

## **Minimum Wage Legislation**

### **The position of the British Chamber of Commerce**

#### **1. Introduction**

The Chief Executive, after considerable pressure applied by legislators from across the political spectrum and other groups, has clearly indicated that a minimum wage will be introduced to the legislative council. Precisely when it will be introduced is unclear, but it is not expected to come into force for some time (possibly as late as 2011).

This paper considers the main issues arising from the anticipated introduction of such legislation and sets out the position of the BCC in respect of each of such issues.

The position of the BCC can be summarised as follows:-

- a minimum wage set at an incorrect level will be damaging to Hong Kong and create poverty,
- a minimum wage should be introduced at a low rate with a view to setting a wage floor,
- a minimum wage regime should include all employees but there should be special consideration made for young employees and, possibly, for disabled persons, and
- adjustments to a minimum wage level should not be made more regularly than annually and should be the responsibility of a government appointed independent committee of select people that meets in response to pre-determined economic triggers.

#### **2. Explanation of position on specific issues**

##### **(a) Does the BCC support the introduction of a minimum wage for Hong Kong?**

###### *Background*

There is considerable doubt amongst academics and economists around the world as to whether minimum wage legislation is a good thing. If it is intended to alleviate poverty then it is, at best, a blunt instrument (it does not deal with those persons who are out of work and it cannot distinguish between the different circumstances of workers). At worst it can cause poverty amongst the more vulnerable in society (by increasing the cost to employers to a level that creates unemployment). The key issue is the level at which the minimum wage is set.

However, if implemented carefully it may reduce poverty and, in any case, "social justice" requires such legislation to avoid the exploitation of workers.

Historically there has been some debate concerning the introduction of different minimum wage levels just for certain sectors of the workforce (namely cleaners and security guards).

#### *Position of the BCC*

The BCC understands the need to reduce poverty levels and welcomes any initiative which would achieve such goal. It also recognises the political reality that minimum wage legislation is inevitable. However the BCC notes that numerous studies have emphasised that a minimum wage set at too high a level will damage businesses and create poverty. As such great care must be taken in its introduction.

Any suggestion that different minimum wages should be introduced for different sectors (e.g. cleaners and security guards) is illogical.

#### **(b) At what level should the minimum wage be set?**

##### *Background*

The level at which the minimum wage is set will obviously influence the impact it has on the economy.

Certain proponents for a minimum wage have expressed the view that it should be set at a level which enables a full time worker to provide a "living wage" for him or herself and their family. This would give a high hourly figure. However this approach appears to ignore the fact that there is no "standard" family and often a household has more than one wage earner.

As an alternative, acknowledging the "social justice" argument for the introduction of legislation on minimum wage, it has been suggested that the minimum wage should be set at a "wage floor" level which would be simply aimed at avoiding exploitation and, therefore, would be a low figure.

In comparing minimum wage levels across borders economists typically consider the minimum wage as a percentage of median earnings.

The Trade Unions are currently proposing a minimum wage level of HK\$33 per hour. This would equate to the French minimum wage level (which is roughly 60% percent of median) - not a good precedent to

follow bearing in mind France has some of the most onerous and business unfriendly labour laws in the world. The UK minimum wage is 45% of the median. The US is 30% of median. The world average is, apparently, 40%.

If the monthly median wage for Hong Kong is HK\$11,000 (which is the number suggested by various parties) and assuming 208 working hours in a month, then 30% would be HK\$15.9 per hour whilst 45% would be HK\$23.8 per hour.

Every economy is different. In this respect Hong Kong is a city and has a large and mobile workforce over the border. A rate which may "work" in one country may not work in Hong Kong.

#### *Position of the BCC*

As the impact of the introduction of a minimum wage on Hong Kong cannot be stated with certainty the BCC advocates that it be introduced at a low rate with a view to setting a wage floor. The BCC strongly disagrees with suggestions by certain parties of hourly rates in excess of HK\$30. It considers that introducing an untested policy at such high levels would be irresponsible.

The BCC would welcome the consideration of different minimum wage levels for different age groups (e.g. under 18, 19 to 21 and over 21) as in the UK.

The BCC considers that as a starting point the minimum wage should be set at HK\$20 per hour (which would be 38% of median wage).

#### **(c) How should the minimum wage be adjusted?**

##### *Background*

The BCC recognises that the issue of minimum wage is a hugely political subject. It is in practice very difficult for any elected legislator to argue against the introduction of a minimum wage or the increase of a minimum wage. Any adjustment mechanism must recognise this reality. Generally the limit of an elected legislature's involment in adjusting a minimum wage level would be the ability to block any proposed adjustment to a current minimum wage level.

There are two thoughts concerning the manner of adjustment of minimum wage levels.

One is a purely formulaic calculation. This would not involve any human input. As such it could set a lower figure just as easily as a higher figure.

The second manner of adjustment is a committee of wise men and women who meet (perhaps only when a meeting is "triggered" by certain empirical events, eg. a certain level of increase in RPI) to adjust the level by reference to very specific criteria.

One concern expressed about the purely formulaic approach is the ability to identify a formula which will work in all circumstances.

The current position in Hong Kong is that a Provisional Minimum Wage Commission has been established. This Commission includes 12 persons; 3 from employer groups, 3 from employee groups, 3 from academia and 3 from the administration. The primary role of the Commission is to advise the Hong Kong Administration on both the initial level of minimum wage and the review mechanism.

#### *Position of the BCC*

The BCC is keen to ensure that the minimum wage level does not become a political bargaining chip. This would be very damaging for Hong Kong. However the BCC is also concerned that a purely formulaic mechanism cannot be drawn up with absolute certainty (and, in any case, doubts whether a negative adjustment would ever be politically acceptable). As such the BCC would advocate an ultimate review mechanism comprising a committee which meets no more frequently than annually, and in any case, only meets when certain economic "triggers" have occurred. The terms of reference for such committee should clearly include the ability to recommend a reduction in the minimum wage if considered appropriate.

#### **(d) Who should be excluded from the minimum wage?**

##### *Background*

Concern has been raised that the introduction of a minimum wage may have a disproportionately adverse impact upon young workers and/or disabled workers. This has been found to be the case in places where the minimum wage has been set at a higher level.

However, it has also been suggested that if the level of the minimum wage is set at a "wage floor" level then it should not have a materially adverse impact on the disadvantaged or young.

Strangely there have also been suggestions in Hong Kong to exclude domestic workers from the minimum wage legislation (apparently on the basis that they already have a monthly minimum wage).

*Position of the BCC*

It would be a relatively simple process to introduce a lower minimum wage level for young persons (i.e. under 21). This can be justified on the grounds that most young persons do not have the same expense obligations as older workers.

However, the BCC is concerned about excluding disabled persons from this safety net (even if such exclusion was to be by means of a voluntary assessment of the disabled person). In particular the BCC is concerned about treating the most vulnerable persons in Hong Kong's society as second class citizens.

Provided the minimum wage is set at a "wage floor" level (see (b) above) it should be capable of being applied to all persons in Hong Kong without exception.

**(e) When should the legislation come into force?**

*Background*

Realistically the legislation is unlikely to come into force before mid-2010, and probably later.

There have been suggestions that the entire process should be put on hold due to the current economic turmoil.

*Position of the BCC*

The BCC considers that if minimum wage legislation is to be introduced then when it is brought in is far less important than how it is brought in. As such, to the extent that the financial turmoil assists in focusing the administration's attention on the need to safeguard Hong Kong's economy the BCC does not have a problem with the continued progression of the minimum wage process.