



Ref.: G2010 - 049

14 June 2010

Bills Committee on Minimum Wage Bill
Legislative Council Secretariat
Legislative Council Building
8 Jackson Road
Central, Hong Kong

Dear Chairman and Members of the Bills Committee,

Section 5(4) of the Minimum Wage Bill

We understand that the Bills Committee on Minimum Wage Bill will conduct a clause-by-clause examination of the Bill. On behalf of the Employers' Federation of Hong Kong, I would like to draw your attention to employers' 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 many industries 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 many industries, e.g. retail, property agents, it has been a long standing practice that various incentives and allowances 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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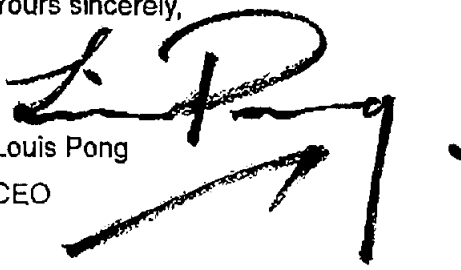
We understand that it is not the policy intent to exclude such payments from the wages of employees for the purpose of calculating the statutory minimum wage and we propose that Section 5(4) should be amended as follows

"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 your Committee will take into consideration the long held practice when reviewing the Bill, and amend Section 5(4) in order to facilitate the continual smooth operation in the trades.

If you have any question or would like to understand more about the trade's practices, please feel free to contact us.

Yours sincerely,



Louis Pong
CEO