

## NEW MINIMUM WAGES LAW...

In Malaysia, the National Minimum Wages<sup>1</sup> initiative was first introduced and announced by the Malaysian Prime Minister, Dato' Seri Najib Tun Razak in his budget speech on 15 October 2010.

In this article we examine the development of the minimum wages law in Malaysia.

**BACKGROUND** The National Minimum Wages policy ("the Policy") is one of the Government's initiatives *vide* the New Economic Model which seeks to rectify the wage-setting mechanism for low-income workers. The Policy raised the basic wages of all employees to a minimum of MYR900 in Peninsular Malaysia and MYR800 in East Malaysia (comprising the States of Sabah, Sarawak and the Federal Territory of Labuan), and was extended to foreign workers, beginning 1 January 2014.

The Minimum Wages Order 2012 ("the previous Order") commenced on 1 January 2013 for employers with more than five employees, and 1 July 2013 for employers with five or fewer employees. At the same time, guidelines were issued by the National Wages Consultative Council in September 2012 to facilitate the enforcement of the previous Order.

**RECENT DEVELOPMENTS** In October 2015, the Malaysian Prime Minister (who is also the Finance Minister), in his Budget 2016 ("the Budget") speech, revised and announced a higher rate of minimum wages for employees in Peninsular Malaysia and East Malaysia. The changes are aimed at increasing the participation of local workers, thus reducing the dependence on foreign labour in Malaysia.

Following the passage of the Budget in November 2015, the Minimum Wages Order 2016 ("the current Order") was promulgated and will come into operation on 1 July 2016. Under the current Order, the monthly minimum wages rate payable to an employee in Peninsular Malaysia have been increased from MYR900 to MYR1000, while the monthly rate of minimum wages enjoyed by employees in East Malaysia is now MYR920, from the previous MYR800. Once the current Order takes effect, the previous Order and its guidelines will be repealed.

**APPLICATION** The application of the current Order is extended to employees who are paid on the basis of piece rate, tonnage, task, trip, or commission. The minimum rate of monthly wages for such employees is now fixed at a minimum amount of MYR1000 for those in Peninsular Malaysia, and MYR920 for employees in East Malaysia. However, it shall be noted that the current Order does not apply to a 'domestic servant'<sup>2</sup> as defined in section 2 of the Employment Act 1955, section 2 of the Sabah Labour Ordinance, and section 2 of the Sarawak Labour Ordinance.

**CONCERNS** The increase in minimum wages has caused divergent views amongst market players. The Malaysian Employers Federation (MEF), citing grounds like economic slowdown, increased operation costs, and high retrenchment rate, has urged the Government of Malaysia to postpone the implementation of the current Order. The Malaysian Trades Union Congress (MTUC), on the other hand, refutes such claims, stating that the enforcement of the current Order will not

<sup>1</sup> Minimum wages are basic wages excluding allowances and other payments.

<sup>2</sup> A 'domestic servant' refers to a person employed in connection with the work of a private dwelling-house and not in connection with any trade, business, or profession carried on by the employer in such dwelling-house and includes a cook, house-servant, butler, child's nurse, valet, footman, gardener, washerman, washerwoman, watchman, groom and driver or cleaner of any vehicle licensed for private use.

contribute to retrenchment and closure of businesses. In fact, they argue that the increment would help employees cope with the cost of living and also serve as an incentive for employees to be more productive.

*"The government has reviewed all recommendations submitted by the National Wages Consultative Council (NWCC), and has taken a balanced approach and considered the interests of both employers and employees (before issuing the order)" - Human Resources Minister Datuk Seri Richard Riot.*

**CONCLUSION** Despite disagreements over the introduction of a higher rate of minimum wages, optimists say that the current Order will boost the income of Malaysians and improve the economy of the nation.