



Labour Department (Headquarters)

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28 February 2011

Mr Raymond Lam
Clerk to the LegCo Panel on Manpower
Legislative Council Secretariat
3rd floor, Citibank Tower
3 Garden Road
Hong Kong

Dear Mr Lam,

**LegCo Manpower Panel Meeting
Follow-up issues**

I refer to the discussion of the Panel on Manpower at its meeting of 20 January 2011 in which Members requested the Administration to provide information on (i) the assessment of financial impact of expanding the scope of Protection of Wages on Insolvency Fund (PWIF) to cover pay for all untaken annual leave (AL) and statutory holidays (SH); and (ii) in relation to the PWIF applications, the claim amounts for such items in the past three years. Our response is as follows.

Assessment of financial impact of expanding the scope of PWIF

In June 2009, when the Labour and Welfare Bureau submitted the proposal endorsed by the PWIF Board and the Labour Advisory Board (LAB) to expand the scope of PWIF to cover the pay for untaken AL under the Employment Ordinance (EO), subject to the limit of the employee's entitlement of his last year of employment and payment ceiling of \$10,500, the Manpower Panel requested further expansion to cover pay for all untaken AL and SH while maintaining the payment ceiling of \$10,500.

For the purpose of deliberating on the above revised proposal, at a meeting in February 2010, the PWIF Board has considered, among other factors, the possible financial impact on PWIF. The assessment was made by assuming 30% (with reference to the survey on cases received by PWIF in the third quarter of 2009) of the high time applications in 2002 at 23 023 involving pay for all untaken AL and/or SH at the payment ceiling of \$10,500. The estimated projection of the additional payout from PWIF would be around \$73.2 million in a year.

At the meeting, the PWIF Board considered that not only the above financial impact but the following guiding principles should be observed, viz (a) adopting a progressive approach in the expansion of the PWIF coverage; (b) setting a payment ceiling similar to other payment items to ensure sustainability of PWIF; (c) a cap on the period and number of AL and SH to preclude employers from shifting pro-longed non-payment of statutory benefits to PWIF upon business closures; and (d) approval of the claims on verifiable documents or information with reference to records required to be kept under EO. Following the above, the PWIF Board reached a consensus on the present proposal of extending the scope of PWIF to cover pay for untaken AL subject to the limit of the employee's entitlement for the last year of employment and untaken SH within four months prior to his last day of service, with payment ceiling at \$10,500. Members may refer to the guiding principles and relevant information on expanding the scope of PWIF at LC Paper No. CB(2)1348/09-10(05).

Claim amounts for pay for untaken AL and SH in the past three years

We do not have the claim amounts for pay for untaken AL and SH in relation to PWIF applications in the past three years. Since the existing scope of PWIF does not cover pay for untaken AL and SH, LD does not have the amount of claims for such items in the PWIF applications. As for employment claims handled by LD, it is common for employees to lodge claims for multiple items they are entitled under EO or their respective employment contracts. LD does not have the breakdown of the amounts involved in the employment claims by claim items, including pay for AL and SH.

Yours sincerely,



(Ernest Ip)

for Secretary for Labour and Welfare