative procedures, took two years to complete.

5. In the past reviews of the SMW rate, MWC took into account the economic situation at the time of implementing the recommended SMW rate. Considering the time lag between the reference data and the implementation of the SMW rate, apart from the data from the Annual Earnings and Hours Survey and the Annual Survey of Economic Activities compiled by the Census and Statistics Department, MWC also made reference to other data which were released more frequently and were more up-to-date (including those on GDP, inflation and unemployment rate, etc.), as well as indicators such as forecasts of GDP and prices, enterprises' views on the short-term outlook of business performance and the number of persons engaged, etc., so as to keep abreast of the latest and near-term changes in the economic situation. In addition, when conducting the impact assessment, MWC made different scenario assumptions on the economic situation at the time of implementing the recommended SMW rate, with a view to making forward-looking estimations of the situation at that time as far as possible. The prevailing review mechanism is summarised at **Appendix A**.

6. The initial SMW rate implemented in May 2011 was \$28 per hour. The prevailing SMW rate effective from May 2023 is \$40 per hour, representing an increase of 42.9%. The average headline CPI(A) in the 12-month period ending May 2023 increased cumulatively by 44.7% over the average in the 12-month period ending May 2011, which was broadly comparable to the increase in the SMW rate. In other words, the prevailing SMW rate can broadly maintain the purchasing power of the initial SMW rate when it was set in 2011.

7. Since the implementation of SMW in May 2011, the employment earnings of grassroots employees have improved. In June to August

⁴ MWC assesses the possible impacts on employees, enterprises, unemployment rate and inflation under various SMW test levels.

2023, after excluding government employees and live-in domestic workers to whom SMW does not apply, the nominal average monthly employment earnings of full-time employees in the lowest decile group increased cumulatively by 86.8% as compared with the period before the implementation of SMW (i.e. February to April 2011). After discounting the headline CPI(A) inflation of 40.6% over the same period, it increased cumulatively by 32.9% in real terms.

8. Since the implementation of SMW, Hong Kong's overall unemployment rate has generally stayed at a relatively low level, except for the three years or so when the economy was hard hit by the COVID-19 pandemic. The seasonally adjusted unemployment rate was 2.8% in July to September 2023, 0.8 percentage point lower than the level of 3.6% in the period before the implementation of SMW (February to April 2011).

Overview of the Study

9. Having regard to the function given to MWC by CE on conducting the study in accordance with the law as well as the specified directions and areas of the study, MWC considered that an extensive consultation should be conducted while drawing reference to the past experience in reviewing the SMW rate, with a view to exploring feasible options of enhancing the review mechanism.

Public consultation

10. MWC conducted the first-stage consultation on enhancing the review mechanism from 28 March to 24 April 2023 and invited members of the public to provide their views. On the basis of the views collected during the first-stage consultation, MWC conducted the second-stage consultation from 5 to 25 June 2023, focusing on gauging the views of members of the public and stakeholders on the enhancement of the review mechanism. The views provided by the public and relevant organisations during the two stages of consultation are summarised below:

- There were views that the prevailing review mechanism and review cycle were effective and well-established, with more comprehensive and forward-looking considerations, which were consistent with the policy objectives of SMW;
- There were views that the review cycle of the SMW rate should be shortened to Annual Review, and that consideration might be

given to adopting indicators or a formula for adjusting the SMW rate;

- The proposed indicators could be broadly categorised into seven types, including “price changes/inflation/purchasing power”, “wage level/household income”, “level of welfare assistance”, “living wage/basic family living needs”, “overall economic performance”, “number of persons covered by SMW” and “poverty situation”. Among them, most of the views supported “price changes/inflation/purchasing power”; and
- There were views that the relevant indicators or the formula should be reviewed from time to time in future, e.g. once in every five years.

The issues covered in the two stages of consultation are at [Appendix B](#).

Consultation meetings

11. In addition to public consultation, MWC convened a total of ten sessions of consultation meetings with the Labour Advisory Board, major labour organisations and employer associations, as well as the academics in the fields of social policy and economics on 13, 14 and 19 June 2023. The list of organisations attending consultation meetings is at [Appendix C](#). The major views collected at the meetings are set out below:

- **Labour organisations** suggested shortening the review cycle to Annual Review and adopting indicators or a formula so that the SMW rate could be adjusted in the light of the latest economic situation and inflation movements, thereby providing better income protection for grassroots employees and enhancing the transparency and predictability of the review mechanism. The rate of SMW adjustment should not be lower than the inflation rate so as to ensure that the purchasing power of the wages of grassroots employees could be maintained and to enable grassroots employees to meet their basic living needs. Some labour organisations were of the view that living wage should be included as an indicator for reviewing the SMW rate.
- **Employer associations** considered that the existing review mechanism was effective. The process involved evidence-based analysis and assessment, listening to the views of employers and employees, and conducting extensive public consultation. As a

result, the review mechanism comprehensively considered relevant factors, striking a balance between the wage protection for the low-paid employees and the affordability of employers, as well as taking into account the social conditions, business environment and economic development. Employer associations were of the view that the mechanism for reviewing the SMW rate should be flexible and forward-looking, and that the use of indicators or a formula would lack flexibility, and would fail to respond to the socio-economic changes and reflect the actual situation.

- **Academics** considered that the existing review mechanism had been working well and MWC had been taking into account the relevant data and views comprehensively. MWC's deliberations were forward-looking, and had balanced the interests of various parties. Notwithstanding the above, the marginal benefits of the prevailing review mechanism had diminished and a timely review could be made. There were also views that the existing review mechanism was resource-intensive, involving collection and analysis of a large amount of data and information, in-depth assessment and consideration of relevant factors and views of the community, as well as legislative amendments, scrutiny procedures, etc., and it took two years to complete a review. On the premise of exploring ways to enhance the review mechanism in the light of the existing policy objectives of SMW, consideration could be given to standardising the review mechanism, enhancing its efficiency and streamlining the administrative procedures, so as to review the SMW rate in a more efficient manner.

A summary of the consolidated views collected during the two stages of consultation (including public consultation and consultation meetings) is at **Appendix D**.

12. Apart from reviewing the views and information provided by members of the public and the relevant organisations, MWC also examined AoIs to which it had made reference in the past reviews of the SMW rate, and noted the mechanisms and experience of other places in reviewing their minimum wage rates.

Study Recommendations and Considerations

Review cycle of the SMW rate

13. Among the views collected during the two stages of consultation, the mainstream view was that the review cycle of the SMW rate could be shortened to Annual Review so as to align closer with socio-economic changes and to safeguard the income of grassroots employees more effectively. Generally speaking, the rate of each SMW adjustment under Annual Review should be more moderate as compared with that proposed under the existing biennial review cycle, which could narrow the expectation gap between employers and employees and allow more flexibility, thereby helping promote social inclusion and foster harmonious labour relations. In view of the above considerations, **MWC recommended the implementation of Annual Review.**

Methodology of reviewing the SMW rate

14. As mentioned in paragraph 4 above, the existing review mechanism can only be completed within a timeframe of two years. It will be more effective and practicable to adopt a formula to adjust the SMW rate if Annual Review is to be implemented.

15. In drawing up the proposed indicators that constitute the formula, MWC considered that it should uphold the policy objectives mentioned in paragraph 3 above and take full account of the views of employees and employers as well as Hong Kong's economic situation, including the following two key factors:

- (i) It is not appropriate for the rate of SMW adjustment to be lower than the inflation rate, so as to safeguard the employment earnings of grassroots employees. In addition, the SMW rate should remain unchanged in times of deflation so as to avoid any pay cut of grassroots employees that will directly affect their basic livelihood; and
- (ii) When Hong Kong's economic growth performance is favourable, the rate of SMW adjustment can be suitably higher than the inflation rate, thereby achieving the effect of allowing both employers and employees to share the fruits of economic prosperity.

16. After comprehensive and in-depth deliberations and having carefully examined the suggestions made by the public and stakeholders during the two stages of consultation, the above-mentioned factors and data, as well as the past experience in reviewing the SMW rate, MWC unanimously recommended reviewing the SMW rate annually by adopting a formula which should comprise the following two indicators:

- (i) **Inflation** - this is an important indicator for evaluating whether the rate of adjustment can maintain the purchasing power of SMW. With reference to the experience of other places where a formula-based approach is used for adjusting the minimum wage rates, inflation is typically one of the indicators constituting the formula. MWC is of the view that it is not appropriate for the rate of SMW adjustment to be lower than the inflation rate, so as to ensure that the purchasing power of SMW is maintained. This indicator is consistent with the policy objectives of SMW and is widely accepted by stakeholders; and
- (ii) **SEP factor** - apart from considering inflation, MWC proposed that an indicator reflecting economic growth could also be included in the formula, i.e. the SEP factor. This factor can ensure that the rate of SMW adjustment will be higher than the inflation rate when the Hong Kong economy performs well, thereby achieving the effect of allowing both employers and employees to share the fruits of economic prosperity. There is an upper bound for this factor, which helps businesses adapt to the relevant increases in salary expenditure in a positive operating environment and minimises the loss of low-paid jobs as far as possible.

17. Specifically, the formula proposed by MWC for the implementation of Annual Review is:

The annual rate of adjustment in SMW (%) = the headline CPI(A) inflation (subject to a lower bound of zero) + the SEP factor*

* The SEP factor is “(the growth rate of the real GDP in the latest year – the trend growth rate of the real GDP in the latest decade) x 20%”. The factor is subject to an upper bound of one percentage point and a lower bound of zero.

18. MWC considered that the above formula could ensure that the rate of SMW adjustment would not be lower than the inflation rate and that the SMW rate would not be adjusted downwards in times of deflation or economic downturn, thereby safeguarding the employment earnings of grassroots employees and forestalling excessively low wages. The proposed formula would enable the adjustment of the SMW rate to be suitably higher than the inflation rate when economic growth is more favourable, so as to allow both employers and employees to share the fruits of economic prosperity, while at the same time minimising the loss of low-paid jobs as far as possible and giving due regard to the need to sustain Hong Kong's economic growth and competitiveness. On the whole, MWC was of the view that the proposed formula fulfilled the policy objectives stated in section 12(3) of MWO and was in line with the overall interest of the Hong Kong community.

19. As the implementation of Annual Review with a formula-based approach is a brand-new mechanism, MWC proposed **a review to be conducted five to ten years after its implementation**, so as to consider whether any adjustment to the review mechanism would be needed based on the actual experience gained during the period.

20. The objective of setting the SMW rate is to forestall excessively low wages and safeguard the employment earnings of grassroots employees. MWC stressed that the above proposed formula should be adopted solely for the purpose of deriving the annual adjustment of the SMW rate, which was by no means a general indicator for pay adjustments of employees. It should not be regarded as an indicator of pay rise in the labour market, nor should it be taken as a factor of consideration in pay adjustment or used as a reference for pay trend survey, etc.

Implications of the Proposal

21. The adoption of objective and clear indicators for adjusting the SMW rate in the proposed formula put forward by MWC will enhance the transparency and predictability of the mechanism.

22. The proposed formula ensures that the annual adjustment of the SMW rate will not be lower than the headline CPI(A) inflation, and that the SMW rate will not be adjusted downwards. This allows employees earning the SMW rate to maintain their purchasing power and forestalls excessively low wages. Moreover, when the economic performance is favourable (i.e. the economic growth rate is higher than the trend growth

rate), the SEP factor in the formula will enable the increase in the SMW rate to be higher than the headline CPI(A) inflation, thereby allowing grassroots employees to share the fruits of economic prosperity and helping promote social harmony.

23. For employers, the implementation of Annual Review will result in more frequent adjustments to the SMW rate than in the past, and the administrative costs for enterprises may increase. Nevertheless, with the advantages of being an open, objective and highly transparent mechanism, the proposed review mechanism will enhance the predictability of the adjustment of the SMW rate, and the resulting increase in the administrative costs for enterprises should be manageable. Moreover, the SEP factor will only lead to an adjustment of the SMW rate higher than the inflation rate in times of favourable economic performance, and an upper bound of one percentage point is imposed on the factor. This will help businesses adapt to the corresponding increases in salary expenditure in a positive operating environment and minimise the loss of low-paid jobs as far as possible.

24. In addition, the adoption of a formula for adjusting the SMW rate can reduce the contention over each review of the SMW rate in the community, thereby helping foster harmonious labour relations.

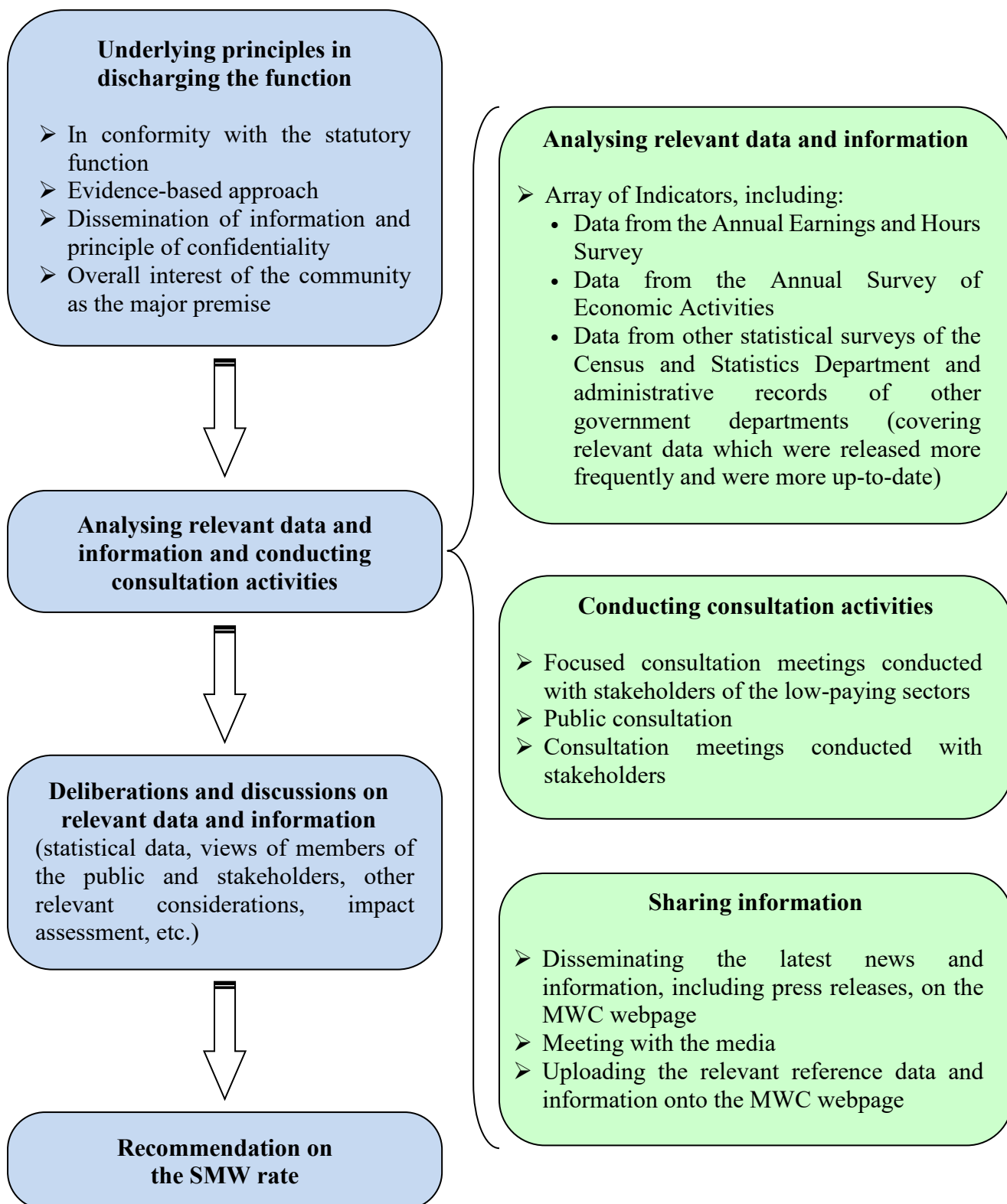
25. In summary, MWC considered that the proposed review mechanism could enhance the work on the review of the SMW rate as well as its efficiency, while in compliance with the policy intent of MWO. Subject to the endorsement of CE in Council on the recommendations of MWC, the Government will consider whether amendments to MWO are necessary for implementing the enhanced review mechanism.

Publicity


26. Should CE in Council endorse the recommendations in paragraph 2 of the proposal, a press release will be issued by MWC after announcement by the Government and the report will be uploaded to the webpage of MWC for public consumption in tandem.

The Prevailing Review Mechanism of the Statutory Minimum Wage

The prevailing mechanism adopted by the Minimum Wage Commission (MWC) in reviewing the Statutory Minimum Wage (SMW) rate is summarised as follows:



Documents Released During the First-stage Consultation on Enhancing the Review Mechanism of the Statutory Minimum Wage (only the part on views sought)



Views Sought


➤ SMW aims to maintain an appropriate balance between the objectives of forestalling excessively low wages and minimising the loss of low-paid jobs, and give due regard to sustaining Hong Kong's economic growth and competitiveness.

➤ Based on the above objectives, MWC cordially invites the public to give views on the following areas in enhancing the review mechanism of SMW.

Review Cycle

1. Do you find it **necessary to adjust the review cycle of the SMW rate** (currently at least one review in every two years)?
2. If an adjustment is considered necessary, how often should the SMW rate be reviewed?
3. What are the **factors to be considered** when determining the review cycle? Please provide suggestions and explain.

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Views Sought (Cont'd)

Mode of Conducting the Review

4. Do you think the **prevailing review mechanism should be maintained** (please refer to slide 8 for the prevailing review mechanism)?
5. If you consider the prevailing review mechanism should not be retained, what will be the preferred approach for conducting the review?
6. There are suggestions that the SMW rate should be pegged with specific indicators or adjusted by a formula. Do you agree?
7. If you agree that the SMW rate should be pegged with specific indicators or adjusted by a formula, which indicators or what formula would you suggest? Please provide suggestions and explain.
8. If an enhancement proposal is adopted, do you consider it necessary to review the mechanism at an agreed time in future? If yes, please provide your suggestion.

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Views Sought (Cont'd)



Others

9. Other views are welcome.

Documents Released During the Second-stage Consultation on Enhancing the Review Mechanism of the Statutory Minimum Wage (only the part on views sought)

Views sought

- SMW aims to maintain an appropriate balance between the objectives of forestalling excessively low wages and minimising the loss of low-paid jobs, and give due regard to sustaining Hong Kong's economic growth and competitiveness.
- With reference to the views collected during the first-stage consultation, MWC cordially invites the community to give further views.

5

Views sought (Cont'd)

Q1: Do you agree to change the review cycle of the SMW rate to annual review?

- Strongly agree
- Agree
- No comment
- Disagree
- Strongly disagree

Please provide justifications: _____

6

Views sought (Cont'd)

Q2: Do you agree to adjust the SMW rate by adopting indicators or a formula constituted of indicators?

- i. Strongly agree
- ii. Agree
- iii. No comment
- iv. Disagree
- v. Strongly disagree

Please provide justifications: _____

(If your reply is (iii) No comment, (iv) Disagree or (v) Strongly disagree, please go to Q6.)

7

Views sought (Cont'd)

Q3: If you agree to adjust the SMW rate by adopting indicators or a formula constituted of indicators, please select the items you consider most appropriate from the following categories^{Note} of indicators (three items at most).

- i. Price change/inflation/purchasing power
- ii. Wage level/household income
- iii. Level of welfare assistance
- iv. Living wage/basic family living needs
- v. Overall economic performance
- vi. Number of persons covered by SMW
- vii. Poverty situation
- viii. Others, please specify and provide justifications: _____

(Note: Please refer to [Appendix 2](#) for examples under each category of suggested indicators.)

8

Views sought (Cont'd)

Q4: If indicator(s) or a formula constituted of indicator(s) is/are adopted for adjusting the SMW rate, do you agree that the indicator(s) or formula concerned should be reviewed from time to time in future?

- i. Strongly agree
- ii. Agree
- iii. No comment
- iv. Disagree
- v. Strongly disagree

Please provide justifications: _____

(If your reply is (iii) No comment, (iv) Disagree or (v) Strongly disagree, please go to Q6.)

9

Views sought (Cont'd)

Q5: If you agree that the indicator(s) or formula concerned should be reviewed, how long should the review cycle be?

- i. Review once in every two years
- ii. Review once in every three years
- iii. Review once in every four years
- iv. Review once in every five years
- v. Not fixed, review as necessary
- vi. Others, please specify: _____

Please provide justifications: _____

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Views sought (Cont'd)

Q6: Other views/supplementary information (if any)

Remarks:

If you have already provided views during the first-stage consultation, please fill in the date of your submission. **You do not need to make the same submission again.**

The date of your submission in the first-stage consultation:

____ / ____ / 2023
(dd/mm)

**List of Organisations Attending Consultation Meetings on
Enhancing the Review Mechanism of
the Statutory Minimum Wage in the Second-stage Consultation**

	Name of Organisation^(*)
1.	Labour Advisory Board
<i>Major Labour Organisations</i>	
2.	The Federation of Hong Kong & Kowloon Labour Unions
3.	The Hong Kong Federation of Trade Unions
<i>Major Employers' Associations</i>	
4.	Employers' Federation of Hong Kong
5.	Federation of Hong Kong Industries
6.	Hong Kong General Chamber of Commerce
7.	The Chinese General Chamber of Commerce
8.	The Chinese Manufacturers' Association of Hong Kong
9.	The Hong Kong Chinese Importers' & Exporters' Association
<i>Academia</i>	
10.	Academics in Economics and Social Policy

(*) Listed in alphabetical order of the English names of the organisations in relevant sectors

Consolidated Views Collected During the Two Stages of Consultation on Enhancing the Review Mechanism of the Statutory Minimum Wage

The Minimum Wage Commission (MWC) received the views from labour organisations, employer associations, small and medium enterprises (SMEs) associations, labour policy concern groups, professional bodies, think tanks/policy research institutes, Members of the Legislative Council/Government advisory bodies, political parties, the academia, resident organisations, individual employers and members of the public during the two stages of consultation¹. The following is a gist of the consolidated views collected during these consultation activities.

Statutory Minimum Wage Policy

2. There were views supporting the existing policy objective of the Statutory Minimum Wage (SMW), i.e. to provide the wage protection for grassroots employees to ensure that they would still be covered by the wage protection in times of economic changes (such as amidst the pandemic). On the other hand, some viewed that the effect of the “safety net” of SMW had been diminishing. As the increase in SMW failed to keep pace with the actual wage increase in the labour market, grassroots employees were inadequately protected by SMW, hence failing to achieve its policy objective of “forestalling excessively low wages”, and was not conducive to promoting employment. In face of the rapid and continuous changes in social and economic development, a review should be conducted on the policy objectives and positioning of SMW to see whether the existing review mechanism could achieve its policy objectives. SMW should enable low-paid employees to share the fruits of economic prosperity.

SMW Review Cycle

Views in support of reviewing the SMW rate annually

3. Under the existing SMW review cycle, the SMW uprating lagged behind inflation and might easily lead to a misconception that the cumulative rate of increase in SMW in two years was very substantial, thus providing employers with an excuse to suppress the adjustment magnitude. Reviewing the SMW rate once a year (Annual Review) would provide

¹ MWC received a total of 537 submissions and convened ten sessions of consultation meetings during the two stages of consultation.

greater flexibility in adjusting the SMW rate in response to the latest economic situation and inflation movements and give a more accurate reflection of the socio-economic conditions and the needs of grassroots employees, thereby safeguarding the purchasing power of their wages and living standards. In examining the review cycle, consideration should be given to upholding social fairness and justice as well as protecting the rights of grassroots employees.

4. Annual Review would ensure that the SMW rate could keep pace with wage changes, thereby promoting employment, alleviating working poverty and sustaining competitiveness of Hong Kong. Annual Review could also narrow the magnitude of SMW adjustment in each review, thereby reducing the expectation gap and disputes between employers and employees on the SMW rate. Furthermore, most of pay reviews for civil servants and employees in private organisations as well as the minimum wages of other places were made annually.

Views in support of maintaining the existing review cycle

5. The existing review cycle had been operating effectively and the past SMW upratings had not lagged behind the inflation. Shortening the review cycle would not only waste resources, manpower and money at the expense of the society, but also increase the costs and burden of human resource management and administration for businesses. In particular, SMEs were specifically difficult to operate and efforts should be made to avoid imposing additional administrative expenses on them. The employees earning the SMW rate accounted for a small number of the workforce, reflecting that employers would make timely adjustments to the salaries of employees according to the market mechanism. Given the small number of beneficiaries being mainly engaged in low-paying sectors, shortening the review cycle would be socio-economically inefficient and detrimental to the harmonious labour relations.

6. Compared with Annual Review which could only take into account relatively shorter-term factors, the existing review cycle could thoroughly consider longer-term macroeconomic data as well as the development trend of business environment, thereby minimising the impact of external factors and short-term economic fluctuations on the review of the SMW rate, and better reflecting the actual situation and striking a balance between the interests of employers and employees. In view of the current sluggish economy in Hong Kong and amidst the complex geopolitical environment, it was hoped that the existing review cycle could continue to be maintained so as to ensure the stability of the

economy and business environment. Besides, the SMW rate might become detached from the economic reality if the SMW rate was reviewed too frequently. There might still be calls to further shorten the review cycle even if Annual Review was implemented.

Methodology for Reviewing SMW

Views in support of adoption of indicators or a formula

7. The existing methodology for the SMW review entailed a lengthy process and lacked objective reference benchmarks, resulting in employers and employees advocating their respective stances and intensifying their conflicts. Adoption of indicators or a formula for adjusting the SMW rate would be more scientific, objective, transparent and fair with better predictability and operability. It could enhance the recognition of the SMW rate and ensure that the SMW rate could keep pace with the overall socio-economic and labour market development, thereby achieving the policy objectives of “forestalling excessively low wages” and preventing massive unemployment and underemployment. At the same time, the adoption of indicators or a formula could save the efforts of the existing review procedures in reviewing the data and conducting consultations reiteratively, thereby reducing the contention between employers and employees during deliberations as well as the pressure on the Government and MWC, and enhancing the effectiveness of governance.

8. In selecting the indicators to be included in the formula, consideration should be given to the living expenses of grassroots employees (in respect of clothing, food, accommodation and transportation). The rate of SMW adjustment should be no less than or even higher than inflation, so as to maintain the purchasing power of the wages of grassroots employees, thereby relieving their pressure of living. In addition, a living wage should be included as an indicator for reviewing the SMW rate, so as to ensure that an employee’s income from work could support the basic living needs of another non-working family member. Some considered that the adoption of changes in nominal wage and price indices as indicators could reflect the changes in wages and living expenses, thereby enhancing the work incentives of the grassroots and women.

Views not in support of adoption of indicators or a formula

9. The existing SMW review had been currently conducted in a consultative manner with multi-disciplinary experts deliberating on the

SMW rate and taking into account a more comprehensive array of factors. It had been considerably effective in striking a balance between the setting of wages for low-paid employees and sustaining the business and economic growth. MWC, comprising members from both the labour and business sectors, not only considered the relevant statistical data but also conducted consultations and impact assessments. Hence, MWC reviewed the SMW rate in an impartial manner with the inclusion of relevant stakeholders. MWC took into account the expected changes in economic performance, thus making the recommendations forward-looking. The work of MWC in past reviews were generally recognised by those who put forward their views.

10. Adjusting the SMW rate by adopting indicators or a formula would lack flexibility as reference could only be made to past data, which lacked forward-looking considerations, and failed to respond to socio-economic changes and reflect the actual situation. Haphazard change to the review methodology would affect the stability of business environment and overall competitiveness. Linking the SMW rate to inflation might cause a vicious cycle of wage-price spiral, bringing negative impacts on the economic environment of Hong Kong, business operation and people's livelihood. Places with a higher level of development normally did not adopt indicators or a formula for determining the SMW rate. Moreover, as living standards of different families varied, the adoption of family living standard as an indicator for determining the SMW rate would be very unfair to employers and would deviate from the original intent of setting up SMW.

Views on Future Review of Relevant Indicators or a Formula

11. In view of the ever-changing socio-economic environment, timely reviews should be conducted so as to enhance the relevant indicators or formula in an effort to keep pace with market changes and reflect the daily expenses of the public. This would ensure that the review outcomes could achieve the objectives of SMW. Reviewing the indicators or a formula once in every five years could maintain the stability and continuity of the review mechanism, collect more data for reference and minimise the frequent disputes between employers and employees. In addition, in every five-year term, the Government could give due consideration to the pay level of grassroots employees. Some of the surveys conducted by the Census and Statistics Department were also published or conducted once in every five years.

Other Relevant Views

12. Some viewed that whenever SMW was uprated, businesses often had to increase the wages of other employees in order to maintain pay differentials among ranks. This knock-on effect on pay hierarchies costed more to businesses and translated into pressure for businesses in operation, leading to employees' expectations for higher remuneration levels and increased difficulty for businesses in manpower recruitment. On the other hand, some viewed that an SMW uprating would not cause a ripple effect as quantitative easing and inflation, instead of SMW, were the key factors affecting the operation cost of the business sector.

13. SMW was not a social welfare policy and should not be regarded as a measure to alleviate the poverty problem. As poverty was a complex issue, the Government should aim at resolving the livelihood problem of low-income earners by means of other social welfare policies. On the other hand, some reckoned that SMW should be reviewed to see how it could enhance the retirement protection of the vulnerable groups, and consideration should be given to including work incentives as one of the policy objectives of SMW.

14. Given that an across-the-board SMW rate might result in loss of jobs in individual sectors, the Government should set different SMW rates according to the circumstances of different sectors. Besides, some recommended that meal breaks and rest days of employees should be included in the coverage of the Minimum Wage Ordinance, as meal breaks and rest days could be regarded as the time for grassroots employees to regain their productivity.

15. Social policies had mutual impacts on each other. With the upratings of SMW, some grassroots employees might no longer be eligible for assistance under various social welfare schemes and hence gave up their full-time jobs. Therefore, some recommended that the income limits of various social welfare schemes should be adjusted timely and thorough consideration should be given to various relevant policies so as to ensure that there would be actual improvements in the livelihood of grassroots employees.

Economic, Sustainability, Family, Gender and Financial Implications of the Proposal

Economic implications

The formula recommended by the Minimum Wage Commission (Formula) under the New Mechanism¹ ensures that the annual rate of adjustment in the Statutory Minimum Wage (SMW) will not be lower than the headline Consumer Price Index (A) inflation rate, and that the SMW rate will not be adjusted downwards. This allows employees earning the SMW rate to maintain purchasing power, thereby forestalling excessively low wages. Moreover, when the Hong Kong economy performs well, the economic growth factor in the Formula will enable the increase in the SMW rate to be suitably higher than inflation. It thereby allows grassroots employees to benefit from economic growth and helps promote social harmony.

2. For employers, the implementation of Annual Review will result in more frequent adjustments to the SMW rate than in the past. The administrative costs for enterprises may thus increase. Nevertheless, as an open, objective and transparent mechanism, the New Mechanism will enhance the predictability of the rate of adjustment in SMW, and the resulting increase in the administrative costs for enterprises should be manageable. Moreover, the economic growth factor in the Formula will only come into play in times of good economic performance, and an upper bound of one percentage point is imposed on the factor. This will help businesses adapt to the corresponding increases in salary expenditures, thereby minimising the loss of low-paid jobs.

3. The impacts on the economy, which also include those due to the knock-on effect on pay hierarchies, will hinge on the actual magnitude of the increase in the SMW rate each year. As the increase in the SMW rate under the proposed Formula is set by making reference to the actual economic environment, the impacts should be relatively contained.

Sustainability implications

4. The proposal will allow employees earning the SMW rate to maintain purchasing power, hence improving self-reliance, family solidarity and social cohesion. By improving the protection for vulnerable workers and enabling grassroots employees to benefit from economic growth when Hong Kong's

¹ Adoption of the Formula for the implementation of reviewing the Statutory Minimum Wage rate once a year (Annual Review). Please refer to paragraph 1(a)(i) and (ii) of the Brief for details.

economy is relatively good, it will also be conducive to social sustainability as it helps foster a harmonious society as well as social equality and justice.

Family implications

5. The proposal seeks to protect grassroots employees by preserving or increasing their purchasing power on an annual basis, as well as avoiding pay cut of the lowest paid employees and minimising the loss of low-paid jobs as far as possible in times of deflation. It has a positive impact on strengthening family stability by enhancing families' ability to maintain an adequate standard of living. It may also improve the sense of ability of employees, thereby creating a positive impact on their sense of responsibility towards their families. This will be conducive to family cohesion.

Gender implications

6. With more timely adjustments to the SMW rate, which apply to male and female employees alike, on an annual basis by applying a formula, the SMW rate will better reflect the latest price movement and economic condition, and encourage more people, especially women, to enter or re-enter the labour market.

Financial implications

7. The Government's policy to pay its employees, both civil servants and non-civil servants, no less favourably than the prevailing SMW rate should have minimal financial implications for the Government as an employer regardless of whether the SMW rate is to be reviewed under an annual or biennial cycle. This is because the pay for government employees should generally be above the SMW rate by a reasonable margin.

8. For employees working for contractors of bureaux and departments, they will also be entitled to no less than the prevailing SMW rate. The more frequent adjustments of the SMW rate under the New Mechanism may have financial implications to the Government with regard to its outsourced service contracts particularly those heavily relying on non-skilled workers (e.g. cleansing workers and security guards) who are normally remunerated on an hourly basis. Although currently the hourly wages of non-skilled workers for the government outsourced service contracts are generally above the SMW rate, since the committed hourly wage for non-skilled workers is given due weighting in the Government's assessment of the tenders concerned and the contracts of which are normally awarded on a three-year term, the tenderers will likely respond to the New Mechanism by proposing higher wage costs for non-skilled workers, thereby driving up the tender price and bringing about additional financial implications to the Government.

9. It is difficult to estimate the precise net effect of the New Mechanism on the Comprehensive Social Security Assistance (CSSA) expenditure, which will depend on the economic and labour market situation as well as how the formula-based SMW rate under the annual review framework impacts on employment and the profile of those affected². Nevertheless, making reference to the change in CSSA caseloads after the implementation of SMW³, and assuming that the economic and labour market situation will remain largely stable, we estimate that the New Mechanism will not have any effect on increasing the CSSA expenditure.

² The employment situation will hinge on the overall economic performance of Hong Kong. In case of economic downturn, older workers and young people with less experience as well as workers with lower educational attainment and lower skills are more vulnerable to employment displacement. Some of these displaced workers may fall into the social security net for financial assistance, thereby increasing government expenditure on CSSA Scheme. On the other hand, some low-income workers originally receiving CSSA under the low earnings category may leave the welfare net after their wages have been raised to a higher level following the more frequent adjustments of the SMW rate. Related CSSA expenditure may be reduced as a result.

³ As at December 2023, there were 17 184 unemployment cases and 1 581 low earnings cases out of a total of 200 400 CSSA cases, which represented respective decreases of 41% and 89% over 29 206 unemployment cases and 13 992 low earnings cases out of a total of 282 351 CSSA cases in April 2011 before the first SMW rate took effect.