



3 June, 2010

Hon TAM Yiu-chung, GBS, JP
Chairman
Bills Committee on Minimum Wage Bill
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Dear Mr. Tam,

Section 5(4) and Practices in the Retail Trade

Knowing that the Bills Committee on Minimum Wage Bill is conducting clause-by-clause examinations of the Bill in the recent meetings, on behalf of the Hong Kong Retail Management Association, I would like to draw your attention to the trade's concern about Section 5(4) of the Minimum Wage Bill.

Section 5(4) of the Minimum Wage Bill, as currently drafted, will cause issues to the retail trade if it is approved in its present form. Section 5(4) stipulates that:

“A payment of arrears of wages in respect of an earlier wage period made to an employee in any wage period must not be counted as part of the wages payable in respect of the wage period in which is paid.”

In the retail trade, however, it has been a long standing practice that various incentives and allowances (for shift duty, grooming, attendance, meal, location, etc.) are customarily paid in the month immediately following the month incurred. One practical reason for this established practice is that it takes time for the employers to calculate and arrange for the payments. The practice is accepted by both the employers and employees, and works smoothly. But Section 5(4), if passed in its present form, would mean that such payments would not form part of the wages of employees for the purpose of calculating the hourly wages of the affected employees.



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香港零售管理協會

We understand that it is not the policy intent to exclude such payments from the wages of employees for the purpose of calculating the statutory minimum wage and we propose that Section 5(4) should be amended as follows:

“A payment of arrears of wages in respect of an earlier wage period made to an employee in any wage period must not be counted as part of the wages payable in respect of the wage period in which is paid. For the purpose of this Section, wages are not deemed to be paid in arrears if they are paid in accordance with the terms of an employment contract.”

I hope that members of the Bills Committee will take into consideration the long held practice when they scrutinise the Bill, and that they will discuss with the government on how Section 5(4) may be amended in order to facilitate the continual smooth operation in the trade.

If you have any question or would like to understand more about the trade’s practices, please feel free to contact us. We will be happy to meet with the Bills Committee to discuss.

Yours sincerely,



Samson Chu
Vice-Chairman
Government Regulations Sub-Committee

Hong Kong Retail Management Association