

**Bills Committee on Minimum Wage Bill**

**Draft Committee Stage Amendments**

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Group 1

- The hours worked by an employee include any time during which the employee is travelling between his or her place of residence and his or her place of employment that is not his or her usual place of employment

Clause

Amendments Proposed

3

By deleting the clause and substituting –

**“3. Hours worked**

The hours worked by an employee in a wage period include any time during which the employee is, in accordance with the contract of employment or with the agreement or at the direction of the employer –

- (a) in attendance at a place of employment, irrespective of whether he or she is provided with work or training at that time; and
- (b) travelling in connection with his or her employment –
  - (i) including travelling (in either direction) between his or her place of residence and his or her place of employment that is not his or her usual place of employment; and
  - (ii) excluding travelling (in either direction) between his or her place of residence and his or her usual place of employment.”.

Group 2

- Holiday premium and overtime premium shall not be counted as part of the wages payable

Clause

Amendments Proposed

5

By adding –

“(2A) A premium pay made to an employee in any wage period for the employee worked on a holiday or a rest day, or for an overtime hour (or any part of an overtime hour) worked by the employee must not be counted as part of the wages payable in respect of that or any other wage period.”.

Group 3

- Members who have knowledge of, or experience in, a “relevant academic field” be amended to a “relevant field”

Clause

Amendments Proposed

10(2)

In paragraph (b), by deleting everything after “public officers” and substituting –

“of whom –

- (i) not more than 3 must be persons who, in the opinion of the Chief Executive, have knowledge of, or experience in, matters relating to the labour sector;
- (ii) not more than 3 must be persons who, in the opinion of the Chief Executive, have knowledge of, or experience in, matters relating to the business sector; or
- (iii) not more than 3 must be persons who, in the opinion of the Chief Executive, have knowledge of, or experience in, a relevant field; and”.

Group 4

- Members who are public officers have no voting rights

Clause

Amendments Proposed

10(2)

In paragraph (c), by adding “non-voting” after “other”.

Group 5

- The Chief Executive shall have regard to any nomination made by labour organizations

ClauseAmendments Proposed

10 By adding –  
 “(3A) When appointing a member referred to in subsection (2)(b)(i), the Chief Executive shall have regard to any nomination made for the purposes of such appointment by any one or more of the labour organizations specified in Schedule 3A.”.

16 (a) In the heading, by adding “, 3A” after “2”.  
 (b) In subclause (1), by deleting “or 2” and substituting “, 2 or 3A”.

New By adding –  
 “SCHEDULE 3A [ss. 10 & 16]

## SPECIFIED LABOUR ORGANIZATIONS

1. Hong Kong Confederation of Trade Unions
2. The Federation of Hong Kong and Kowloon Labour Unions
3. The Hong Kong Federation of Trade Unions”.

Group 6

- The Commission shall make a report every year

ClauseAmendments Proposed

11 By deleting subclause (1) and substituting –  
 “(1) The main function of the Commission is to report to the Chief Executive in Council once in every year its recommendation about the amount of the prescribed minimum hourly wage rate.”.

11(4) In the English text, by deleting “recommendations” and substituting “recommendation”.

Group 7

- Factors the Commission shall take into consideration when determining minimum wage rate

Clause

Amendments Proposed

- 11 By deleting subclause (3) and substituting –
- “(3) In performing its functions under subsection (1), the Commission must have regard to –
- (a) the needs of employees and their families, taking into account the general level of wages, the cost of living, social security benefits, and the relative living standards of other social groups; and
  - (b) economic factors, including the requirements of economic development, levels of productivity and the desirability of attaining and maintaining a high level of employment.”.

Group 8

- The Chief Executive shall cause to be laid on the table of the Legislative Council a copy of the report made by the Commission

Clause

Amendments Proposed

- 13 By deleting the clause and substituting –
- “13. Report of Commission**
- The Chief Executive shall, as soon as practicable after receipt of the report made under section 11(1) by the Commission, cause to be laid on the table of the Legislative Council a copy of the report.”.

Group 9

- The Legislative Council may amend the notice made under section 15(1)

ClauseAmendments Proposed

15 By deleting subclause (4).

Group 10

- Consequential amendments to the Trade Boards Ordinance

ClauseAmendments Proposed

Long title (a) By deleting “; to repeal the Trade Boards Ordinance”.  
 (b) By adding “, the Trade Boards Ordinance” after “Employment Ordinance”.

2 In the definition of “employee”, by adding “, (2A)” after “6(2)”.

6 By adding –  
 “(2A) This Ordinance does not apply to a person to whom a Government notification made by the Chief Executive in Council under section 2(1) of the Trade Boards Ordinance (Cap. 63) applies.”.

PART 5 In the heading, by deleting “REPEAL AND”.

18 By deleting the cross-heading immediately before the clause and the clause.

New By adding immediately after clause 21 –  
**“Trade Boards Ordinance**

**21A. Trade Boards and minimum wages**

Section 2 of the Trade Boards Ordinance (Cap.63) is amended by adding –

“(1A) The general minimum time-rate fixed under subsection (1) must be not less than the current hourly wage rate specified in column 1 of

Schedule 3 to the Minimum Wage Ordinance ( of 2010).

(1B) If the general minimum time-rate fixed under subsection (1) (“the former”) is less than the current hourly wage rate specified in column 1 of Schedule 3 to the Minimum Wage Ordinance ( of 2010) (“the latter”), the amount of the former must be taken as equal to the amount of the latter.”.”.

Group 11

- Employer shall inform his employee of the hours worked and particulars of wages in the wage period concerned

Clause

Amendments Proposed

New

By adding immediately before clause 20 –

**“19A. Information to employees**

Section 45 of the Employment Ordinance (Cap. 45) is amended by adding –

“(1A) If an employer is required under section 49A to set out in the wage and employment record particulars of a kind referred to in section 49A(3)(ea) in respect of an employee, the employer shall, upon receipt of a written request from the employee, inform the employee of –

- (a) the total number of hours worked by the employee referred to in section 49A(3)(ea) for the wage period concerned;
- (b) the wages paid to the employee for the hours worked referred to in paragraph (a) for the wage period concerned; and
- (c) the wages other than those referred to in paragraph (b) (if any) paid to the

employee for the wage period concerned.

(1B) For the purposes of subsection (1A)(b), “wages” (工資) has the same meaning as in the Minimum Wage Ordinance ( of 2010).”.”.

20(1) By deleting “of the Employment Ordinance (Cap. 57)”.

Group 12

- An employer dismissing a PWD on account of the outcome of the productivity assessment is not exempted from the Disability Discrimination Ordinance

Clause

Amendments Proposed

23 By deleting the clause and substituting –

**“23. Further exceptions to this Ordinance**

(1) Schedule 5 to the Disability Discrimination Ordinance (Cap. 487) is amended by renumbering item 1 as item 3.

(2) Schedule 5 is amended by adding –

“1. Part III Only a person who holds a valid Registration Card for People with Disabilities issued by the Central Registry for Rehabilitation established by the Government being allowed to have his or her degree of productivity assessed under Schedule 2 to the Minimum Wage Ordinance ( of 2010).

2. Part III An employer, in accordance with the Minimum Wage Ordinance ( of 2010), paying a minimum wage to a person with a disability

that is less than that payable to a person without such a disability.”.”.

Group 13

- The certificate of assessment not to be signed by the employer

Clause

Amendments Proposed

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| Schedule 2,<br>section 5 | <p>(a) In subsection (1), in the Chinese text, by adding “有關” after “執行”.</p> <p>(b) In subsection (2)(c), by deleting “by the PWD and the employer as well as”.</p> <p>(c) By adding –<br/>    “(2A) The assessment of the degree of productivity of the PWD is completed for the purposes of this Ordinance when the certificate is signed by the approved assessor.<br/>    (2B) The PWD must countersign the certificate provided to him or her under subsection (1). On and from the first day after his or her doing so the certificate has effect for the purposes of section 8(1)(b).”.</p> <p>(d) In subsection (3) –<br/>    (i) by deleting “or the employer”;<br/>    (ii) by deleting “their” and substituting “his or her”.</p> |
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