

Issues Related to the Implementation of the National Minimum Wages

SERC accepts the fact that the Minimum Wage Order 2012 (MWO) has been gazetted and implemented on 1 January 2013. SERC has previously appealed to the government to reconsider the implementation of the MWO as the employers' cost of doing business will escalate to an unbearable level, particularly for the SMEs. SERC is concerned that the implementation of MWO will adversely affect more than 600,000 enterprises, the majority of which are SMEs.

SERC would like to once again highlight some serious concerns and would be grateful if the National Wages Consultative Council (NWCC) would consider the proposals discussed below:

1.0 Foreign Workers ("FW")

1.1 SERC is in full support of the government's aspiration to transform the country to a high income developed economy by 2020. This requires the economy to move away from labour-intensive industries into those that utilize high value-added technology. On its part, SERC is encouraging the industry, wherever possible, to reduce their dependency on FWs through mechanization or automation. However, SERC strongly believes that this cannot be done overnight by merely passing the MWO without linking wages to productivity.

1.2 SERC understands that:

- (a) There are approximately 4 million FWs in Malaysia;
- (b) The current unemployment rate is 3.1%, equivalent to approximately 400,000 in the labour force of 12.8 million;
- (c) One of the main objectives of the National Minimum Wages ("NMW") exercise, we believe, is to shift employers' dependency on FW to local workers ("LW"); and
- (d) FWs and LWs enjoy the same benefits in wages in accordance with the International Labour Organization (ILO).

1.3 SERC understands that long-term reliance on FWs is not sustainable but this dependency is unavoidable under current circumstances:

- (a) The industry has taken exceptional measures to employ LWs. In fact, the industry prefers LWs as it is very tedious and more expensive to employ FWs than LWs. FWs have to undergo a tedious and expensive training process from scratch. The effort and expenses involved in providing training to hone skills will be wasted when the contracts of FWs expire after 3 years, and they are sent back to their country of origin at the expense of employers. Despite serious efforts to recruit LWs, the industry is still short of workers, and the dependence on FWs is therefore due to circumstances rather than by choice.
- (b) It is extremely difficult to employ LWs simply because there is a real shortage of such workers. Malaysia is currently at full employment with an unemployment rate of only 3.1%. Even if all the 400,000 were employed, the number would fall short of the 4 million required by the industry. The private sector would still face a shortage of 3.6 million workers. It would be IMPOSSIBLE to completely replace the 4 million FWs. This huge shortage will cripple practically all the industries in the country, resulting in severe economic and social hardship.
- (c) It is a misconception that employers prefer FWs to LWs because of lower wages. It is pertinent to note that any comparison between a FW and a LW must take into account the TOTAL COST, rather than just the wages, of employing a worker.
- (d) The additional costs of employing a FW as compiled by the Malaysian Plastics Manufacturers' Association (MPMA), over and above the wages paid to him, are as follows:

Table 1

No	Expenses Detail	Rate (RM)	
		Yearly	Monthly
1.	Levy	1,250	104
2.	Hostel and utilities	1,200 - 1,800	100 - 150
3.	Return airfare (after 3 years)	$1,500 \div 3 = 500$	42
4.	Processing, PLKS and visa	130	11
5.	Fomema medical check-up	180	15
6.	Foreign Workers Compensation Insurance Scheme	100	8
7.	Insurance Guarantee - bank charges	150	13
	Total	3,510 - 4,110	293 - 343

Source: MPMA

The total cost of a FW is therefore:

	RM
Additional average cost per Table 1	293 - 343
Average monthly basic wages	550 - 650
	<hr/>
	843 - 993

In contrast, the current basic wages paid to a LW is, depending on geographic location, between RM700 - RM800.

On the basis of the above, the **TOTAL COST** of employing of a FW is higher than hiring a LW. It is therefore not true that FWs are preferred to LWs due to lower wages.

- (e) Facilities and benefits provided to FWs as set out in Table 1 above are **NOT** extended to LWs.

The MWO requires that all workers, including FWs, be given a minimum wage of RM900 per month (Peninsular Malaysia).

This will in fact **discriminate AGAINST** our own LWs as follows:

	Table 2	
	FW RM	LW RM
(i) <u>Before MWO</u>		
Wages	550 - 650	700 - 800
Table 1	293 - 343	-
TOTAL	843 - 993	700 - 800
(ii) <u>After MWO</u>		
Wages	900	900
Table 1	293 - 343	-
TOTAL	1,193 - 1,243	900

Based on the above, it is clear that a FW will enjoy additional benefits such as hostel accommodation, transport (airfare), medical insurance and

hospital care, etc. that are not accorded to a LW.

The MWO, therefore, **discriminates AGAINST LWs**.

- (f) Based on (b) and (c) above, it is clear that it would be **impossible** to completely replace FWs with LWs.

Besides, the MWO might cause a massive increase in repatriation of funds (this does not take into consideration the current repatriation of funds) as follows:

Table 3

	RM
Average Current FW wages (RM550 - RM650)	600
FW wages after MWO	900
Additional outflow per month per FW	300
Additional outflow per year per FW	3,600
Additional outflow per year based on 4 million FWs	14,400,000,000

- (g) In summary, SERC, without malice, believes that MWO will:

- (i) discriminate against LWs as FWs are provided with benefits that are over and above to LWs; and
- (ii) cause a massive increase in funds outflow of up to RM14.4 billion that will not benefit the local economy and further deteriorate Malaysia's foreign exchange balance.

- (h) The MWO will result in a breach of the contracts signed between employers and their FWs. These contracts have been signed/endorsed/validated by the respective embassies of the FWs.

As a prerequisite for hiring FWs, employers have to sign contracts with these foreign nationals, as specified by the respective foreign embassies. These contracts, normally valid for two to three years, stipulate the basic daily wages (about RM21 - RM25), guaranteed monthly income (between RM800 - RM850), guaranteed overtime working hours, entitlement for free lodging and other benefits.

Employers are required to provide a certain number of overtime working hours to their FWs within a month for the workers to earn the guaranteed monthly income, even during low seasons where there is insufficient work for overtime.

When minimum wage is implemented, it will result in huge cost escalation as the overtime pay is now based on RM34.60 (RM900 ÷ 26) instead of RM21 - RM25.

2.0 Minimum Wages – Computation and Impact

2.1 SERC would like to amplify the industrial sector's concerns on the basis of computing the Minimum Wages ("MW") and the impact of the adoption of the MWO.

2.2 Cash Allowances and Incentives

2.2.1 The manufacturing sector that includes the electronics & electrical, food, wood & wood product and plastics industries is capital intensive. The investments for production lines can cost up to several million ringgit. There is, therefore, a high fixed cost attached to a machine in the form of depreciation amortization and the financing cost of acquiring the machine. Such costs are fixed; this means that the costs are incurred regardless of whether the machine is in operation or left idle. Consequently, it is necessary to operate such machines on a 24/7 basis in order to absorb and amortize the fixed cost over a higher output so as to reduce unit cost.

Given the above situation, there is a need to:

- (a) ensure that there are, at all times, the requisite minimum of workers

in **attendance** to operate the machine; and

- (b) there are workers present on a 24/7 basis, which means that there must be workers present either on a 3 **shift** or 2 **shift** system.

Consequently, the manufacturing sector is **NOT** able to have a fixed wage system as incentives are needed as follows:

- (a) an **attendance** allowance to ensure that a worker turns up for work; and
- (b) a **shift** allowance for a worker to be compensated at a higher rate on a night shift compared to that of a day shift.

The allowances that are typically paid in the manufacturing sector are as follows:

Table 4: Types of Allowance and Incentive

Types	Rate	Per month (based on 26 working days)
Shift	RM2.00 - RM4.00/ day - day shift RM5.00 - RM14.00/ day - night shift	RM80 - RM200
Attendance	RM30 - RM100 per month	RM30 - RM100
Meals	RM2.00/day - RM3.00/day during over-time	RM52 - RM78
Transport	Fixed rate or RM2.00/day or free transport (for local workers)	RM50 - RM100
Total		RM200 - RM300

Source: MPMA

2.2.2 The above are common rates applicable to most manufacturing companies. The rates may vary from company to company, e.g. one company can be paying RM14 per day as night shift allowance but a lower attendance allowance of RM30 per month, another company may pay RM5 per day for night shift allowance but higher attendance allowance of RM100 per month, vice versa. In general, a worker will normally receive between **RM200 to RM300** cash allowances and incentives on top of his basic wage.

2.2.3 SERC understands that **only fixed allowances would be considered for computation of the minimum wages**. However, SERC would like to clarify that

the quantum of **shift allowance** and **attendance allowance cannot be fixed** as a standard rate for every worker.

2.2.4 **Shift allowance** - Shift allowance is paid to encourage workers to work during the night shift. The quantum of night shift allowance entitled for a worker would depend on the number of night shifts he has performed during the particular month. Fixing the quantum of shift allowance would defeat its original purpose as a worker will receive the same amount regardless of the number of shift work he has performed. Invariably, workers will **NOT** work the night shift, thus resulting in machines being left idle during such periods.

2.2.5 **Attendance allowance** - As the manufacturing sector generally operates on a 24/7 basis to justify the high investment in machinery cost, employers have to ensure that there are sufficient workers to operate the machines at all time. To reduce workers'

absenteeism, attendance allowance is given to a worker who achieves a minimum attendance rate within the calendar month. As such, fixing the quantum of attendance allowance without taking into consideration of his actual attendance would again defeat its original purpose of encouraging workers to achieve a certain minimum attendance.

3.0 Impact

SERC is very concerned about the escalating wage cost if employers are not allowed to make any adjustment related to the cash allowances and cost of employing FWs. The adverse economic impact is examined below:

3.1 Cost Impact on Employers

3.1.1 The current Take Home Pay for the employees in the plastics industry, which is representative of the pay of a worker in the manufacturing industry as computed by MPMA, is shown in Table 5:

Table 5: Average Monthly Take Home Pay for the Employees in the Plastics Industry

Types of Income	Local Workers	Foreign Workers
Basic pay	RM700 - RM800) Guaranteed take home pay of) RM800 - RM850, including) compulsory overtime work
Overtime	RM300 - RM400	
Shift allowance	RM65 - RM200	RM65 - RM200
Attendance allowance	RM30 - RM100	RM30 - RM100
"Sunday" allowance	RM50 - RM200	RM42 - RM168
Meal allowance	RM52 - RM78	RM52 - RM78
Bonus	RM600/RM800 per year	N/A
Transport allowance	RM50 - RM100 or free transport	Free transport
Lodging	Free hostel facilities (optional)	Free hostel facilities
Total Take Home Pay	RM1,200 - RM1,500	RM1,000 - RM1,300

Source: MPMA

3.1.2 Based on the above case, an employee in this industry with a starting **Basic Salary of RM700 per month** would, on average, have a **Take Home Pay up to RM1,200 per month (excluding EPF)**. This is **above the poverty line of RM763 per month**.

3.2 Impact on Manufacturing Cost

3.2.1 Labour cost constitutes approximately **5%-20% of the manufacturing cost**, depending on the size and type of production process. Hence, labour cost is a major cost component in manufacturing.

Table 6: Impact of Minimum Wage on Employers

	Local Workers		Foreign Workers	
	Existing wage rate, monthly	Minimum wage in place, monthly	Existing wage rate, monthly	Minimum wage in place, monthly
*Take home pay	RM1,200 - RM1,500	RM1,650 - RM1,800	RM1,000 - RM1,300	RM1,650 - RM1,800
EPF	RM72 - RM96	RM108	N/A	
Bonus	RM50	RM75	N/A	
Lodging (hostel + utilities)	N/A	N/A	RM100 - RM150	RM100 - RM150
Levy	N/A	N/A	RM104	RM104
Insurance cost, medical expenses, processing fees, etc	N/A	N/A	RM100	RM100
Total	RM1,322 - RM1,646	RM1,833 - RM1,983	RM1,304 - RM1,654	RM1,954 - RM2,154

* As computed in Table 5.
Source: MPMA

3.1.3 Raising the Basic Salary (or "Minimum Wage") from the existing wage rate to RM900 per month would result in a substantial increase in labour cost, after factoring in the multiplier effect of cost on Overtime, Incentives, Allowances, Bonuses, EPF, etc. as shown in Table 6 above.

3.1.4 Based on the above calculation, the increase in labour cost for local workers will be about **28% for local workers** $\{(RM1,833 + RM1,983)/2 \div (RM1,322 + RM1,646)/2 \times 100\}$ and **39% for foreign workers** $\{(RM1,954 + RM2,154)/2 \div (RM1,304 + RM1,654)/2 \times 100\}$.

3.2.2 Most manufacturing companies are already operating on a **thin profit margin of below 5% or are already suffering losses**. This is evidenced by the latest financial results of a sample of plastics companies listed on Bursa Malaysia, as summarized below:

3.2.3 An increase in the average Basic Salary of RM550-RM700 per month to RM900 per month will **increase manufacturing cost by 3%-7%, if the incentives and allowances are excluded from minimum wage calculation as computed by MPMA**.

Table 7: Financial Report of 8 Listed Plastic Companies

Company	Quarterly Results, Current Year	Revenue RM'000	Profit / (loss) before tax RM'000	% Profit/ (Loss)
PLC 1	30.11.2011	13,744	852	6.2%
PLC 2	30.06.2011	128,202	8,304	6.5%
PLC 3	30.10.2011	282,438	12,930	4.6%
PLC 4	30.06.2011	10,609	(1,310)	(12.3%)
PLC 5	30.09.2011	16,693	(1,684)	(10.1%)
PLC 6	30.09.2011	10,235	(460)	(4.5%)
PLC 7	30.06.2011	10,070	(28)	(0.3%)
PLC 8	30.06.2011	13,693	(1,153)	(8.4%)

Source: Bursa Malaysia

Table 8: Impact of Minimum Wage on Production Cost in the Plastics Industry

Production Process	Small (Annual Sales < RM10m)			Medium (Annual Sales RM10m-RM25m)			Large (Annual Sales > RM25m)		
	1	2	3	1	2	3	1	2	3
Film	8% - 15%	9.6% - 18%	11.2% - 21%	7% - 15%	8.4% - 18%	9.8% - 21%	5% - 7%	6% - 8.4%	7% - 9.8%
Injection	12% - 18%	14.4% - 21.6%	16.8% - 25.2%	11% - 13%	13.2% - 15.6%	15.4% - 18.2%	8% - 10%	9.6% - 12%	11.2% - 14%
Others	12% - 15%	14.4% - 18%	16.8% - 21%	9% - 13%	10.8% - 15.6%	12.6% - 18.2%	6% - 11%	7.2% - 13.2%	8.4% - 15.4%

1 = Existing labour cost in terms of manufacturing cost

2 = Min wage RM900, allowances are **included** in wage calculation

3 = Min wage RM900, allowances are **excluded** in wage calculation

Source: MPMA

3.2.4 This will effectively wipe out the profits of even most of the profitable listed companies, and will **definitely cause most of the SMEs to fold up or deregister their companies and operate from the informal sector if this cost cannot be passed on back to the consumers.**

3.3 Impact on SMEs – Micro-enterprises

SMEs, which form approximately 97.3% of the 662,939 enterprises in Malaysia, are comparatively worse off as they do not have the economies of scale or financial capability enjoyed by larger companies. The micro-enterprises, which constitute 77% of the SMEs, will be particularly vulnerable to MWO. According to the SMI Association of Malaysia, the profits of SMEs are only **3% to 5%**. Some are currently operating at a loss. A sudden and substantial increase in wages and labour related cost **will wipe off a large portion of the miniscule profits or cause even bigger losses. The vulnerable SMEs may choose to deregister themselves and operate in the informal sector so that they are outside the ambit of MWO.**

4.0 Impact on Employment

4.1 As stated above, most of the manufacturers, particularly the SMEs, are expected to be unable to absorb the sudden and substantial increase in production cost as they are already operating on thin profit margins (or even at a loss), given the current competitive and challenging conditions.

4.2 The inability of most manufacturers, particularly the SMEs, to absorb the sudden and substantial increase in production cost will cripple most companies and will lead to massive layoffs. **It would be an irony that the good intentions of a pay rise might lead to workers losing their jobs eventually.**

5.0 Knock-on-Effect

As reported by Bernama (3 May 2012), the Chairman of the Malaysia-Thai Chamber of Commerce, Mr Yap Swee Chuan, observed that the implementation of minimum wage had resulted in more industrial disputes between employers and employees in Thailand.

He noted that workers from the higher-income bracket had also asked for monthly salary increments of between 1,000 Baht and 2,000 Baht (RM100 and RM200) as enjoyed by their colleagues in the low-income group. The clamour for salary increase also came from the executive level right up to the senior managerial level with a monthly income of 10,000 Baht to 30,000 Baht.

This is to be expected as employees who are currently drawing RM900 per month would be placed at the same pay level of their colleagues who are current drawing, for example, RM600 per month. Their employers will have to increase their wages by at least RM300 to maintain the current disparity in pay effective 1 January 2013. The wages of other group of employees will similarly have to be adjusted to maintain workplace harmony.

Employers will not only have to top up the wages of employees who are drawing already RM900 per month, but they will also have to adjust the salary of other employees who are drawing above RM900 per month.

This additional cost of knock-on effect had been overlooked by the government when the impact of minimum wage was analysed by researchers.

6.0 Impact on Inflation

6.1 Cost is like water – it flows, and eventually will have to find its own level.

As increase in cost will have to be recovered by passing it on to consumers, failing which the corporation will collapse if total cost exceeds revenue.

6.2 Passing this increase in cost to consumers will not only have an **inflationary effect on the general public**, but it will also **negate the benefits** of wage earners having an increase in wages.

6.3 **Pensioners, self-employed individuals such as hawkers, retirees, and those operating in the informal sector**, who are not entitled to a minimum wage adjustment, will **face tremendous hardship**, when the cost of living increases.

7.0 Adverse Impact on Exports

7.1 Recognising that the domestic market is limited given the relatively small population of the country, most manufacturing industry has been focusing on the international market.

Currently, wood & wood products, food, electronics & electrical products and plastics products are very dependent on foreign markets, especially in major developed countries. For example, more than 95% of gloves manufactured locally are exported. The export market, whilst huge, is highly competitive with countries such as China and Vietnam increasing their dominance.

7.2 An increase in cost arising from the imposition of a sudden and substantial increase in Minimum Wage will result in Malaysian-made products being rendered uncompetitive.

7.3 It must be noted that while some of the cost increase may be passed to local consumers by virtue of the fact that they have received increased wages, an **export customer will NOT be sympathetic towards such reasons for higher priced products.**

7.4 Expenses such as Salary/Wages are defined as "Fixed Cost" i.e. such costs are incurred even if a company is unable to sell its products.

7.5 When a company cannot export all its output, the Fixed Cost of un-exported products that would have been allocated to the export items must now be re-apportioned back to the items for local sale. This will cause a **big jump in prices to local consumers, far more than they can afford from the wage increase.**

7.6 The above will result in:

- (a) **export sales being adversely affected;** and/or
- (b) **local consumers having to bear the additional re-apportioned cost (failing which the company will collapse).**

8.0 Negative Supply Chain Effects

8.1 Using the information supplied by MPMA in the supply chain effect which is typical of intermediate goods manufacturers, the plastics industry is a **major supporting industry** to many other important sectors including the electrical and electronics, automotive, and food packaging industries through the supply of plastic parts and components, and plastic packaging materials as illustrated below:

Table 9: Market Segments for Plastic Products in Malaysia

Market Sub-sector	Percentage of Market Share	Main Applications
Packaging	42%	Food wrappings, carrier bags, bags for chemical and fertilizer industriès, bottles/containers for food/beverages, chemicals, etc.
Electrical and electronics	25%	Casings and parts for televisions, air-conditioners and other electrical appliances.
Automotive	10%	Parts and components mainly used to reduce the car weight.
Household, furniture and toys	10%	Household wares, furniture parts and furniture, toy parts and toys.
Construction	7%	Water and sewerage pipes.
Agriculture and others	6%	Planting bags, shading films and erosion protection films/sheets.

Source: MPMA

8.2 As stated above, most manufacturers are already operating on a thin profit margin or suffering losses due to an increase in the prices of raw materials, transportation cost, etc. Further increases in cost due to an increase in wages will inevitably result in closures of manufacturing companies that are unable to absorb this cost.

8.3 Failures within the wood & wood product industry, food industry and plastics industry will lead to a **supply chain breakdown** to many other important sectors, including the **electrical and electronics, automotive and food packaging industries**. Multi-national companies which require an efficient supply chain will not choose to invest in Malaysia if the supply chain is disrupted or is inefficient.

9.0 Differential Income/Expense Distribution

9.1 Different areas within Peninsular Malaysia or in Sabah/Sarawak have varying costs of living. The "one size fits all" rate in Peninsular Malaysia fails to take into account that the cost of living in Perlis, Kedah, Kelantan or

Terengganu is different from that of the Klang Valley, Penang and Johor. 2009 household income statistics as published by the Department of Statistics of Malaysia show that **Sabah (considered a low income state) has a higher household income than Perlis, Kedah, Kelantan and Terengganu** (Table 10).

9.2 Sabah has an average household income of RM883 per months as opposed to Perlis at RM752; Kelantan at RM641, Kedah at RM762 and Terengganu at RM783 per month.

9.3 The 2010 average monthly salary and wages (inclusive of commission, overtime, bonus and other cash allowances) of SMEs by state is shown in Table 10. **Kelantan's monthly average was at RM531; Perlis at RM736; Terengganu at RM757 and Kedah at RM881 compared to Sabah at RM880.**

9.4 The sudden jump in cost due to MWO in Perlis, Kedah, Kelantan and Terengganu will cause companies in these states to incur huge losses and they may fail.

Table 10: Distribution of SMEs by States, Salary & Wages Paid (2010) and Household Income (2009)

State	Number of Establishments	Number of Persons Engaged	Salary & Wages Paid (RM million)	Salary & Wages Paid (RM/Month)	Household Income (RM/Month)
Total	645,136	3,669,259	54,675	1,242	1,168
Johor	68,874	440,806	6,666	1,260	1,100
Kedah	37,092	172,728	1,826	881	762
Kelantan	37,823	122,635	781	531	641
Melaka	21,675	114,110	1,546	1,129	1,169
Negeri Sembilan	24,542	125,968	1,580	1,045	1,020
Pahang	29,462	137,093	1,475	896	960
Perak	60,028	286,345	3,421	996	836
Perlis	5,053	21,409	189	736	752
Pulau Pinang	40,824	230,904	3,603	1,300	1,322
Sabah	40,884	241,877	2,554	880	833
Sarawak	43,830	239,452	2,953	1,028	974
Selangor	125,904	868,864	15,726	1,508	1,714
Terengganu	22,514	92,736	843	757	783
W. P. Kuala Lumpur	84,261	559,662	11,246	1,674	1,933
W. P. Labuan	1,952	11,500	220	1,594	1,297
W. P. Putrajaya	418	3,170	46	1,220	2,161

Source: DOS, Malaysia

10.0 Disharmony in the Workplace

The NWCC requests employers to negotiate with employees on the composition of basic wage and fixed allowances in the presence of a government representatives. However, this would be a huge challenge, if not an impossible task. The negotiation process would be heated as employees would not want fixed allowances to be considered as part of minimum wage in conflict with employers. Employees would insist that the basic minimum wage should be RM900 and that fixed allowances should not be part of minimum wage. The non-convergence of understanding between employers and employees on minimum wage would **create conflict and disharmony in the workplace and result in lower productivity**. This is **not a positive effect of MWO**.

11.0 Pro-Employee Government

The government has introduced many human resource legislatures that are worker-friendly. They are introduced at the expense of employers in the private sector. These include the minimum wage, the mandatory retirement age, medical insurance for foreign workers and foreign workers' levy. These measures have increased and will further push up the cost of business operations. **To encourage**

an open, free and competitive economy, the government should leave it to market forces to determine price levels, including wages in the private sector.

12.0 Petitions from 4,500 Enterprises

SERC is appreciative of the NWCC initiative to meet with representatives from Kedah and Terengganu on 10 November 2012 in the office of the Ministry of Human Resources, following the handing over of 4,500 petitions to postpone the implementation of MWO. The representatives were instructed to provide **3 years** of continuous deficit accounts within **3 days** so that their appeals would be considered.

This action by NWCC does not make sense as any company with three years of continuous loss would have to close shop. The NWCC should instead request these companies to show how they would be operating at a loss if they have to comply with MWO.

In addition, due to the presence of different types of employees within a company, the negotiation process will be very complex and time-consuming.

All parties have to come to a consensus regarding the types of allowance that will be offered under minimum wage. This negotiation process will have to be repeated individually or in group. It appears that the government is not very sympathetic towards employers as it does not offer much assistance in the negotiation process between employers and employees.

Nevertheless, six hundred of the 4,500 enterprises above were given deferment from MWO at the end of 2012.

Due to the time-consuming process in negotiation, a grace period of at least 6 months should be considered for these companies to comply with MWO.

13.0 Recommendations

SERC urges the government to consider the following recommendations seriously so as to mitigate the negative impact on employers with the coming into effect of MWO on 1 January 2013:

- 13.1 Foreign workers to pay for expenses incurred.

As FWs benefit the most from the implementation of Minimum Wage, and employers, particularly SMEs, will be adversely affected, it is only fair that FWs themselves pay for the levy of RM1,250 per year. This will defray the cost of employers by as much as RM5 billion per year. FWs should also pay for other expenses incurred by employers such as lodging, medical expenses and airfare. It is within the power and authority of the Ministry of Human Resources to now revert the policy to have these expenses borne by FWs. This is fair and equitable as the FWs are now going to be paid sufficiently high wages to bear such costs and to be treated on equal terms with LWs. Further, this will prevent an additional outflow of RM14.4 billion in foreign exchange. (Update: the Cabinet has agreed to the proposal that the payment of levy shall be reverted to foreign workers effective January 2013).

- 13.2 The contracts between FWs, employers and the respective embassies should be respected.

To fulfil the contractual obligations that employers signed with the foreign embassies, the ACCCIM would like the

implementation of MWO to defer for companies with such contracts until the expiry dates of such contracts within two to three years. However, FWs contracts that are signed on or after 1 January 2013 will be consistent with MWO. This will ensure rule of law is paramount in Malaysia.

- 13.3 The primary concern of the Government is that workers should be paid a package that is above the poverty line of RM763 per month.

Consequently, the thrust of the matter is the amount of cash a worker would take home at the end of each month.

The "take home pay" criterion should be the main focus, rather than just the basic pay or a fixed minimum wage per month.

In this regard, the computation of the NMW must include all forms of incentives/allowances currently paid to a worker, whether FW or LW.

As there is currently confusion about what is considered to be fixed allowance, the proposal below should clear this ambiguity among employers.

SERC recommends the following be approved:

- (a) Shift Allowance and Attendance Allowance be allowed to be computed as part of minimum wage, and that this will continue to be based on the workers showing up for work (attendance allowance) and working shifts (shift allowance) and that these two allowances shall NOT be fixed for reasons as set out above.
- (b) Transport Allowance and Housing Allowances be part of the computation of MW as these are a form of income source to the worker.
- (c) Meal Allowance, currently not fixed and which is paid similarly as Attendance/Shift Allowance upon the worker turning up for work, is included in the computation of MW.
- (d) As some companies in sales and transport implement a productivity-linked wage by paying a low basic wage but a high commission based on performance, such commission paid should be considered as fixed allowance.

- 13.4 Micro-enterprises will be severely stressed by MWO.

SERC's study on the impact of minimum wage on the small and medium enterprises (SMEs) shows that micro-enterprises which are low-skilled, low-technology and labour intensive, would go bankrupt if they had to pay minimum wage to their workers. There are close to 500,000 micro-enterprises or 77% of SMEs employing 36.5% of total employment in SMEs. These enterprises would not be able to upgrade their productivity to reduce cost as they are dependent on low-skilled workers. Reducing the number of employees is also not a solution as workers such as packers, cleaners or floor workers are more or less necessary. Given the serious financial difficulty that these enterprises will face, particularly non-professional micro-enterprises,

SERC urges the Government to defer the implementation of minimum wage for non-professional micro-enterprises by at least 12 months until a solution is found to mitigate their difficulty.

- 13.5 SMEs need financial assistance to mitigate the impact of minimum wage, to cushion the adverse effects in order to sustain their businesses.

To assist the micro enterprises in particular and SMEs in general to mitigate the cost of doing business when minimum wage is implemented, SERC urges the Government to review the corporate tax rate of SMEs as follows:

- **18% for SMEs with a chargeable income of less than RM1,000,000 a year;**

- 13.6 There should not be a uniform minimum wage in Peninsular Malaysia.

The study by SERC also shows that the average monthly wage rate and household income as compiled by the Department of Statistics, Malaysia, is not uniform for states in Peninsular Malaysia. **Sabah has an average household income of RM833 in 2009. This is higher than Kelantan at RM641, Perlis at RM752, Kedah at RM762 and Terengganu at RM783.** In terms of average month salary

and wages, only Kelantan, Perlis and Terengganu are lower than Sabah, with Kedah and Pahang at a comparable level of RM880. Based on these findings, **Kelantan, Perlis, Terengganu and Kedah should have a minimum of RM800, similar to Sabah.**

- 13.7 The Government should implement productivity-linked wage system (PLWS) instead of reviewing the quantum of minimum wage.

An enterprise can only be profitable if wages are productivity-linked. The Government should undertake a study on productivity-linked wages in the private sector. An agency that is appropriate for the task is Malaysian Productivity Corporation (MPC).

There should not be any revision of the minimum wage once productivity-linked wage is implemented in the private sector after 2013 as wages will adjust according to productivity.

- 13.8 Confusion about implementing MWO for part-time and piece-meal workers, freelancers and volunteers.

Data from the Department of Statistics of Malaysia show that there are more than 500,000 part-time workers in the labour force in 2010. Employers will find difficulty in paying part-time workers or contracting out work on a piece meal basis as minimum wage is based on a monthly basis. Employers will have to top up if their part-time workers or contracted out work is paid below RM900 per month. Employers will also be reluctant to employ workers who want work experience or exposure without the benefit of full salary. These workers will be happy to receive a lower salary or allowance of much less than RM900. Employees who do freelancing work may have difficulty in getting work as each employee is expected to be paid RM900 per month from each employer.

SERC urges the Government to exempt part-time workers, unit-based workers, workers who acquire exposure and freelancers from monthly minimum wage but instead they should be paid based on hourly minimum wage.

14.0 Conclusion

Whilst the rationale of the NMW is noble, however, we sincerely believe that the current structure and implementation process of the NMW will cause severe hardship to many companies in Malaysia.

SERC believes that the adverse impact would eventually cause hardship to the workers due to a rise in inflation, and the real risk of losing their jobs as companies fold up.

In this regard, SERC hopes your Ministry would consider our appeals and recommendations favourably.