

Ref.: G2007- 027

23 March 2007

The Honourable Kwong Chi-kin
Chairman
Bills Committee on Employment (Amendment) Bill 2006
Legislative Council
8 Jackson Road, Central

Dear Mr Kwong,

Employment (Amendment) Bill 2006 ("the Bill")

We are writing following the recent Bills Committee hearing in relation to the above Bill.

During such meeting a number of fundamental structural issues were raised concerning the manner of calculation of an employee's entitlement whilst on the various different types of statutory leave. The Committee will no doubt appreciate that it is of critical importance to employers and HR managers that they can identify the precise manner of calculation of remuneration which they are required by statute to provide for their employees.

The Administration's response to the various points raised by the delegates was that the intention behind the Bill was to set out "outline principles". This is entirely unsatisfactory.

There is no provision in the Bill itself for any subsidiary legislation to be produced in order to set out specifics of the manner in which the relevant benefits should be calculated. As such the only recourse for employers would be to wait until they get sued by an employee and let the courts decide the detail of such calculation. With respect, the only persons who would benefit from the drafting in its current form are those in the legal profession.

We strongly urge the Committee not to pass this Bill in its current form. Instead the Bill should be amended in order to include detailed (and logical) provisions as to how the relevant statutory benefits should be calculated.

Finally on this point a recent survey carried out by the Federation indicates that 2/3rds of employees receive fixed remuneration. The introduction of the 12 month averaging mechanism for these employees is unnecessary, costly and will reduce the entitlements for the majority of employees. It would be very damaging for Hong Kong.

Yours sincerely,



Louis Pong
CEO

c.c. Mr Brian Renwick
Dr Kim Mak