Labour Department
(Statutory Minimum Wage Division)

勞工處（法定最低工資科）

Your reference 來函編號 :	CB2/BC/11/08
Our reference 本處檔案編號 :	LD SMW 1-10/5 (C)
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15 June 2010

Clerk to Bills Committee
Bills Committee on Minimum Wage Bill
Legislative Council
Legislative Council Building
8 Jackson Road
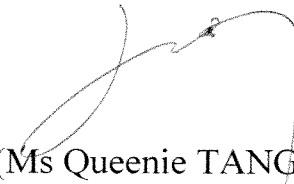Central
Hong Kong
(Attn: Mrs Eleanor CHOW)

Dear Mrs CHOW,

Bills Committee on Minimum Wage Bill

Thank you for your letter dated 8 April 2010 regarding clause 5 of the Minimum Wage Bill (the Bill).

Clause 5(1) of the Bill stipulates that a deduction from the wages of an employee made under section 25(3) or section 32(2)(b), (c), (d), (e), (f), (g), (h) or (i) of the Employment Ordinance (Cap. 57) (EO) in respect of any wage period must be counted as part of the wages payable in respect of that period. For example, if there is a deduction of $200 from an employee's wages in respect of the wage period of March under section 32(2)(e) of the EO for the purpose of recovering an over-payment of wages made in the wage period of February, then by virtue of clause 5(1) such deduction of $200 will be counted as part of the wages payable in respect of the wage period of March for the purpose of determining whether the employee is remunerated not less than the statutory minimum wage (SMW) under the Bill.

For clause 5(3) of the Bill, it stipulates that an advance or over-payment of wages made to an employee in any wage period must not be counted as part of the wages payable in respect of that period. Using the same example in paragraph 2 above, it follows that according to clause 5(3), the over-payment of wages of $200 made to the employee in the wage period of February will not be counted as part of the wages payable in respect of the wage period of February for the purpose of determining whether the employee is remunerated not less than the SMW. There is no contradiction between clause 5(1) and clause 5(3).

Yours sincerely,

(Ms Queenie TANG)
for Commissioner for Labour